

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

**The Administration's Response to Members' Requests and Questions
Raised at the Meeting on 11 November 2014**

Purpose

This paper sets out the Administration's response to issues raised by Members at the Bills Committee meeting on 11 November 2014.

(1) Relationship between insurers and insurance agents

2. The existing section 68 of the Insurance Companies Ordinance ("ICO") (Cap. 41) stipulates the legal relationship between an insurer and its appointed insurance agent, and the former's liability for the acts of the latter. Specifically, the existing section 68(2) provides that an insurer is not able to exclude or limit its liability for the actions of its appointed insurance agent in the dealings for the issue of a contract of insurance and insurance business relating to the contract.

3. New section 68(1) to (4C) added by Clause 73 of the Bill seek to modernize the drafting of the existing section 68(1) to (4). We have no intention to change the existing scope of liability of an insurer for the acts of an insurance agent appointed by the insurer under the ICO.

(2) Conduct requirements of insurance intermediaries

4. One of the proposed conduct requirements is that a licensed insurance intermediary may advise only on matters for which the licensee is competent to advise when carrying on a regulated activity (new section 89(c) added by Clause 84 of the Bill).

5. A licenced insurance intermediary would generally be regarded as being competent to advise on insurance products which he is eligible to sell after achieving the minimum education attainment and passing the relevant qualifying examinations¹. These requirements aim

¹ Insurance intermediaries are required to pass the relevant qualifying examinations prior to being eligible to sell a particular type of insurance product. For selling general insurance (except travel agents selling travel insurance), insurance intermediaries are required to pass Paper I (Principles and Practice of Insurance)

to ensure that insurance intermediaries are equipped with adequate knowledge on insurance principles and practices as well as common insurance policy terms and conditions.

6. However, the general conduct principle of advising clients only on matters for which the intermediary is competent to advise is case specific. For instance, an insurance intermediary should not advise on, say, aircraft liability insurance, if that intermediary does not have adequate knowledge in that area or product.

(3)Disciplinary process of insurance intermediaries

7. New section 81(1) added by Clause 84 of the Bill provides that the IIA must not exercise its disciplinary powers on a regulated person without first giving the person a reasonable opportunity of being heard. Our policy intent is that the person concerned is entitled to legal representation during disciplinary proceedings. Similar to the practice of other financial regulators in Hong Kong, the disciplinary hearing will not be open to public. Disciplinary decisions made by the IIA can be reviewed by the quasi-judicial Insurance Appeals Tribunal of which sittings must be held in public (see section 5(5) of new Schedule 10 of the Bill). Details of disciplinary proceedings will be set out in a guideline to be issued by the IIA.

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and Paper II (General Insurance). For selling life insurance, insurance intermediaries are required to pass Paper I (Principles and Practice of Insurance) and Paper III (Long Term Insurance). For life insurance intermediaries wishing to sell investment-linked products, they are further required to pass Paper V (Investment-linked Long Term Insurance). Exemptions are granted to those who were already practising insurance intermediation in Hong Kong immediately before 1 January 2000 and in possession of five years' proven relevant experience within the six-year period immediately before 1 January 2000; or holders of specified professional qualifications in insurance, investment or actuarial science.