



**Financial Services and the Treasury Bureau
The Government of the Hong Kong Special Administrative Region**

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Insurance Companies (Amendment) Bill 2014

Policy Briefing

**Bills Committee Meeting
27 May 2014**



Financial Services and the Treasury Bureau
The Government of the Hong Kong Special Administrative Region

Objectives of the Bill

- To establish an independent Insurance Authority (IIA)
- To establish a statutory licensing regime for insurance intermediaries

Outline of Briefing

- Industry Landscape
- Objectives of Establishment of IIA
- Key Proposals in the Bill
- Seamless Transition



Industry Landscape

Industry Landscape

- 158 insurance companies
- 80,000 insurance intermediaries (i.e. agents and brokers), 40,740 insurance agents
- >10 million in-force life policies (not including general policies), **millions of policyholders**
- Insurance companies – authorized and regulated by the Office of the Commissioner of Insurance (OCI)
- Insurance intermediaries – self-regulated by three industry organizations –
 - Insurance Agents Registration Board (IARB)
 - The Hong Kong Confederation of Insurance Brokers (CIB)
 - Professional Insurance Brokers Association (PIBA)



Industry Landscape - Complaints



About 1,400 complaints from policyholders annually over the past 3 years



Major categories of complaints include –

- Misrepresentation
- Poor quality of service
- Issues on claims / liability

	2011	2012	2013
Insurers-related complaints (handled by OCI)	372	394	440
Intermediaries-related complaints (handled by the three industry organizations)	1,036	1,007	987
Total	1,408	1,401	1,427



Objectives of Establishment of IIA

Major Policy Considerations

- Enhancing protection of policyholders and avoiding stifling business innovation
- Modernizing the regulatory infrastructure of the insurance sector to facilitate stable and sustainable development of the industry
- Continuous engagement with the industry and other stakeholders (e.g. through advisory committees), and closely monitoring industry development
- Recommendations by the International Monetary Fund under the Financial Sector Assessment Programme
 - Reiterated the urgency to establish the IIA
 - Industry organizations which are responsible for the self-regulation of insurance intermediaries do not have full-fledged powers
- Due to a lack of resources and flexibility as well as constraints of the civil service regulations, OCI does not have the operational flexibility to recruit market talents



Key Proposals in the Bill

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- Functions of IIA
- Governance and funding
- Powers of IIA
- Licensing regime for insurance intermediaries
- Conduct regulation of insurance intermediaries
- Transition of insurance intermediaries

