

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

**The Administration's Response to Members' Requests and Questions
Raised at the Meeting on 20 October 2014**

Purpose

This paper sets out the Administration's response to issues raised by Members at the Bills Committee meeting on 20 October 2014.

**(1) Issues for follow-up by the independent Insurance Authority
("IIA")**

2. We will compile a list of issues at the Bills Committee that need to be followed up by the IIA in future. These issues include the need to explain the nature of referral activities that fall outside the definition of regulated activities under the Bill. For example, in Australia, it is set out in the relevant regulation that a referral is not subject to licensing requirement provided that the activity is confined to - (a) informing another person that a licensee (or one of its representatives) is able to provide a particular financial service or class of financial services; and (b) giving that other person contact details for the licensee or representative.

(2) Licensees' duty to notify the IIA of change in particulars

3. New section 64P added by Clause 71 of the Bill requires that a licensed insurance intermediary must notify the IIA of any change of particulars within 14 days after the date on which the change takes place. The current time-limit is an extension of the original proposal of 7 days after we have considered market feedback received during the consultation exercises. The particulars of licensed insurance intermediaries in the register kept by the IIA should be reasonably up-to-date for inspection by the public and effective regulation. We will further discuss with the industry on whether there is any genuine difficulty for the licensees to comply with this requirement.

(3) Transfer of records on revocation or suspension of licence

4. The objective of the provision (new section 64ZT added by

Clause 72 of the Bill) is to protect the interests of policy holders by empowering the IIA to order a licensee to transfer relevant records to its clients when its licence has been suspended or revoked. We envisage that the IIA will exercise this power timely so that policy holders will not be disadvantaged by loss or denial of access to relevant records kept by the licensee. We will liaise with the insurance industry through the Working Group on Transition to ensure smooth implementation of the requirement under the provision.

(4) Activities performed by employees of insurers

5. New section 64G added by Clause 71 of the Bill provides that a person must not carry on or hold out to carry on a regulated activity in the course of the person's business or employment, or for reward, unless the person is a licensed insurance intermediary (i.e. a licensed agency, licensed individual insurance agent, licensed technical representative (agent), licensed insurance broker company or licensed technical representative (broker)).

New Schedule 1A added by Clause 86 of the Bill sets out the scope of the regulated activities, which can be summarized as any act of –

- (a) negotiating or arranging a contract of insurance;
- (b) inviting or inducing, or attempting to invite or induce, a person to enter into a contract of insurance;
- (c) inviting or inducing, or attempting to invite or induce, a person to make a material decision;
- (d) giving regulated advice.

A material decision and regulated advice refer to a decision or advice (as the case may be) in relation to any of the following matters –

- (a) the making of an application or proposal for a contract of insurance;
- (b) the issuance, continuance or renewal of a contract of insurance;
- (c) the cancellation, termination, surrender or assignment of a contract of insurance;
- (d) the exercise of a right under a contract of insurance;
- (e) the change in any term or condition of a contract of insurance;
- (f) the making or settlement of an insurance claim.

New section 121(2) added by Clause 84 of the Bill provides that a person acting on behalf of an insurer does not need to be licensed if he carries on a “regulated activity” that only involves the discharge of clerical or administrative duties for the insurer.

6. A Member raised concerns that employees of insurers might give regulated advice when performing their jobs such as underwriting and claims handling. The Administration should clarify whether these employees need to be licensed.

7. To ensure a level playing field and to prevent possible circumvention, the proposed regulatory regime is activity-based, i.e. persons who engage in “regulated activities”, whether they are individual agents, technical representatives of agencies or broker companies, or employees of insurers, should be subject to the same licensing and conduct requirements. We will further discuss with the industry to see how, under the aforesaid principle, the Bill can cater for insurers’ operational needs. We will report to the Bills Committee the results of the discussions in due course.

**Financial Services and the Treasury Bureau
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