

File ref.: C2/2/39C(99)

LEGISLATIVE COUNCIL BRIEF

Insurance Companies Ordinance
(Chapter 41)

INSURANCE COMPANIES (AMENDMENT) BILL 2000

INTRODUCTION

Annex

At the meeting of the Executive Council on 4 January 2000, the Council ADVISED and the Acting Chief Executive ORDERED that the Insurance Companies (Amendment) Bill 2000, at the Annex , should be introduced into the Legislative Council.

BACKGROUND AND ARGUMENT

Disclosure of Individual Financial and Statistical Information

2. Under the Insurance Companies Ordinance (“the Ordinance”), insurers (including Lloyd’s⁽¹⁾) are required to submit to the Insurance Authority (“IA”) accounts, statements and other information relating to

(1) Lloyd’s is a society of underwriters allowed to carry on insurance business in Hong Kong. It is subject to similar regulatory controls as the other insurers although it has a unique organisational structure and mode of operation.

their global businesses⁽²⁾ and local general business⁽³⁾. For insurers authorised to undertake long-term business⁽⁴⁾, the IA may invite them to provide on a voluntary basis information relating to their local long-term business.

3. Section 53A of the Ordinance provides that the IA cannot disclose to the public any information of an insurer unless, inter alia, the disclosure is a summary from which information of a particular insurer cannot be identified or the IA has obtained the consent of the insurer concerned.

4. As a result of this secrecy provision, disclosure of information obtained by the IA had been limited to the aggregate statistics of all insurers. In this regard, Hong Kong has lagged behind other neighbouring countries, including Singapore, Australia and Malaysia where the market is transparent with statistics on individual insurers readily made available to the public. We believe that disclosure of statistical and financial information in respect of individual insurers will enable policy holders to make informed decisions. Enhanced market transparency, which is the international trend, has also proved to be important for maintaining the systemic stability of the insurance market.

(2) Global businesses refer to general business and long-term business underwritten by an insurer worldwide (including Hong Kong)

(3) General business refer to insurance business not being long term business such as motor and fire insurance.

(4) Long-term business refer to insurance relating to the life of a person such as life and annuity, retirement scheme management etc.

5. In 1999, in an attempt to enhance transparency, the IA obtained the express consent of all insurers to publish in his Annual Report financial and statistical information on individual insurers. Members of the public, including insurers, policy holders, investors as well as overseas regulators welcomed the additional information provided. However, the reliance on the cumbersome administrative practice to obtain consent for every disclosure is considered unsatisfactory.

Acceptance of Actuarial Standards

6. An insurer carrying on long-term business in or from Hong Kong is required under the Ordinance to appoint an actuary. In 1997, section 59(2)(aa) was added to the Ordinance to empower the IA to prescribe, by regulation, standards to be complied with by an appointed actuary. The intention is to prescribe the Professional Standard 1 (“PS1”) issued by the Actuarial Society of Hong Kong (“ASHK”) as the standard.

7. The existing Ordinance does not afford the IA the flexibility to accept actuarial standards which are comparable to those prescribed by legislation. However, we recognize that not all appointed actuaries of insurers are members of the ASHK. In many instances, appointed actuaries of overseas insurers are overseas residents and the professional standards to which they are subject under their respective jurisdictions may be comparable to or even better than the PS1. The lack of flexibility has created operational difficulties for overseas insurers.

THE PROPOSAL

8. We **propose** to set out our policy intent of enhancing transparency by amending section 53A of the Ordinance to allow the IA to disclose the financial and statistical information of individual insurers provided that it is, in the IA's opinion, in the interests of the insuring public to do so.

9. To cater for those appointed actuaries who are not members of ASHK, we **propose** to empower the IA to accept professional standards which in his opinion are comparable to the ones prescribed by law.

THE BILL

10. The major provisions are -

- (a) **Clause 2** amends section 15(1)(b) to require an appointed actuary to comply either with the prescribed standards or other standards that the IA accepts as being comparable to the ones prescribed; and
- (b) **Clause 3** amends section 53A(3) to enable the IA to disclose financial and statistical information of individual insurers when it is in the interests of the insuring public to do so. However, the IA will be prohibited from disclosing information in respect of any individual policy holder.

PUBLIC CONSULTATION

11. The Insurance Advisory Committee, the Hong Kong Federation of Insurers, the Actuarial Society of Hong Kong and Lloyd's have been consulted on the proposals and have indicated their support.

