LC Paper No. CB(2)411/01-02(01)

LETTERHEAD OF THE HONG KONG FEDERATION OF INSURERS

THE HONG KONG FEDERATION OF INSURERS

RESPONSE 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

The General Insurance Council (GIC) established under the Hong Kong Federation of Insurers (HKFI) responsible for dealing with industry matters concerning general insurance, is pleased to submit its views on the proposal of the Government to split the insolvency fund from the current Employees Compensation Assistance Scheme (ECAS).

2. GIC Response

2.1 The GIC welcomes the Education and Manpower Bureau's initiative to review the current ECAS in the light of the funds under the management of the Employees Compensation Assistance Fund had been completely depleted in the last two years.

2.2 The GIC is in favour of the objectives of the ECAS to provide compensation to injured employees who are not covered and to provide for the protection of employers against the insolvency of insurance companies. The insurance industry has been a staunch advocator and supporter of effective consumer protection schemes, the most successful one being the Motor Insurers' Bureau of Hong Kong (MIB) run by the industry itself. The MIB provides protection to victims of motor accidents through its First Fund Scheme resulting from hit-and-run and to insureds through its Insolvency Fund Scheme. Since its inception in December 1980, the MIB, through prudent management, has accumulated a surplus of $170 million for the First Fund Scheme and $1.1 billion for the Insolvency Fund Scheme despite its current levy is reduced to 2%.

2.3 The GIC would highlight the fact that the insolvency of three insurance companies belonged to the same group of company last year was a single incident. Whilst the GIC fully supports a review of the ECAS, it is not prepared to jump to the conclusion that the current ECAS should be abandoned unless after very thorough and detailed consideration and that all means have been exhausted to improve the current establishment which has been in place since 1 July 1991.

2.4 The financial difficulty or problem recently encountered by the ECAS is a fund management problem as well as a claim management problem, which can be fixed through effective and prudent means, should not be used as the reason to create another vehicle with new structure, organization and operation. There is no guarantee of its future performance, and may, thus, impact upon the interest of insured employers who are currently well protected by the ECAS.

2.5 Whilst it was suggested that the cost for the establishment of a separate Employees Compensation Insurance Insolvency Scheme (Insolvency Scheme) could be transferred to the customers, the GIC, who knows the EC mechanism thoroughly, feels obliged to give input now in order to ensure that the cost of this consumer protection fund would be minimized through sound and cost effective management. Otherwise, the insuring public will end up paying extra levy for no added value and protection.

3. Issues for Further Consideration

3.1 Improvement to the Current ECAS

The GIC opines that if the following two areas are properly dealt with, the ECAS may operate on a sound basis in the future **WITHOUT** having to increase any levy charges at all:

i. Introducing widely accepted and adopted standards to objectively evaluate and assess claim amount instead of taking a passive role.

ii. Re-allocating the share of the levy income among the three recipient funds namely, the Employees Compensation Assistance Fund, the Occupational Deafness Compensation Board and the Occupational Safety and Health Council in order to reflect the needs of the real situation. Since 1995 to date, Employees Compensation Insurance levy has been increased from 2% to 5.3%, i.e. 165%. The allocation is as follows:

- To the Employees Compensation Assistance Fund remained unchanged at 1%
- To the Occupational Deafness Compensation Board increased to 2.3% from the original 1.5%. The Board is now enjoying a surplus of around $180 million and
- To the Occupational Safety and Health Council from 1% to 2%. The Council has accumulated a surplus of $29 million.

It is further recommended that the Government should review the allocation on a regular basis and be flexible to respond to and cater for the actual needs of employees and employers at large instead of select groups:

* The Employees Compensation Assistance Scheme should receive a bigger share of the levy income; and

* Under the Employees Compensation Assistance Scheme, the two sub-funds, i.e. one for uninsured employees and the other for insolvency, should be clearly identified and should receive separate allocation of funding from the Employees Compensation Insurance levy.

3.2 The Government's proposal does not address the issue concerning the set-up fund, without which the interest of the insured employees and employers might be compromised should any insolvency takes place at the early days of the establishment of the proposed Insolvency Fund.

3.3 A separation of the insolvency element from the Employees Compensation Assistance Fund may result in having two different standards of claims assessment, which is unfair to the claimants.

3.4 Setting up a separate Insolvency Scheme would not solve the problem. From the cost and efficiency perspective, it would create less flexibility in distributing current resources and would incur duplication of resources on administration, claims settlement etc. The additional fund required in establishing and maintaining a separate fund will eventually be borne by employers leading to an escalation of operating cost across Hong Kong.

3.5 In the Policy Address of the Chief Executive, the Government will in 2002-2003 study the feasibility of setting up a comprehensive policyholders protection fund. Since the Insolvency Scheme is in itself a policyholders protection scheme, the Government should incorporate this into the study rather than dealing with it on a piece meal basis.

14 November 2001