

**Notes for Legco Panel  
27 June 2005**

**Benny Yeung**

- It was with the greatest of dismay, but frankly no surprise, to learn that a QIS would not be achieved by October 2005.
- It has been more than 4 years since the collapse of HIH and members are still stuck with the injustice of SIF.
- We do not doubt the efforts of the team at the Law Society involved in this task. However, it is plain that those efforts are inadequate – the result speaks for itself – SIF is to be renewed for a further year. **We are to suffer the risks of mutual liability for another 12 months.** I cannot hide my frustration, and perhaps anger also, at having been let down by the Law Society. Will reform be achieved by October 2006? In the light of past experience, this is far from certain.
- I have no wish to go over what has happened and what should have happened to achieve the result our members are waiting for. The important thing now is to move forward in the most constructive way possible.
- I can tell you, and the Law Society, what our members simply want. It remains:
  - A scheme without mutual liability, other than to a very limited extent if absolutely necessary
  - A scheme without subsidization of contributions
  - A scheme which is affordable
  - A scheme which is viable over the long term and which works with proper regard to risk containment - and we see that the means to do this is by title insurance
- I must be frank:
  - We are in a position where the Working Committee of the Law Society, including the President, **have not seen** the information which the Law Society's consultant, AON, has sent out to the market before they were sent out.
  - We do not know if or when we are likely to receive details of the market's response. We suspect that the market cannot respond fully as we have been told that the QI Agreement has not even been drafted.
  - We also suspect that DOJ will not be able to comment, other than superficially, until it understands the basis on which the Law Society is planning to choose qualifying insurers and sees the QI Agreement.
  - BUT, most of all we have no idea how much it is going to cost for different types of firms, nor how much the ARP is going to cost nor how many firms are likely to be in the ARP or what their profile is. The essential information regarding the cost of the QIS or an MPS was requested at the first EGM last year and in my letter to the President in August 2004 I wrote:
 

"We think that the Law Society should obtain factual information from insurers on the following to facilitate consensus building:

(a) What is the likely cost of QIS to members? What are the likely sort of terms they will stipulate to members under the QIS option. How many small firms are likely not

to be able to get insurance under the QIS option?

- (b) What is the likely cost of MPS at the different levels of mutuality to members? Given the present proposals, how many insurers are interested to provide insurance?"

But we still do not have this information up to now.

We have no facts before us as to how viable the QIS is and whether there are any circumstances which may be changed to make it more viable.

- I can only conclude that we want ***focused concentrated*** action from the Law Society; and proposals for reform which can be considered by the members ***with all the information*** required to make a sensible decision.
- On behalf of the Group I formally request from the Law Society a detailed QIS implementation plan with timelines and responsibilities properly identified. We formally request a detailed monthly report from the President in the Lawyer as to progress as against the plan.

#### Sundara Krishnan

- I can only whole-heartedly endorse and emphasise the comments of Mr Yeung. This issue is one of unremitting concern and I earnestly hope that after today we can see some positive, efficient action.
- However, there is one point that I wish to make upon which we have requested information from the Law Society and on which we have not received a straightforward answer.
- It is this. The AON group<sup>1</sup> in the US has recently agreed to pay in settlement of corruption charges the sum of US\$190 million, which is to be paid by way of restitution to policyholders. Eliot Spitzer has said that "improper conduct was pervasive at AON". AON's chairman, Patrick Ryan, has openly admitted taking advantage of conflicts of interest.
- I wish to make it clear that the Action Group makes no assertions that AON has been involved in these practices in Hong Kong. However, the SIF PI contract has long been the largest PI insurance contract in Hong Kong and until the most recent appointment, at the beginning of this year has, I understand, for some reason never been tendered.
- In this context, it is in the interests of members to see, without obfuscation, that the proper questions and due diligence have been carried out by the Law Society in relation to AON's past and present practices. Mr Larry Ko has twice raised written questions on this but they have not been adequately answered.
- Moreover, we understand that one of the reasons that AON have been appointed again is that they have the requisite claims handling experience. On this basis, no one else would ever have a real chance of bidding for the PIS management contract. As such, as part of the Law Society's remit in putting to members' proposals for the reform of the SIF, it should consider ways in which this problem may be addressed.
- The Action Group would like to receive a commitment from the President of the Law Society today to report to this panel and members on these issues.

#### Hilary Cordell

<sup>1</sup> AON Hong Kong have recently been appointed by the Law Society to act as its QIS consultant, broker for the renewal of the SIF reinsurance contracts and manager of the SIF fund.

- It is clear that much more needs to be done to achieve a speedy result acceptable to all stakeholders. And before knowing what will be acceptable, there needs to be thorough communication.
- We would like to suggest the following:
  - that the Working Committee be chaired by the President of the Law Society as he is the members' chief representative and the person we are looking to take the lead in sorting this issue out;
  - that the President appoints to the Committee one other council member, perhaps Mr Lintern Smith as he has shown real interest in this subject, and Mr Krishnan and Mr Yeung of the Action Group;
  - that the Working Committee meets weekly to progress matters even if those meetings are short this will keep progress on track;
  - that AON is pressed to provide the market response and pricing information to the Committee urgently;
  - that a forum is held for members to which the members of the insurance industry and the Government are invited to discuss the proposed QIS and stakeholders' concerns;
  - that a detailed timetable and workplan is presented to this panel outlining the steps to be taken.