

Bills Committee on Insurance Companies (Amendment) Bill 2014

**List of follow-up actions arising from the discussion
at the meeting on 7 May 2015**

Disclosure of interests by members of the independent Insurance Authority ("IIA") (under clause 86)

- (a) Members of IIA are required to disclose their pecuniary interests under section 5 of the proposed new Schedule 1B to the Insurance Companies Ordinance (Cap. 41) ("ICO") (on the constitution and proceedings of IIA). A member has suggested extending the scope of disclosure to include "conflict of interest". The Administration is requested to consider the member's suggestion taking into account the policy intent and similar provisions in legislation of other statutory bodies.

Transfer of records from the existing Office of the Commissioner of Insurance ("OCI") to the future IIA (under clause 94)

- (b) Part 3 of the proposed new Schedule 11 to ICO contains provisions on the transfer of records from the existing OCI to the future IIA. Members have stressed the importance for the two parties to conduct the transfer process in a prudent manner to ensure protection of the relevant records, particularly secrecy of the personal data contained therein. The Administration is requested to: (i) provide information on the contemplated record transfer process, including the timeframe for transfer of records in various forms (i.e. in hardcopy or electronic form), relevant measures to protect secrecy of the personal data, etc.; and (ii) consider the need to specify in the provisions when the transfer process would be regarded as completed so that IIA's legal obligations for the transferred records under the Personal Data (Privacy) Ordinance (Cap. 486) would officially commence.

Drafting issue

Orders and regulations for levies of IIA (under clause 84)

- (c) The proposed new section 132(1) of ICO provides that a levy specified by the Chief Executive in Council by order published in the Gazette is payable to IIA by "the person so specified in the order for every contract of insurance". The Administration has explained that the phrase "the person so specified in the order" is intended to cover policy holders only. In the light of a member's comment, the

Administration is requested to review the drafting and consider replacing the phrase by the words "policy holders" to better reflect the policy intent.

Reduction of levies by IIA (under clause 84)

- (d) The proposed new section 133(1) and (2) of ICO provides for the mechanism for reduction of IIA's levies. The Administration has explained that the policy intent is that when the reserves of IIA, after deducting depreciations, all provisions, and outstanding debts, are more than twice its estimated operating expenses for the financial year, IIA has to consult the Financial Secretary with a view to recommending to the Chief Executive in Council that the rate or amount of a levy be reduced. Members consider that the concept of "net reserves of IIA" to be used for considering the need of levy reduction is not clearly reflected in the present provisions. The Administration has agreed to review and improve the drafting in the light of members' comments.

Regulated Activities (under clause 86)

- (e) In Part 1 of the proposed new Schedule 1A to ICO, regulated activities under the new regulatory regime cover "the act of inviting or inducing, or attempting to invite or induce a person to enter into a contract of insurance". In view of a member's comment that the existing Chinese rendition of the term "induce" ("誘使") may convey a negative meaning, the Administration is requested to consider whether a more neutral term like "促使" should be adopted.

Constitution and proceedings of Industry Advisory Committee (under clause 86)

- (f) In the light of comment by the Legal Adviser to the Bills Committee, the Administration has agreed to add the word "and" after paragraph (c) of section 1 of the proposed new Schedule 1C to ICO.