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INS/TEC/6/10/14 7 May, 2002

Mr K P Chan
Chairman
General Insurance Council
The Hong Kong Federation of Insurers
29th Floor, Sunshine Plaza
353 Lockhart Road
Wanchai
Hong Kong

Dear K. P.,

Employees Compensation Assistance (Amendment) Bill 2002

In your letter of 3 May 2002 on the above subject addressed to The Honourable Mr James Tien, GBS, JP, The Honourable Mr Tommy Cheung, JP and The Honourable Mr Kenneth Ting, JP of the Legislative Council, and Mr James Ng and Mr Victor Apps of the Employers' Federation of Hong Kong copied to me, you stated that employers would have to pay a charge of at least 6.5% extra on their EC premium in order to ensure sufficient fund would be collected within the first two years of the establishment of the proposed employees compensation insurer insolvency scheme (ECIIS) to meet the insolvency of a medium-sized insurance company. We have difficulty in following the General Insurance Council's argument. The present financial position of the Employees Compensation Assistance Scheme (ECAS) Fund, which does not have any reserve for the liabilities in an insurer insolvency, is analogous to that of the start up position of the proposed new ECIIS Fund. Following your logic, it means that a levy to be paid by employers amounting to another 6.5% on EC premium is needed to ensure that the ECAS Fund would build up enough reserves to meet the needs of the insolvency of insurers.

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More fundamentally, I wish to point out that we do not agree with the Council's underlying assumptions for the 6.5% levy. As pointed out in our April submission to the Bills Committee on the above Bill (The Administration's Response to Submissions by Organisations), insolvency of EC insurers has been uncommon, we believe that there is adequate time for the proposed ECIIS to accumulate funds to render adequate protection for policyholders (i.e., employers) and employees. In the interim, the proposed ECIIS could also protect its solvency position by taking re-insurance cover or other similar financial arrangement. In our submission to the Bills Committee, we have also explained that in the very unlikely event of depletion of funds under the ECIIS during the start up stage (a situation which is analogous to the present position of the existing ECAS Fund), other appropriate options could be explored, for example, seeking bridging loans from banks.

Given that EC liabilities of an insurer would normally take up to 8 years to mature, we remain of the view that 1% of the premium would suffice for the purpose of setting up the proposed ECIIS Fund. The rate could be adjusted if the circumstances warrant. The rationale for and the benefits of setting up a separate ECIIS Fund have been set out in our submission and I do not intend to repeat them here.

I look forward to meeting with the industry to discuss how best to take forward the proposal to set up the ECIIS. I understand that the industry may have concerns on the operational aspects of the Scheme and I am confident that a satisfactory solution which would address the needs of the industry, the employers and employees would be worked out.

Yours sincerely,

(Benjamin Tang)
Commissioner of Insurance

c.c. The Hon Mr James Tien, GBS, JP
The Hon Mr Tommy Cheung, JP
The Hon Mr Kenneth Ting, JP
Mr James Ng)
Mr Victor Apps) Employers' Federation of Hong Kong