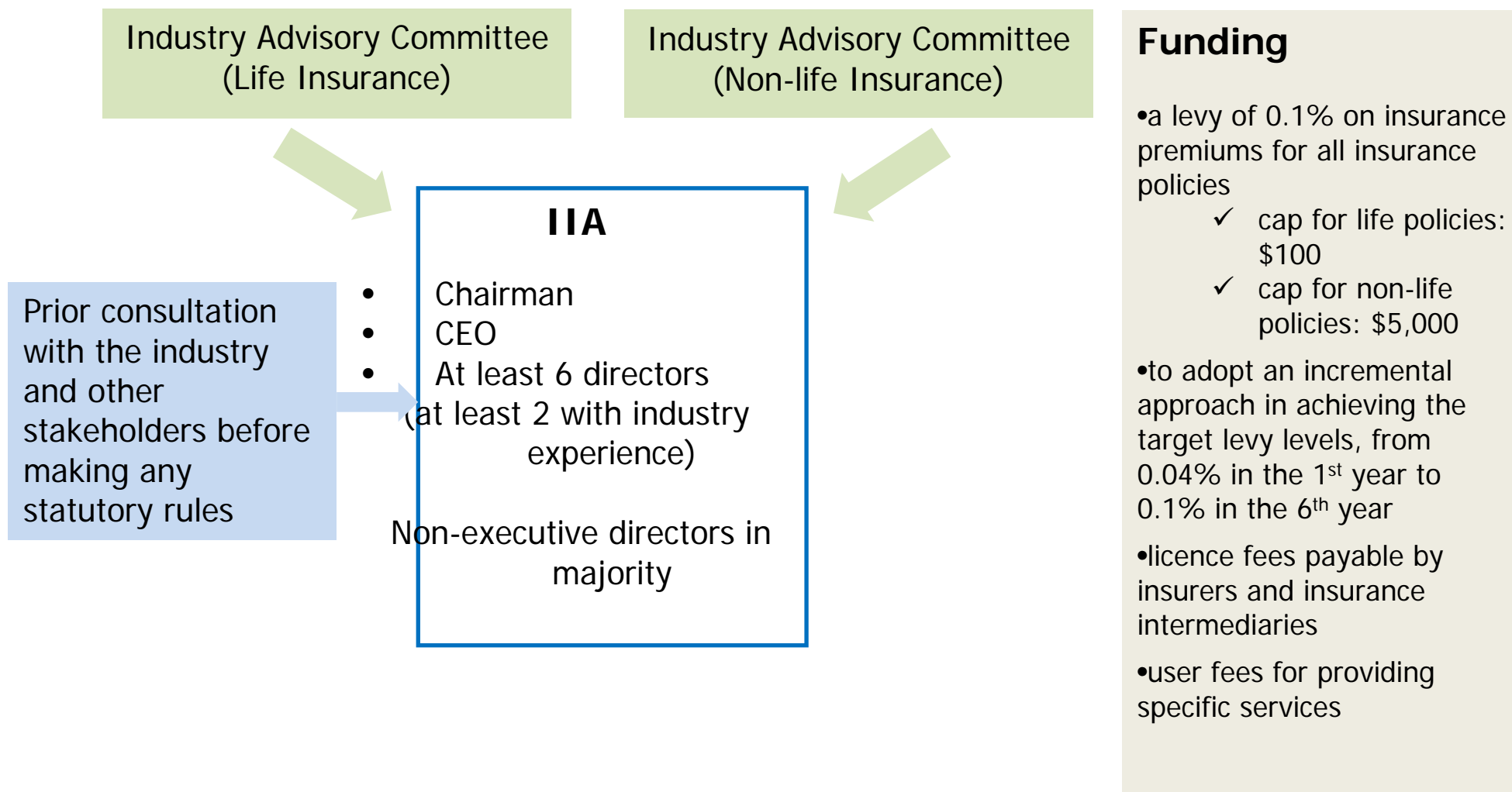


Functions of IIA

- Principal function: 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.
- Specific functions include –
 - ✓ supervising an insurer's and an insurance intermediary's compliance with the provisions of the law;
 - ✓ considering and proposing reforms of the law relating to insurance business;
 - ✓ promoting and encouraging proper standards of conduct, and sound and prudent business practices, applicable to insurers;
 - ✓ promoting and encouraging proper standards of conduct of insurance intermediaries;
 - ✓ reviewing and proposing reforms of the systems for regulating insurers and insurance intermediaries;
 - ✓ regulating the conduct of insurance intermediaries through a licensing regime;
 - ✓ promoting understanding by policyholders and potential policyholders of insurance products and the insurance industry;
 - ✓ formulating effective regulatory strategies and facilitate sustainable market development of the insurance industry, and promote the competitiveness of the insurance industry in the global insurance market;
 - ✓ conducting studies into matters affecting the insurance industry;
 - ✓ assisting the Financial Secretary in maintaining the financial stability of Hong Kong by taking appropriate steps in relation to the insurance industry; and
 - ✓ co-operating with and assisting financial services supervisory authorities of Hong Kong or of any place outside Hong Kong, whenever appropriate, to the extent permitted by the law.



