



香 港 保 險 業 聯 會
THE HONG KONG FEDERATION OF INSURERS

**RESPONSE II OF THE GENERAL INSURANCE COUNCIL TO
THE PROPOSAL OF THE GOVERNMENT TO
SPLIT THE INSOLVENCY FUND FROM
THE CURRENT EMPLOYEES COMPENSATION ASSISTANCE SCHEME**

1. Introduction

In principle, the General Insurance Council (GIC) of the Hong Kong Federation of Insurers welcomes the recommended changes to the current Employees Compensation Assistance Scheme (ECAS) proposed by the Employees Compensation Assistance (Amendment) Bill 2002 **except** the part proposing to take away the insolvency protection currently available to employers and employees and replace it by a new and separate Insolvency Fund. This amendment, in our opinion, is just window-dressing. Instead of effectively tackling potential insolvencies, it simply passes the buck onto the proposed Insolvency Fund without addressing the many other serious technical issues listed below arisen from the establishment of the proposed Insolvency Fund.

2. Consideration

2.1 Set-up Fund

That part of the proposal fails to address the issue concerning the set-up fund, without which the interest of the insured employees and employers would be greatly compromised should any insolvency takes place at the early days of the establishment of the proposed Insolvency Fund.

The Insurance Authority had indicated to the GIC that the Government would like to see a 1% fee on gross EC premiums written be charged to build up the Insolvency Fund in the beginning. Based on the gross EC premiums written in 2001 totalled HK\$2.8 billion, the Insolvency Fund will accumulate around HK\$28 million a year.

Citing HIH's case, the insolvency triggered compensation amounting to HK\$370 million as at the end of March 2002. Using this as an example, it will take the Insolvency Fund more than 13 years to accumulate enough capital to pay off one single case of insolvency.

2.2 Negative Impact on Employers

i. Long Waiting Period

Under the current ECAS, employers (policyholders) and employees (insureds) have secured protection because the Government is playing the role of the lender of last resort. On two occasions, the Government sought fund injections from the Legislative Council to avoid total depletion of the funds in June 2000 and November 2001. Consequently, claims were able to be settled quickly without lengthy waiting period, thus averting the unnecessary financial hardship which may eventually develop to become a social burden to the Government.

If the proposed Insolvency Fund were to be adopted, since there will be no lender of last resort, employers may have to wait for ages before they could obtain reimbursement from the Insolvency Fund after they have paid compensation to victims even if they could afford to do so.

ii. Risk of Bankruptcy

If, an employer is unable to obtain compensation from the Insolvency Fund to settle payment required of him under the law, he may have cashflow problem and go bankrupt.

iii. Escalation of Operating Costs

Currently, the Government, by levying employers, acts as a lender of last resort charging a no-gain-no-loss interest. If it ceases to perform this social service role and requests the proposed Insolvency Fund to obtain loans on a commercial basis in order to meet the claims, there would be a cost of lending. This added charge together with the additional costs required to establish and maintain a separate fund will eventually be borne by employers, leading to further escalation of operating costs for employers.

2.3 Negative Impact on Employees

If both the employer and the proposed Insolvency Fund do not have sufficient funds to meet the claims of injured employees, they would have to wait for a much longer time before receiving any compensation.

3. Comparative Illustration

The comparative illustration below shows that the proposal to take away the insolvency protection from the current ECAS would create far worse negative impact than its current undesirable financial status, which is expected to be greatly improved through the proposed prudent measures to be introduced by the Bill.

Description	ECAS	Proposed Insolvency Fund
1. Financing	-1% of levy on EC premium for insolvency and uninsured cases.	-Charge of 1% on EC premium
2. Funds available	- \$5.4m retained surplus as at 31.3.2001. - After the Legislative Committee approves the latest request for funding, there will be an injection of \$280m into the fund.	-\$0 to begin with. -\$28m per year based on the gross EC premium written in 2001.
3. Lender of last resort	- Government at no-gain-no-loss interest rate	- No lender of last resort. - If required will have to pay interest on commercial loans, which would result in employers having to pay a higher charge to fund the scheme.
4. Waiting period for compensation employers and employees	- Nil.	- Once the proposed Insolvency Fund is depleted, claimants have to wait until there is money in the fund to settle claims.
5. Division of claims obligations of future insolvency problems related to past or future EC exposure	- Nil.	- Determination of claims obligations between the ECAS and the proposed Insolvency Fund will invariably lead to disputes.

4. Industry Position

Based on the above and the fact that the maintenance of a parallel fund would escalate costs, the GIC maintains its strong objection to the proposal to take away insolvency protection from the current ECAS.