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INSIGHT

*Law 15/2024 - New Macau Insurance
Intermediary Activities Ordinance*



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Introduction

*The Macau Legislative Assembly has passed **Law 15/2024**, the new Insurance Intermediary Activities Ordinance (IIAO). The IIAO, set to take effect on **August 1, 2025**, will supersede the existing Macau Agents and Brokers Ordinance (A&B Ordinance).*

Below are key elements of the IIAO:

1. Licensing System:

- **Structure:** The IIAO maintains a three-tier licensing system for insurance intermediaries¹.
- **Extended validity period:** From one year to two years, aiming to reduce administrative procedures.
- **New licensing fee structure:** The "registration fee" has been renamed "licensing fee." The licensing fees will be determined based on a range of factors, including the type of intermediary, business scale, and supervision complexity.
- **Suspension and Revocation:** AMCM may suspend or even revoke the license, depending on the circumstances, should the licensee violate any of the provisions set forth in the IIAO. AMCM may suspend an intermediary's license if they fail to meet eligibility requirements, comply with imposed licensing conditions, or rectify improper circumstances.

A more severe action, revocation, occurs in situations where false information is provided to obtain or renew a license, or

¹ Tier 1 is the "Insurance intermediary license", which includes individual agents, insurance salesmen, corporate agents, and insurance brokers. Tier 2 refers to the "Types of activities", such as life insurance and general insurance. Tier 3 relates to "Specific classes of insurance" under each type of activities, whereby AMCM may impose additional conditions and/or qualifying examinations.

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when AMCM is unable to contact the intermediary via any communication means for over six months.

2. Principal Responsible Approach and Joint Liability

- **Definition:** The IIAO introduces the concept of a “principal”, which refers to entities that appoint or employ agents/salesmen to carry out activities, including insurers, corporate agents and brokers.
- **Number of principals an agent can act for:** The IIAO does not define the fixed number of principals an insurance agent can act for, leaving it to be governed by guidelines to be issued by AMCM.
- **Major Duties:** The principal's major duties include:
 - Ensuring completeness and accuracy of application documents, verifying compliance with relevant requirements, and continuously supervising appointed intermediaries².
 - Notifying AMCM of any circumstances brought to principal’s knowledge, which may result in the unsuitability, suspension and/or revocation of license of their agents/salesmen.
 - Nominating a **Responsible Officer**³ for Insurance Intermediary Activities (RO): RO is now officially defined in law, being an individual responsible for managing and supervising insurance intermediary business to ensure compliance with relevant laws and regulations.
- **Joint liability system:** Similar to Articles 10 and 11 of the A&B Ordinance, the joint liability system of the principal has been

² Verification of compliance with relevant obligations will depend on whether the principal has exercised reasonable diligence in carrying out the relevant work, including whether a proper recruitment mechanism and procedures are in place.

³ Currently the role and responsibility of the RO can be found in Notice No. 008/2021-AMCM and Circulars no. 009 and 010/B/2021-DSG/AMCM.

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maintained and is now governed in Articles 27 and 28 of the IIAO. These articles hold insurers and brokers accountable to clients, the insured, and beneficiaries for all actions performed by the intermediaries they appoint or employ in relation to the formation or validity of insurance contracts or other insurance activities-related contracts.

3. Prior Approval and Post-Notification to AMCM

Article 8 of the IIAO clearly sets the regulatory framework concerning modifications to company capital, structure, personnel, and other pertinent information of insurance intermediaries/insurers. It further specifies the events which require prior approval and those that must be reported within thirty days of the change. Please refer to **Article 8 of the IIAO**.

The new law represents a significant improvement over the existing Article 9/J of the A&B Ordinance, which vaguely mandates intermediaries to provide AMCM with all necessary information and notify any changes to previously submitted data during authorization.

With respect to changes that require prior approval or post-notification, AMCM holds the authority to suspend or revoke licenses, modify the authorized types of activities or impose additional conditions based on the analysis of whether the insurance intermediaries still meet the eligibility requirements.

4. Fit and Proper Assessment

- **Scope of application:** The IIAO introduces a comprehensive fit and proper assessment for both individuals and legal persons in the insurance industry.⁴ The assessment is designed to evaluate both initial and ongoing compliance with relevant laws, regulations, and standards. When deemed necessary, AMCM may also expand the assessment to include other

⁴ This encompasses insurance agents, brokers, salesmen, Responsible Officers, Designated Representatives, qualified shareholders, directors, senior management personnel, and risk analysts.

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related entities, such as minority shareholders and/or its directors and staff.

