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Mrs Sharon Tong
Clerks to Bills Committee
Legislative Council
Legislative Council Building
8 Jackson Road
Central, Hong Kong

3 April 2002

Dear Mrs Tong,

**Bills Committee on
Employees Compensation Assistance (Amendment) Bill 2002**

Submission from the General Insurance Council

I refer to the submission made by the General Insurance Council (GIC) to the Bills Committee on 21 March 2002. In the submission, the GIC has expressed their views on a number of issues.

I submit a paper, in English and Chinese, prepared by the Financial Services Bureau to address the GIC's concern regarding the setting up of a separate Employees Compensation Insurer Insolvency Scheme and to provide other information requested by members of the Bills Committee in the meeting held on 14 March 2002. I provide herewith our response to the issues raised by the GIC and that are under the purview of the Education and Manpower Bureau/Labour Department.

Liabilities of the Employees Compensation Assistance Scheme

The GIC has attributed the absence of funding for the liabilities accrued from accidents that happened before the establishment of the Employees Compensation Assistance Scheme (the Scheme) in 1991 as one of the causes for the financial predicament now faced by the Scheme. When the Scheme was set up in 1991, there was thorough consultation with the Labour Advisory Board and the then Legislative Council. It was then agreed that the Scheme should accept liabilities for work-related accidents that happened on or after 1.1.1984, when the

requirement on compulsory insurance under the Employees' Compensation Ordinance came into operation.

When the coverage of the Scheme was set, the Administration had assessed the financial requirement and considered that the funding would be sufficient to meet the liabilities. In fact, the Scheme had been able to meet its liabilities and accumulated a reasonable surplus as reserve in the first few years of its operation. However, some subsequent unforeseen developments led to the depletion of the financial resources of the Scheme in 2001. These developments included the need for the Board to provide assistance to a number of cases where the award of common law damages exceeded \$10 million and the decline in levy income due to the falling insurance premium in recent years.

Role of the Employees Compensation Assistance Fund Board in Claims Management

As regards the suggestion that the Employees Compensation Assistance Fund Board (the Board) should objectively evaluate and assess claim amounts instead of taking a passive role, I would like to clarify that this approach has indeed been incorporated into the Employees Compensation Assistance (Amendment) Bill 2002 (the Amendment Bill). Under Clause 17 of the Amendment Bill, it is proposed that the Board should be empowered to take part in the proceedings at Court with a view to protecting its interests and to speed up settlement of claims where appropriate.

Allocating the Share of Levy Among Statutory Boards Financed by the Employees' Compensation Insurance Levy

The GIC has also proposed that the share of levy currently distributed to the Occupational Safety and Health Council, the Occupational Deafness Compensation Board (ODCB) and the Board should be reviewed and re-distributed.

Again, we have already taken action in this direction. Section 7 of the Schedule in Clause 33 of the Amendment Bill seeks to adjust the levy rates for the ODCB and the Board. As a result of the adjustment of the levy rates and the increase of the overall levy rate by one percentage point for the benefit of the Board, the levy rate for the Board will be raised to 3.1% for the next five years and then maintained at 2.5% thereafter. Correspondingly, the levy rate for the ODCB will be reduced to 1.2% for the next five years and increased to 1.8% thereafter.

With this adjustment of levy rates, the Board would be able to attain financial viability in the long run while the financial position of the ODCB would also remain in a healthy position.

Yours sincerely,

(Mrs Jenny Chan)
for Commissioner for Labour

b.c.c. SEM (Attn.: Mr Philip Chok)
SFS (Attn.: Mr Alan Lo)
C of I (Attn.: Mr H Y Mok)