

僱員補償援助基金管理局

Employees Compensation Assistance Fund Board

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Mrs Sharon Tong
Clerk to Bills Committee
Legislative Council
Legislative Council Building
8 Jackson Road
Central
Hong Kong

Your Ref : CB2/BC/8/01

Our Ref : ECAFB/BD/4/3676

17th April 2002

Dear Mrs Tong

Bills Committee on Employees Compensation Assistance (Amendment) Bill 2002

Thank you for your letter dated 4th April 2002.

On behalf of the Employees Compensation Assistance Fund Board, I shall be pleased to attend the Bills Committee meeting on Tuesday, 23rd April 2002. I shall be accompanied by the Board's Secretary, Ms. Patricia YIM Wai Man.

The Board wishes to make the following comments. As a statutory body, the Fund Board is entrusted with the task of discharging the functions set forth in the Employees Compensation Assistance Ordinance. Developments in recent years have resulted in a dramatic decline in the Board's financial reserves, viz. higher-than-expected awards by courts in personal injury cases (albeit in line with overseas experience, principally, the U.K.), and, more recently, the collapse of the HIH insurance group.

Whilst it may be true to say that the Fund was burdened with an historical liability (from 1984) upon enactment of the Ordinance (in 1991), the general level of court awards were, in those days, of a much lower order than what has been the case in more recent years. All in all, the amount required to answer eligible claims has outstripped revenue and the Fund's reserve has dwindled to an insignificant amount.

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For a considerable period of time, the Fund Board has engaged the Government in discussion and the consensus is that a broader review of the Ordinance is necessary. The Board is fully aware that there are important implications for employees, employers as well as the insurance industry in a structural review of the ECA Scheme such as that now being proposed. The Board would not under-estimate the significance of the changes proposed and their effect on those affected. However, the pertinent issues must be addressed, and a balance struck, if the ECA Scheme is to remain viable and the Ordinance workable.

The collapse of the HIH insurance group has a grave impact on the Fund, not only in monetary terms but in resource terms as well. The Board has no desire to advocate a reduction in its statutory responsibilities but it is now apparent that the administrative structure of the Board is not geared nor adequate to handle the fallout from a collapse of any sizeable insurer, let alone a major insurance group. The issues in a section 16 claim and those under sections 17 and 18 are demonstrably different with the latter involving complex questions that are specific to the insurance regime. Whether it is more efficient or cost effective to segregate the handling of the two types of claims is a matter of governmental policy on which the Fund Board has no stated stance.

Given the nature of its statutory responsibilities and the Board's membership, it is not appropriate for the Fund Board to take any firm position on the merits or de-merits of any of the specific provisions in the amendment Bill. Be that as it may, the Board believes that a review of the Ordinance is necessary and the proposed Bill represents progress in the right direction to ensure sustenance of the assistance Scheme and fulfillment of the legislative intent.

Yours faithfully,

Raymond TANG
Chairman