

MARKET BULLETIN

REF: Y4561

Title	Further guidance on the disclosure of the remuneration of intermediaries in Hong Kong
Purpose	To clarify the recent guidance with respect to the disclosure of brokers' remuneration in Hong Kong
Type	Event
From	Cameron Murray, Senior Manager, International Regulatory Affairs
Date	9 February 2012
Deadline	
Related links	Market Bulletin Y4546

Purpose

Following an important ruling in Hong Kong, we would like to provide further clarification with regard to market bulletin Y4546, on the disclosure of the remuneration of intermediaries in Hong Kong. The key message from the ruling is that it is currently not mandatory for brokers to obtain a customer's consent when receiving commissions from insurers.

Summary

The Court of First Instance in Hong Kong recently handed down a landmark ruling affirming that insurance brokers are entitled to receive commissions without violating the Prevention of Bribery Ordinance. However, it would be considered good practice for brokers to disclose to their clients the fact that they are to be remunerated in this way.

The judgement in *Hobbins v. Royal Skandia Life Assurance Ltd & Anor* recognises the long-established practice of brokers being agents for the insured. It also recognises a long line of authority in various common law jurisdictions that confirms commissions paid by an insurer to an insurance broker do not constitute illegal secret profits, unless they are in excess of what is normally paid in the insurance market. Therefore, an insurer who pays such commissions to an insurance broker does not commit an illegal act in Hong Kong under section 9(2) of the Prevention of Bribery Ordinance (Cap.201).

However, while it is not a mandatory requirement for insurers to obtain a declaration from brokers that they have received consent from their customer to their receiving commission, it would be considered good business practice to do so.

Further contacts

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