BASIC LAW IMPLICATIONS

12. The Department of Justice advises that the Bill does not conflict with the provisions of the Basic Law carrying no human rights implications.

HUMAN RIGHTS IMPLICATIONS

13. The Department of Justice advises that the Bill is consistent with the human rights provisions of the Basic Law.

FINANCIAL AND STAFFING IMPLICATIONS

14. There are no financial and staffing implications for Government.

ECONOMIC IMPLICATIONS

15. Both proposals will help to promote Hong Kong's status as an international insurance centre. The proposal to allow disclosure of an individual insurer's financial and statistical information illustrates our policy of promoting a more transparent business environment. Greater

transparency is conducive to protecting policyholders and maintaining efficiency and systemic stability of the insurance market. The proposal in respect of accepting actuarial standards comparable to the prescribed ones addresses the needs of overseas insurers. This will help increase the supply of actuaries for Hong Kong and demonstrates that our regulatory regime is sensitive to the needs of market participants.

LEGISLATIVE TIMETABLE

16. The legislative timetable as approved by the Executive Council is as follows -

Publication in the Gazette	14 January 2000
First Reading and commencement of Second Reading debate	26 January 2000
Resumption of Second Reading debate, committee stage and Third Reading	to be notified

PUBLICITY

17. A press release will be issued on 12 January 2000. A spokesman will be available for answering media enquiries.

ENQUIRIES

18. For any enquiries, please contact Ms Wendy Cheung, Principal Assistant Secretary for Financial Services (Retirement Schemes and Insurance), at 2528 9016.

Financial Services Bureau

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A BILL

To

Amend the Insurance Companies Ordinance.

Enacted by the Legislative Council.

1. Short title

This Ordinance may be cited as the Insurance Companies (Amendment) Ordinance 2000.

2. Appointment of auditor and actuary

Section 15(1) (b) of the Insurance Companies Ordinance (Cap. 41) is amended by adding after “insurer,” -

“and such appointed actuary shall comply with the prescribed standards or other standards as the Insurance Authority accepts as being comparable to the prescribed standards.”.

3. Secrecy

Section 53A is amended -

(a) in subsection (3) -

- (i) in paragraph (g), by repealing “or” at the end;
- (ii) in paragraph (h), by repealing the full stop and substituting”; or”;
- (iii) by adding -

“(i) by the Insurance Authority if -

(i) the information is in the form of -

(A) such accounts,

statements and

information relating to

the business of an

insurer as have been

submitted to the

Insurance Authority

under section 17(1);

(B) such accounts,

statements, reports and

information relating to

the business of Lloyd's

as have been submitted

to the Insurance

Authority under section

50C(1) (a), (b), (c) and

(d); or

(C) such accounts,
statements and other
statistical and financial
information relating to
the long term business
carried on in Hong
Kong by an insurer or
Lloyd's (as the case
may be), as have been
provided by the insurer
or Lloyd's to the
Insurance Authority on
a voluntary basis; and

(ii) in the opinion of the Insurance
Authority, it is desirable that the
information should be so

disclosed in the interests of existing or potential policy holders or in the public interest.”;

(b) by adding -

“(3E) The Insurance Authority shall not disclose any information under this section relating to the affairs of any individual policy holder of an insurer.”.

4. Accounts and Statements

Paragraph 5(1) (e) of Part 1 to the Third Schedule is amended by repealing “standards, if any, prescribed under section 59(2) (aa)” and substituting “prescribed standards or other standards as the Insurance Authority accepts as being comparable to the prescribed standards under section 15(1) (b)”.

Explanatory Memorandum

The purpose of this Bill is to amend the Insurance Companies Ordinance (Cap. 41) -

- (a) to require the appointed actuary to comply with the prescribed standards or other standards as the Insurance Authority accepts as being comparable to the prescribed standards (clause 2);
- (b) to enable the Insurance Authority to disclose

information as to financial and statistical matters submitted to him by individual insurers and by Lloyd's, the society of underwriters known in the United Kingdom as Lloyd's, the disclosure of which to any person might otherwise be prohibited by virtue of section 53A (secrecy) of the Ordinance (clause 3);

- (c) to make consequential amendment to the Third Schedule so as to achieve consistency with the requirement under section 15(1) (b) of the Ordinance (clause 4).