IIA Governance and Funding



IIA Governance and Funding

Accountability and checks and balances

- tabling its annual report before the Legislative Council and submitting the annual budget and corporate plan to the Financial Secretary for approval
- establishing the Insurance Appeals Tribunal for reviewing IIA's decisions
- an independent Process Review Panel to be established by the Chief Executive
- complying with the Personal Data (Privacy) Ordinance and the Prevention of Bribery Ordinance
- the Director of Audit may conduct value for money audit on the IIA



Regulatory Powers of the IIA

1. Inspection and investigation

- vesting the IIA with appropriate powers of inspection and investigation on insurers and insurance intermediaries, having regard to the enabling legislation of relevant authorities
- IIA may enter into the premises of regulated entities for the purpose of inspection and investigation, as well as searching for records and documents
- subject to approval by the Chief Executive in Council, IIA can delegate the powers of inspection and investigation to HKMA for the regulation of banks' frontline insurance intermediary activities

2. Major new offences

- conducting regulated activities without a licence
- knowingly or recklessly providing false or misleading information

3. Disciplinary sanctions

- IIA may impose disciplinary sanctions for cases of misconduct

Disciplinary
sanctions



Expert
Panel



Regulatory Powers of the IIA

Disciplinary sanctions

■ The IIA may impose any one or more of the following sanctions in proven cases of misconduct or on ground of fitness and propriety –

- a) private or public reprimand;
- b) a fine **not exceeding** the amount which is the greater of-
 - \$10,000,000; or
 - three times the amount of the profit gained or loss avoided by the licensee / responsible officer (RO) as a result of his misconduct, or of the other conduct of the licensee which leads the IIA to form the opinion that he is not fit or proper;
- c) prohibition from applying for a licence / an approval as RO for a specified period;
- d) suspension of a licence / an approval as RO for a specified period; and
- e) revocation of a licence / an approval as RO



Regulatory Powers of the IIA

Disciplinary sanctions (con't)

- IIA has to publish a guideline on how it may impose a fine, and has regard to the guideline when imposing a fine as disciplinary sanction
- Maximum fine level should have adequate regulatory effect
- Guiding principles in determining a fine include –
 - proportionality to the severity of the misconduct;
 - whether the licensee has committed the same misconduct;
 - whether the licensee has made financial gains; and
 - the fine should not put the licensee into financial jeopardy



Licensing Regime for Insurance Intermediaries

Fit and proper persons

■The IIA will have regard to the following when considering whether an applicant for licence or a licensee is fit and proper –

- a) education or other qualifications or experience;
- b) ability to carry on a regulated activity competently, honestly and fairly;
- c) reputation, character, reliability and integrity;
- d) financial status or solvency; and
- e) relevant disciplinary decisions made by other financial services regulators



Licensing Regime for Insurance Intermediaries

- Mirror the existing registration categories of the three SROs and issue five types of insurance intermediary licences, in order to ensure a smooth transition:

	Insurance agent	Insurance broker
Corporate licence	(1) licensed insurance agencies (2 437)	(2) licensed insurance broker companies (633)
Individual licence	(3) licensed individual insurance agents (40 740) (4) licensed technical representatives ("TR") (agent) (27 466)	(5) licensed TRs (broker) (9 272)



Conduct Regulation of Insurance Intermediaries

- Broad principles of conduct requirements set out in the primary legislation, requiring that when carrying on a regulated activity, an insurance intermediary –
 - must act honestly, fairly, in the best interests of the policyholder;
 - may advise only on matters for which the intermediary is competent to advise;
 - must have regard to the particular circumstances of the policyholder;
 - must make the disclosure of information to the policyholder that is necessary to be sufficiently informed for the purpose of making any material decision; and
 - must use its best endeavours to avoid a conflict of interests with the policyholder; and disclose any of such conflict
- Details specified in subsidiary legislation and guidelines
- The IIA must publish a draft for consultation with the industry before making any new statutory rule



Conduct Regulation of Insurance Intermediaries

- An insurer is required to appoint key person(s) responsible for the function of intermediary management
- Corporate insurance intermediaries are required to appoint an RO for implementing internal monitoring and control system to promote compliance among their employees



Transition of Insurance Intermediaries

Seamless Transition

- All pre-existing insurance intermediaries will be deemed as licensees under the new regime for 3 years
- Licence fee will be waived for 5 years
- Not yet resolved pre-IIA complaint and disciplinary cases will be followed up by the IIA
- An applicant needs to apply for a licence from the IIA if his registration application has not been completed before the establishment of the IIA
- Establish a working group on transition to facilitate engagement with the industry on transition



Thank you