

立法會
Legislative Council

LC Paper No. CB(1)2084/07-08

Ref: CB1/PL/FA

Panel on Financial Affairs
Meeting on 7 July 2008

Background brief on
Consultancy study on the feasibility of establishing insurance
policyholders' protection funds in Hong Kong

Purpose

This paper highlights the background and summarizes the views and concerns expressed by members of the Panel on Financial Affairs (FA Panel) when they last received a briefing on 1 March 2004 on the public consultation on the feasibility of establishing insurance policyholders' protection funds (PPFs) in Hong Kong.

Background

2. At present, if an insurer becomes insolvent, compensation funds are in place to cover employees compensation¹ and motor vehicle third party claims only². On the other hand, there are no compensation funds/PPFs for life insurance and other types of general (i.e. non-life) insurance if the insurer becomes insolvent. However, the Companies Ordinance (CO) (Cap. 32) and Insurance Companies Ordinance (ICO) (Cap. 41) contain specific provisions for dealing with insolvency of insurers. For insolvent non-life insurers, policyholders have a preferential claim against the remaining assets of the insurer (direct insurance claims have a higher level of preference than reinsurance claims) under CO. These preferences apply to claims, but do not apply to premium refunds. For insolvent life insurers, under ICO, the Court can approve a reduction of the amount of policyholder

¹ For employees' compensation insurance, the Employees Compensation Insurer Insolvency Scheme is administered by the Employees Compensation Insurer Insolvency Bureau. The Insolvency Fund is financed by a levy on premiums payable in respect of employees' compensation insurance policies.

² For motor insurance, the Motor Insurers' Bureau of Hong Kong provides compensation to injured victims of traffic accidents where the drivers concerned are uninsured or untraceable, or the insurers concerned are insolvent. The Insolvency Fund is financed by a levy on the motor insurance premiums payable by the policy holders.

benefits. Under such circumstances, the policyholders would have no choice but to accept the arrangements sanctioned by the Court. The Court can also approve a transfer of life insurance policies to another insurer.

3. In the wake of widespread public concerns arising from the insolvency of three insurers of the HHH Group in 2001, the Administration saw the need to study the feasibility of establishing PPFs in Hong Kong with a view to enhancing the protection of policyholders and promoting the stability of the insurance industry. In late 2002, the Office of the Commissioner of Insurance engaged PricewaterhouseCoopers to conduct a feasibility study on establishing PPFs in Hong Kong. The study was divided into two stages. Stage One covered a review of the current regimes locally and overseas, an evaluation of the feasibility of establishing PPFs, and the identification of options for PPF design. Stage Two (if proceeded) would focus on matters relating to the implementation of PPFs. Following completion of Stage One of the study, the Administration conducted a public consultation exercise from December 2003 to April 2004 on whether and how PPFs should be introduced locally. After completion of the public consultation, the consultant put forward to the Administration recommendations on the feasibility of introducing PPFs in Hong Kong, including, where necessary, identifying preferred PPFs options for consideration by the Government.

Issues of concern

4. FA Panel members expressed the following concerns when they received a briefing by the Administration on the public consultation on the feasibility of establishing PPFs in Hong Kong at the Panel meeting on 1 March 2004:

- (a) As PPFs would serve as a safety net of the last resort for the protection of policyholders, there might be pressure on the Government to deploy general revenue to provide funds for PPFs should there be insufficient funds to meet claims.
- (b) The need for establishing PPFs should be critically examined, having regard to the benefit of providing protection to policyholders when their insurers became insolvent, vis-à-vis the problem of moral hazards in that PPFs might encourage imprudent operation of insurers and make policyholders less vigilant in selecting their insurers.
- (c) As PPFs would likely be funded by the insurance industry in the form of levies, the impact of such levies on insurance premiums must be considered.
- (d) There was a suggestion that consideration might be given to setting the PPF levies payable by insurers to the risk level of their business undertakings.

Latest development

5. In March 2007, the Administration accepted the final consultancy report, the conclusion of which was that while a form of PPF scheme might work in Hong Kong, its success would depend heavily on the scope and nature of the scheme as well as the support of the industry and the community.

6. In pursuance of this, the Administration has engaged in a close dialogue with industry stakeholders with a view to alleviating their concerns and agreeing on a pragmatic way forward. The Administration proposes to brief the Panel at the meeting on 7 July 2008 on the latest position.

Relevant papers

7. A list of relevant papers is at **Appendix** .

Council Business Division 1
Legislative Council Secretariat
4 July 2008

Appendix

List of relevant papers

Committee	Paper	LC Paper No.
Meeting of Panel on Financial Affairs (FA Panel) on 1 March 2004	✧ Administration's paper on feasibility study on insurance policyholders' protection funds http://www.legco.gov.hk/yr03-04/english/panels/fa/papers/fa0301cb1-1094-6e.pdf	CB(1)1094/03-04(06)
	✧ Minutes of the FA Panel meeting on 1 March 2004 http://www.legco.gov.hk/yr03-04/english/panels/fa/minutes/fa040301.pdf	CB(1)1630/03-04
FA Panel	✧ Letter dated 6 March 2006 from Clerk to Panel to Secretary for Financial Services and the Treasury on enhancing the protection for insurance policyholder http://www.legco.gov.hk/yr05-06/english/panels/fa/papers/facb1-1408-3e.pdf	CB(1)1408/05-06(03)
	✧ Administration's response dated 28 March 2006 on enhancing the protection for insurance policyholders http://www.legco.gov.hk/yr05-06/english/panels/fa/papers/facb1-1408-4e.pdf	CB(1)1408/05-06(04)