

**Bills Committee on the
Employees Compensation Assistance (Amendment) Bill 2002**

**The Administration's Response –
Proposed Employees Compensation Insurer Insolvency Scheme**

Introduction

This paper provides the information requested by the Hon Mr. Bernard Chan in relation to the proposed Employees Compensation Insurer Insolvency Scheme ("ECIIS").

Questions and Response

Question 1: Will the Government inject money into the ECIIS or play a role as the lender of last resort for the ECIIS?

Response: As explained at the Bills Committee meeting held on 23 April 2002, the system for regulating and supervising insurers authorised in Hong Kong is in line with the international standards and has been found to be effective. As a matter of fact, the HIH Group is the only case involving the insolvency of an employees' compensation ("EC") insurer in Hong Kong in the past 10 years. As such, we believe that there would be adequate time for the proposed ECIIS to accumulate funds to render adequate protection for policyholders (i.e. employers) and employees. Besides, the proposed ECIIS could protect its solvency position in the start up period by taking out reinsurance cover or other similar financial arrangements. In the unlikely event of depletion of funds during the start up period, other appropriate options could be explored, e.g. seeking bridging loans from banks. It is therefore considered that, unless there are any unforeseeable events, there will be no need for the Government to use public money to fund the ECIIS or play the role of "the lender of last resort".

Question 2: How does the proposed ECIIS differ from the existing mechanism?

Response: The Government has not played the role of "the lender of last

resort” in the case of the Employees Compensation Assistance Scheme (“ECAS”). The Government will take into account various relevant factors, including the protection for employers and employees, before considering any loan to ECAS.

As explained at the Bills Committee meetings on 3 and 23 April 2002, insolvency of EC insurers has a different nature, as demonstrated by the HIH incident. To avoid creating a sudden and substantial strain on the financial resources of ECAS, we consider it appropriate that claims arising from insurer insolvency and uninsured EC claims should be handled separately and, as such, a separate fund should be set up for this purpose. In fact, maintaining the existing ECAS would not help lower the level of levy, nor would it provide better protection to employers and employees.

Question 3: How to protect employers and employees?

Response: We hope that the ECIIS could be established as soon as possible, so as to start accumulation of funds for the purpose of protecting employers and employees from any losses arising from insurer insolvency.

Questions 4 and 5: Levy, and checks and balances

Response: The proposed ECIIS would be administered by an Employees’ Compensation Insurers Bureau (“ECIB”), a non-profit making company limited by guarantee. The ECIB would be responsible for imposing and collecting a levy on EC insurers. It would be a commercial decision of individual insurers on whether they would, as a result of the levy, increase the premiums having regard to the prevailing market conditions. Under the current proposal, adequate checks and balances on use of the levy collected will be made. The constitutions of the ECIB will stipulate clearly how the levy will be used. Use of the levy will be restricted to the payment of EC claims made against the ECIIS arising from the insolvency of EC insurers or expenses directly related to such claims. The financial position of the ECIIS will be subject to independent audit. A copy of the annual accounts together with the auditor’s report will be deposited with the Office of the Commissioner of Insurance (“OCI”) for scrutiny. It will also be published as a public document. Moreover, we will continue discussion with the General Insurance Council on further checks

and balances.

Question 6: Requirements under the Labour Legislation

Response: Under the Employees' Compensation Ordinance, if an employee sustains an injury or dies as a result of an accident arising out of and in the course of employment, his employer is liable to pay compensation to the injured employee or the family members of the deceased employee in accordance with the requirements of the Ordinance. An employer is liable to pay compensation irrespective of whether the proposed ECIIS is able to meet the claims or not.

Nevertheless, in setting up the proposed ECIIS, the Administration will consider making appropriate arrangements (for example, queuing mechanism for making payment) to protect the interests of employers and employees in the event that the Scheme encounters cash flow problem.

Question 7: Protection for injured employees

Response: Exactly for the purpose of protecting employers and employees, we hope that the ECIIS could be established as soon as possible in order to avoid insufficient funding in the early stage of the ECIIS in case of EC insurer insolvency during the relevant period. We believe that the proposed ECIIS would render adequate protection for employers and employees.

Question 8: Interest on loan

Response: Please refer to the response to Question 1 above.

Financial Services Bureau/OCI / Labour Department

May 2002

