

**立法會**  
**Legislative Council**

LC Paper No. CB(1)1277/14-15  
(These minutes have been seen  
by the Administration)

Ref : CB1/BC/6/13/1

**Bills Committee on Insurance Companies (Amendment) Bill 2014**

**Minutes of the twentieth meeting on  
Monday, 11 May 2015, at 10:45 am  
in Conference Room 2A of the Legislative Council Complex**

- Members present** : Hon WONG Ting-kwong, SBS, JP (Chairman)  
Hon CHAN Kin-por, BBS, JP (Deputy Chairman)  
Hon Andrew LEUNG Kwan-yuen, GBS, JP  
Hon Cyd HO Sau-lan, JP  
Hon Starry LEE Wai-king, JP  
Hon Alan LEONG Kah-kit, SC  
Hon Steven HO Chun-yin  
Hon YIU Si-wing  
Hon KWOK Wai-keung  
Hon Christopher CHEUNG Wah-fung, SBS, JP  
Hon SIN Chung-kai, SBS, JP
- Members absent** : Hon James TO Kun-sun  
Hon WONG Kwok-kin, SBS  
Hon Paul TSE Wai-chun, JP  
Hon WONG Yuk-man  
Hon NG Leung-sing, SBS, JP  
Hon Dennis KWOK  
Dr Hon Fernando CHEUNG Chiu-hung
- Public officers attending** : Mr Eddie CHEUNG  
Deputy Secretary for Financial Services and the  
Treasury (Financial Services) 2

Ms Joan HUNG  
Principal Assistant Secretary for Financial Services and  
the Treasury (Financial Services) (Special Duties)

Ms Annie CHOI, JP  
Commissioner of Insurance

Miss Emma WONG  
Senior Government Counsel  
Department of Justice

Mr Peter SZE  
Senior Government Counsel  
Department of Justice

**Clerk in attendance** : Ms Connie SZETO  
Chief Council Secretary (1)4

**Staff in attendance** : Miss Winnie LO  
Assistant Legal Adviser 7

Mr Hugo CHIU  
Senior Council Secretary (1)6

---

Action

**I Meeting with the Administration**

Clause-by-clause examination of the Bill

LC Paper No. CB(1)824/14-15(06) — Letter dated 5 May 2015 from  
Legal Service Division to the  
Administration

LC Paper No. CB(1)729/14-15(01) — Letter dated 31 March 2015 from  
Legal Service Division to the  
Administration

LC Paper No. CB(1)369/14-15(03) — Administration's paper on "Index  
for Clause-by-clause  
Examination"

- LC Paper No. CB(1)1494/13-14(01) — Administration's paper on Insurance Companies (Amendment) Bill 2014
- LC Paper No. CB(3)581/13-14 — The Bill
- LC Paper No. CB(1)1636/13-14(01) — Marked-up copy of the Bill prepared by the Legal Service Division (Restricted to Members)
- File Ref: C2/2/50C — Legislative Council Brief
- LC Paper No. LS50/13-14 — Legal Service Division Report
- LC Paper No. CB(1)1494/13-14(02) — Background brief on Insurance Companies (Amendment) Bill 2014 prepared by the Legislative Council Secretariat

## Discussion

The Committee deliberated (Index of proceedings attached at **Appendix**).

### Clause-by-clause examination of the Bill

2. The Chairman remarked that the Bills Committee had completed clause-by-clause examination of the Bill, and would commence to deal with the Administration's responses to the remaining outstanding issues and consider the Committee Stage amendments to be proposed by the Administration starting from the next meeting.

## **II Any other business**

### Date of next meeting

3. The Chairman reminded members that the next two meetings would be held on 18 May 2015, at 10:45 am and 26 May 2015, at 2:30 pm respectively.

4. There being no other business, the meeting ended at 12:12 pm.

Council Business Division 1  
Legislative Council Secretariat  
30 September 2015

**Proceedings of the  
Bills Committee on Insurance Companies (Amendment) Bill 2014  
Twentieth meeting on Monday, 11 May 2015, at 10:45 am  
in Conference Room 2A of the Legislative Council Complex**

