Briefing Paper
on the Proposed Establishment of an Independent Insurance Authority
to
The Legislative Council Panel on Financial Affairs
by
The Hong Kong Confederation of Insurance Brokers

30 September 2010

The Hong Kong Confederation of Insurance Brokers (CIB) was established in 1993 by the amalgamation of the former Hong Kong Insurance Brokers Association (HKIBA), a voluntary professional body formed in 1979 and the Society of Insurance Brokers (SIB) established in the mid-1980s.

The CIB today is a body of professional insurance brokers authorized by the Commissioner of Insurance (CoI) as a Self Regulatory Organisation (SRO) with some 247 corporate members registering some 4,221 Chief Executives and Technical Representatives.

CIB will support the proposal by the Financial Services and Treasury Bureau (FSTB) for the formation of an Independent Insurance Authority (IIA) as set out in the Consultation Paper dated July 2010 on the understanding that implementation is inevitable given the political pressure from the International Monetary Fund (IMF) and the pronouncements of the International Association of Insurance Supervisors. This is however subject to further consultation by FSTB with the insurance industry in general and the CIB in particular on the future regulatory standards and administrative processes to be proposed in the legislation. Such consultation is hinted at but not adequately guaranteed by Consultation Paper Clause 1.6.

- The General Committee (GC) of the CIB and its Members' majority view is that the SRO framework has worked well.

- We believe that the majority of our Members would support the continuation of the current SRO framework.

- **The reality is that in order to meet with the demands of the IMF and also to align Hong Kong with current international practice, the Government has made clear its determination to establish the IIA including direct supervision of insurance intermediaries.**

- **The GC of the CIB believes that rather than challenge the formation of the IIA, a more constructive approach is to assist the Government in shaping the framework of the IIA in order that it operates effectively and enables Hong Kong to maintain its competitiveness as a leading insurance centre in Asia.**

- In line with Hong Kong SAR's reputation as one of the most business-friendly economies in the world, the IIA must avoid falling into the trap of over-regulating the insurance industry.

- The growth and long term development of the insurance industry in Hong Kong is dependent on a viable and uninhibited market and regulatory environment and should inappropriate constraints be introduced there is little doubt that large sectors of specialist lines and reinsurance would move offshore to the detriment of the Hong Kong insurance industry and the Hong Kong economy in general.

- The Consultation Paper is a high level document which states Government's intentions in very broad terms but does not indicate how these will be achieved. CIB would like to meaningfully participate in a second formal consultation process to ensure that the framework and operational regulatory processes will not be disruptive to established trade practices and international reporting systems and that the future cost of compliance will not be excessively increased.

- CIB Members in Forum have expressed their serious concern at the potential fee costs and increased costs of compliance that will be imposed on brokers as the Consultation Paper is silent on this critical issue. CIB urges FSTB to be more transparent on this matter and to give clarity to the expected level of licence fees for brokers and agents. In particular CIB is concerned with the accuracy of the projected costs of the IIA which would appear to be understated.

- CIB has grave concerns that the proposed policy levy will drive certain policyholders to arrange their insurances overseas, to the detriment of the Hong Kong market and local economy.

- The IIA should draw on the industry to provide input on strategic and operational issues, and there should be statutory standing committees within the IIA with industry representation.

- CIB expressly disagrees with the proposal that the Hong Kong Monetary Authority (HKMA) should regulate the selling of insurance by banks. This would effectively repeat Government's previous mistake in 1990 of requiring two Broker SROs. The aim of the new regulatory framework should be to avoid any of the perceived weaknesses or pitfalls of the existing regime and in particular to ensure that there is no repetition of the differing approaches and arbitrage as exists between the Office of the Commissioner of Insurance (OCI) and the Securities & Futures Commission (SFC) and between CIB and PIBA.

- CIB proposes that a Provisional IIA should be established at least one year before the IIA formally takes over the regulatory role. During this period the OCI working with industry representatives could ensure that the operational structure and guidelines are formed in such a way as to provide a seamless transition with all uncertainties having been resolved in advance.

- It has been well recognised that other jurisdictions have rushed into changes in their insurance and financial regulatory processes with less than satisfactory results, indeed having created serious problems detrimental to their local insurance establishments. CIB trusts that FSTB will carefully review the circumstances in the United Kingdom and Australia respectively where the first regulatory changes have needed to be revisited and completely restated after a relatively short period.

- In particular the new arrangements should recognise that Hong Kong's local insurance industry is only a small part of the global insurance and reinsurance industry and care needs to be taken not to impose restrictions or requirements which are out of line with global transactional standards and practices.

- The CIB supports Government's preference for direct licensing and supervision under Option 2. The GC of the CIB believes that the most constructive approach is to assist the OCI in shaping the framework of the IIA in order that it operates effectively and enables the industry to maintain its competitiveness and to contain the cost of compliance.

- CIB strongly disapproves of the proposal to grant HKMA the authority to regulate the sales of insurance products in banks. To do so would repeat the totally unsatisfactory position which has been allowed to exist in the lack of alignment between SFC and IA in their regulation of ILAS, and also flys in the face of the Government's stated perception that conflicts of interest exist within CIB and PIBA with their respective disciplinary committees' allegedly granting leniency in disciplinary matters in order not to upset their respective members. (CIB vociferously rejects such allegations)

- CIB believes it will be beneficial to both the IIA and the industry for the involvement of experienced industry professionals within the IIA on a strategic as well as on operational level.

- It is the firm view of CIB that a policy levy is an undesirable funding mechanism for a number of reasons. We have previously suggested the need for a cap to defer the flight of insurance business offshore. The drawback of such a cap is that individual consumer interests will claim that large corporate business is being cared for and that a disproportionate amount of levy falls on the small individuals. Conversely the premium pool of insurers is large enough that, while they will object, they will not have difficulty in absorbing the IIA costs. CIB prefers a direct fee levy on insurance companies to cover all costs and allow market forces to take care of insurers' ability to absorb or to charge such increased costs back to policyholders.

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