- **Principles of assessment:** AMCM will assess suitability based on professional ethics, business practices, decision-making prudence, duty fulfillment, and market confidence. For corporations, assessment factors also include relevant experience, reputation, financial health, and whether their organizational structure allows effective supervision of AMCM.
- **Assessment criteria:** AMCM considers a wide range of factors when assessing fitness and propriety. These include any criminal accusations or convictions, particularly for serious offenses such as fraud or money laundering, as well as any history of regulatory sanctions or penalties associated with financial activities.
- **Method of evaluation:** To be determined by AMCM guidelines. According to the press release, the assessment will be conducted through a questionnaire.

The factors taken into account during the assessment do not automatically disqualify an individual; however, they are critical in comprehensively evaluating the individual's suitability for the role.⁵

⁵ For example, if an insurance agent is being prosecuted by the Public Prosecutor Office, AMCM could adopt the following measures:

- Upon receiving notification of the incident, AMCM will evaluate whether the agent continues to meet the suitability requirements.
- If AMCM deems the alleged crime irrelevant, it may opt not to take any action.
- Conversely, if the alleged crime is deemed relevant and it is considered prudent to await the final court verdict, AMCM may temporarily suspend the agent's license or any of its authorized activities.
- AMCM is also empowered to impose specific restrictions and/or conditions on the agent's license.
- Should the crime be deemed extremely severe, potentially jeopardizing the stability of the insurance sector, AMCM has the right to immediately revoke the agent's license.

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5. AMCM extended supervision powers

- **Rule-making authority:** The IIAO explicitly grants AMCM the authority to issue guidelines in the form of notices or circulars to further regulate the insurance intermediaries' business. For additional details, please refer to **articles 7, 9 – 13, 15 – 17, 25, 28 and 51.**
- **Inspection Powers:** AMCM has the power to inspect transactions, books, accounts, documents, electronic equipment at any time, with or without prior notice, and check the existence of any valuable goods. These inspections can be done directly by AMCM or through appointed entities.
- **Extended Supervisory Actions:** The supervisory authority of AMCM can extend to entities beyond insurance intermediaries, including those in diverse economic sectors or within the same group, if there is suspicion of related activities, a need to evaluate the business, or to assess the group's financial health.
- **Supervisory Measures:**
 - AMCM may enforce measures such as prohibiting voting rights, share issuance, and payments related to capital contributions, or may order the transfer of holdings, if a broker's or corporate agent's controlling shareholding is acquired without prior approval.
 - If an insurance intermediary or related person poses a serious public risk, including potential evidence loss or illegal activities, AMCM can impose preventive measures such as suspending business, duties, closing premises, or suspending licensing processes.

6. Delegation of Sanctioning Power and Classification of Administrative Offenses

- **Delegation of sanctioning power to AMCM:** To fulfill ICP Principles and safeguard the operational independence of AMCM, the power to apply sanctions has been delegated from the Chief Executive to AMCM.

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- **Appeal mechanism:** The Macau government has definitively stated that AMCM decisions are final and that appeals to the Secretary of Economy and Finance or to the Chief Executive are impossible.
- **3-tier administrative offenses: General**
Administrative offenses are classified into 3 levels based on the seriousness of the breach. Fines range from MOP5,000 to MOP300,000 for minor offenses, MOP30,000 to MOP500,000 for serious offenses, and MOP300,000 to MOP1,000,000 for very serious offenses.
- **Offenses applied to insurers under IIAO:** Sanctions for insurers breaching the IIAO provisions are classified into serious and very serious breaches. Serious breaches refer to failures in due diligence with intermediaries, lack of written formal contracts, or not appointing a RO, which attracts fines ranging from MOP 30,000 to MOP 3,000,000. Very serious breaches, such as unauthorized changes in key personnel, operating through unlicensed entities, or inadequate internal controls, lead to fines between MOP 100,000 and MOP 5,000,000.
- **Aggravating circumstances:** Fines from MOP 1,000,000 to MOP 10,000,000 for actions that harm insurers, destabilize or disrupt the insurance system, or obstruct AMCM's financial oversight.
- **Accessory Sanctions:** Additional sanctions can be applied either separately or in conjunction with fines, including:
 - Temporary closure of business premises (1 month to 1 year)
 - Prohibition of specific insurance activities (1 month to 2 years) and disclosing publicly
 - Confiscation of capital and profits from illegal activities by AMCM
 - Suspension of voting rights (up to 2 years)

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- Restrictions on holding management positions in insurance-related companies (up to 2 years)
- Public condemnation
- Mandatory publication of the penalty decision in local newspapers and AMCM's website, with costs paid by the violator

Conclusion

The IIAO represents a notable enhancement over the existing A&B Ordinance by significantly refining the licensing system for insurance intermediaries and elevating the operational standards. It enhances the oversight framework, broadens the scope of responsibilities for intermediaries and principals, and increases the penalties for non-compliance. These modifications aim to more effectively deter unlawful activities and protect the interests of all stakeholders involved. It is imperative for stakeholders in Macau's insurance sector to stay alert and ready themselves for the implementation of these substantial changes.

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