Time Marker	Speaker	Subject(s)	Action Required
000317 – 000449	Chairman	Introductory remarks	
<b>Clause-by-clause examination of the Bill</b>			
000450 – 005225	Administration Ms Cyd HO Mr YIU Si-wing Chairman Assistant Legal Adviser 7 ("ALA7") Deputy Chairman	<p><u>Clause 94 – Schedules 9, 10 and 11 added</u></p> <p><i>Schedule 11 Savings and Transitional Arrangements for Insurance Companies (Amendment) Ordinance 2014</i></p> <p>The Administration explained the provisions in the proposed new Schedule 11 to the Insurance Companies Ordinance (Cap. 41) ("ICO") with the aid of a PowerPoint presentation. [LC Paper No. CB(1)842/14-15(01)].</p> <p>Responding to Ms HO's enquiry, the Administration confirmed that Part 3 of the proposed new Schedule 11 to ICO (on the transfer of records from the existing Office of the Commissioner of Insurance ("OCI") to the future independent Insurance Authority ("IAA")) covered electronic records.</p> <p>Responding to Mr YIU's enquiry about the party to be responsible for approving an application for a stay of execution prescribed in sections 10 and 11 of the proposed new Schedule 11 to ICO, the Administration advised that, depending on whether the stay of execution was granted before or after the commencement of the new licensing regime, the Insurance Agents Registration Board or the Insurance Appeals Tribunal ("IAT") would be responsible for approving the application respectively.</p> <p><u>Demarcation of responsibilities between IIA and the existing three self-regulatory organizations ("SROs")</u></p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>Mr YIU's enquiries and views as follows:</p> <ul style="list-style-type: none"> <li>(a) if an SRO's decision to revoke the registration of a pre-existing insurance intermediary was subsequently reversed by IAT or the court after implementation of the new regulatory regime, whether the SRO concerned or IIA would be responsible for (i) compensating the loss of the insurance intermediary arising from revocation of the registration; and (ii) paying the costs awarded by IAT in the case concerned; and</li> <li>(b) the Administration should handle the transitional arrangements carefully as the proposed Travel Industry Authority might make reference to the arrangements of IIA.</li> </ul> <p>The Chairman enquired whether the existing three SROs would continue to exist after establishment of IIA, and if so, whether there would be regulatory overlap.</p> <p>The Administration responded as follows:</p> <ul style="list-style-type: none"> <li>(a) if the decision of an SRO to revoke the registration of an insurance intermediary was made on the grounds of misconduct, it would be unlikely that the insurance intermediary concerned could successfully apply for compensation for loss arising from the revocation. Determination of claims would be subject to the court's judgement;</li> <li>(b) the principle enshrined in the Bill was that IAT could, on appeal, review SROs' disciplinary decisions made before the commencement date of the new licensing regime ("the commencement date"), so that the intermediary concerned would not be deprived of a channel to apply for a review of the SROs' decision because of the implementation of the new regulatory regime;</li> <li>(c) in general, the existing SROs would be responsible for the disciplinary decisions they had made on insurance intermediaries. IIA would not be responsible for such decisions, including compensation arising from the decisions; and</li> </ul>	

<b>Time Marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action Required</b>
		<p>(d) the Bill had clearly set out the transitional arrangements and there would be no regulatory overlap between IIA and the existing SROs during the transitional period. The SROs would have no supervisory power over insurance intermediaries after the commencement of the licensing framework. They might continue with their roles as industry bodies.</p> <p>Responding to the Deputy Chairman's enquiry, the Administration confirmed that an application to IAT for a review of a decision of IIA would not automatically suspend the decision. The intermediary concerned had to apply to IAT separately to stay the execution of the decision.</p> <p>ALA7 referred to her letter issued to the Administration on 5 May 2015 [LC Paper No. CB(1)824/14-15(06)], and highlighted issues regarding:</p> <p>(a) section 10 of the proposed new Schedule 11 to ICO (on the licence status of a person applying for a stay of execution of the decision of revocation after the decision took effect); and</p> <p>(b) Divisions 6 and 8 of the proposed new Schedule 11 to ICO (i.e. why both divisions referred to "Chief Executive Registered with Approved Broker Bodies" and whether there was any difference between them).</p> <p>The Administration responded as follows:</p> <p>(a) under section 10 of the proposed new Schedule 11 to ICO, a person would be regarded as not having been granted a licence under the proposed new section 64U of ICO during the period from the date on which the decision of revocation of the registration took effect to the date on which an application of the stay of execution of the decision was granted; and</p> <p>(b) on the reference to "Chief Executive Registered with Approved Broker Bodies" in both Divisions 6 and 8 of the proposed new Schedule 11 to ICO, under the existing</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>self-regulatory regime, the Chief Executive of an insurance broker company needed not register as a technical representative with the Hong Kong Confederation of Insurance Brokers ("CIB") or the Professional Insurance Brokers Associations ("PIBA"). Under the new regulatory regime, the Chief Executive of an insurance broker company had to be licensed as a technical representative (broker). Approval of IIA should then be sought for the Chief Executive to act as a responsible officer ("RO") of the insurance broker company. Divisions 6 and 8 of the proposed new Schedule 11 to ICO set out the transitional arrangements for a pre-existing Chief Executive of an insurance broker company so that he/she would be regarded as having been granted a technical representative (broker) licence under the proposed new section 64ZC and having been granted an approval under the proposed new section 64ZF as an RO of the company respectively.</p> <p>The Administration also clarified that both sections 5 and 18 of the proposed new Schedule 11 to ICO set out arrangements on the licence status of a pre-existing insurance intermediary before the expiry of the transitional period, and there was no inconsistency between them.</p>	
005226 – 012423	Administration Mr SIN Chung-kai Mr YIU Si-wing Chairman ALA7	<p>Responding to Mr SIN's enquiry about details of the commencement date, the Administration advised that:</p> <p>(a) the Financial Secretary would, by notice published in the Gazette, appoint the commencement date of the new licensing regime; and</p> <p>(b) the Administration had explained the arrangements for the transition of OCI to IIA (to be implemented in three stages) in the paper "Transition and Miscellaneous Matters" [LC Paper No. CB(1)332/14-15(01)].</p>	



