

# 立法會

## *Legislative Council*

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### **Panel on Financial Affairs Special meeting on 19 July 2010**

### **Background brief on proposed establishment of an independent Insurance Authority**

#### **Purpose**

This paper provides background information on the institutional set-up of the Insurance Authority (IA) and summarizes the concerns and views expressed by members when the subject was discussed by the Panel on Financial Affairs (FA Panel) on 6 November 2003.

#### **Background**

2. Pursuant to section 4 of the Insurance Companies Ordinance (Cap. 41) (ICO), the Chief Executive shall appoint a public officer to be the Insurance Authority (IA). The Commissioner of Insurance has been appointed as the IA for administering the ICO. The principal function of the IA is to regulate and supervise the insurance industry for the promotion of the general stability of the insurance industry and for the protection of existing and potential policyholders. The major duties and powers include –

- (a) **Authorization of insurers** - The IA authorizes insurers to carry on insurance business in or from Hong Kong. The IA has set out the criteria for authorization which include, among other things, strong financial position, proper management, viable business plan and physical presence in Hong Kong in order to ensure that an adequate level of security is provided to the insuring public;
- (b) **Regulation of insurers** – The regulatory objective of the IA is to ensure the financial soundness and integrity of the insurance market. The primary duty is to ensure that insurers conduct their activities in a prudent manner so that their obligations and policy holders' expectation will be met. Other operational aspects, such as setting of premium rates and policy terms and conditions, are largely left to self-regulation by the industry;

- (c) **Regulation of insurance intermediaries** – An insurance agent is required to be properly appointed by an insurer and registered with the Insurance Agents Registration Board (IARB) in accordance with the Code of Practice for the Administration of Insurance Agents issued by The Hong Kong Federation of Insurers. An insurance broker may seek authorization directly from the IA, or may apply to become a member of an approved body of insurance brokers. The IARB provides enquiry services to and handles complaints from the public relating to insurance agents, while an approved body of insurance brokers is charged with the responsibilities of ensuring that its members comply with the statutory requirements; and
- (d) **Liaison with the insurance industry** – The IA works closely with representative bodies of the insurance industry in promoting self-regulation by the industry with the aim of enhancing the protection of policyholders.

3. The IA was assisted by the staff of the Office of the Commissioner of Insurance (OCI), which is a government department. In Hong Kong, the OCI is the only financial services regulatory agency still remaining within the government structure staffed by civil servants.

### **Review of the institutional set-up of the Insurance Authority in 2003**

4. In light of international regulatory trends and the development of the insurance industry, the Financial Secretary announced in the 2003-04 Budget Speech the proposal to turn the Office of the Commissioner of Insurance into an agency independent of the Government. The Administration conducted a stakeholder consultation on the proposal from late May to the end of July 2003, and briefed the FA Panel on the subject on 6 November 2003.

5. According to the Administration's paper for the Panel meeting, the major benefits of turning the IA into an independent regulator included –

- (a) bringing Hong Kong's insurance regulatory framework in line with that of the other financial services sectors, as well as the international practice;
- (b) an independent regulator would have greater flexibility in budgetary matters and manpower deployment, and thus would be more able to respond to market development quickly; and
- (c) the independence exercise would provide an opportunity to review any room for enhancement in the governance and accountability of the IA.

Discussion by the Panel on Financial Affairs

6. As regards the views gathered during the stakeholder consultation, the Administration advised that while respondents who were not market participants generally supported the proposal, market participants were generally cautious about the powers and governance of the future IA as well as its funding and any cost implications for the insurance industry.

7. During the discussion of the FA Panel on 6 November 2003, while a few members indicated that they supported in principle the proposal for the IA to be independent from the Government, a number of other members expressed reservations about the proposal. Some members pointed out that the information provided by the Administration was inadequate for them to comprehend the practical difficulties encountered under the existing institutional arrangement, and the justifications for turning the IA into an independent regulator were unconvincing. Specifically, members expressed the following concerns and views –

- (a) With regard to international regulatory trends, the Administration had only cited in its paper that the insurance regulators in the United Kingdom (UK), Australia and Singapore were all independent of their governments. The Administration should also study the arrangements in other countries, such as Canada and European countries. Besides, as UK adopted an integrated-regulator model under which the Financial Services Authority was the single regulator of all financial services, including insurance, the Administration should study the UK model in more detail as reference.
- (b) The Administration should address the concerns of the insurance industry, which included the possible lack of independence of the future IA from political and governmental influence, possible expansion of the powers of the IA, and possible increase in the operating costs and licence fees for insurers and insurance intermediaries, after the IA became independent from the Government.
- (c) The business sector was mainly concerned about the impact of the independence of the IA on the level of insurance premiums, and whether the IA could perform more effectively after its independence.
- (d) After its independence, the IA should be subject to appropriate monitoring by the Legislative Council and the Administration, particularly in cost control matters.
- (e) It was not uncommon for the senior government official who was in charge of a legislative proposal for the establishment of a statutory authority to take up the post of the head of the authority after its establishment. The same might happen in the case of the IA.

8. The Administration responded that it had no intention to effect any other framework changes to insurance regulation or expand the IA's regulatory powers in

the context of the independence exercise. If the independence proposal was to be taken forward, the Administration would give detailed examination to the governance and funding arrangements for the future IA, and draft the relevant legislative proposals for further consultation.

### **Recent developments**

9. In his 2008-09 Policy Address, the Chief Executive announced that the Administration saw the need to establish an independent IA to give the regulatory body more flexibility in operations and staff recruitment, and to prepare Hong Kong for the "risk-based capital regulatory regime" to be adopted by the international community.

10. A Government-commissioned consultancy to look into the governance framework, organizational structure and funding mechanism of the proposed independent IA was completed in the third quarter of 2009. In light of the latest development in the financial market, the Administration launched an extended study in the fourth quarter of 2009, involving discussions with stakeholders and taking into account their views, to review the existing insurance regulatory arrangements and identify areas for improvement.

11. The Administration will brief the FA Panel on the proposal for establishing an independent IA at the Panel meeting on 19 July 2010.

### **Relevant Papers**

Information paper provided by the Administration for the FA Panel meeting on 6 November 2003

<http://www.legco.gov.hk/yr03-04/english/panels/fa/papers/fa1106cb1-212-3e.pdf>

Minutes of the FA Panel meeting on 6 November 2003

<http://www.legco.gov.hk/yr03-04/english/panels/fa/minutes/fa031106.pdf>

The Administration' reply (FSTB(FS)012) to question raised by Hon CHAN Kin-por on the 2010-11 Estimates

[http://www.legco.gov.hk/yr09-10/english/fc/fc/w\\_q/fstb-fs-e.pdf](http://www.legco.gov.hk/yr09-10/english/fc/fc/w_q/fstb-fs-e.pdf)