Time Marker	Speaker	Subject(s)	Action Required
		<p><u>Transfer of records from the existing SROs to IIA</u></p> <p>Mr SIN's concerns and enquiries as follows:</p> <ul style="list-style-type: none"> <li>(a) the SROs might receive a large number of applications for registration close to the implementation of the new regulatory regime. How the Administration would ensure that the SROs would vet these applications properly and carefully as they might not have sufficient resources during their winding up stage;</li> <li>(b) what measures would be in place to ensure proper transfer of records from the existing SROs to IIA, and whether there would be remedies if the records received by IIA were incomplete; and</li> <li>(c) whether the staff of SROs would be held liable for mistakes committed in the record transfer process, in particular if the SROs were dissolved after the commencement date but the three-year transitional period had not yet expired.</li> </ul> <p>Mr YIU enquired about the arrangements if an existing SRO was dissolved before the commencement date.</p> <p>The Administration responded as follows:</p> <ul style="list-style-type: none"> <li>(a) with effect from the commencement date, IIA would take over the regulation of insurance intermediaries from the existing SROs and all relevant records of SROs should have been transferred to IIA before the commencement date;</li> <li>(b) the three SROs could continue to exist as industry bodies under the new regulatory regime;</li> <li>(c) the SROs had been operating prudently under the existing self-regulatory regime and tried their best to vet applications for registration to ensure that the applicants had met all relevant requirements;</li> <li>(d) during the three-year transitional period, IIA would examine the qualifications of all pre-existing SRO registrants who had been</li> </ul>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>deemed as licensed insurance intermediaries and applied to IIA for licences. Only those who met the statutory licensing requirements would be granted new licences to continue to operate;</p> <p>(e) the Financial Services and the Treasury Bureau had been liaising closely with the existing SROs on the transitional arrangements through the Working Group on Transition. Part 9 of the proposed new Schedule 11 to ICO set out the legal liabilities of the existing SROs in providing records and assistance to IIA;</p> <p>(f) under section 126 of the proposed new Schedule 11 to ICO, IIA might apply to the court for an inquiry if a person failed to comply with any requirement in the transfer of records; and</p> <p>(g) the three SROs had been discharging their duties in a responsible manner under the self-regulatory regime. Currently, CIB or PIBA were approved bodies under ICO whereas the Insurance Agents Registration Board was established under the Hong Kong Federation of Insurers. The requirements of the guidelines and codes of conduct issued by the three SROs were subject to the approval of OCI.</p> <p>The Chairman remarked that there would be incentive for the existing SROs to operate and conduct the transfer of records to IIA properly as they were largely made up of industry practitioners who would continue to practice under the new regulatory regime.</p>	
012424 – 012449	Administration Chairman	<p><b><i>Part 3 Related and Consequential Amendments</i></b></p> <p><u>Clause 95 – Schedule amended</u> to <u>Clause 165 – Section 10 amended (Advisory Board establishment)</u></p> <p>At the Administration's suggestion, members agreed that the Bills Committee need not go through Clause 95 to Clause 165 of ICO, which were on related and consequential amendments.</p>	

<b>Time Marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action Required</b>
012450 – 012642	Chairman	Way forward and dates of next two meetings	

Council Business Division 1  
Legislative Council Secretariat  
30 September 2015