

**立法會**  
**Legislative Council**

LC Paper No. CB(1)827/10-11  
(These minutes have been seen  
by the Administration)

Ref : CB1/PL/FA/1

**Panel on Financial Affairs**

**Minutes of special meeting  
held on Tuesday, 12 October 2010 at 2:30 pm  
in the Chamber of the Legislative Council Building**

**Members present :** Hon CHAN Kam-lam, SBS, JP (Chairman)  
Hon Ronny TONG Ka-wah, SC (Deputy Chairman)  
Hon Albert HO Chun-yan  
Dr Hon David LI Kwok-po, GBM, GBS, JP  
Hon James TO Kun-sun  
Dr Hon Philip WONG Yu-hong, GBS  
Hon Emily LAU Wai-hing, JP  
Hon Abraham SHEK Lai-him, SBS, JP  
Hon Vincent FANG kang, SBS, JP  
Hon Andrew LEUNG Kwan-yuen, GBS, JP  
Hon CHIM Pui-chung  
Hon KAM Nai-wai, MH  
Hon Starry LEE Wai-king, JP  
Dr Hon LAM Tai-fai, BBS, JP  
Hon Paul CHAN Mo-po, MH, JP  
Hon CHAN Kin-por, JP  
Hon Mrs Regina IP LAU Suk-yea, GBS, JP

**Members attending :** Hon Fred LI Wah-ming, SBS, JP  
Hon LEE Wing-tat  
Hon IP Wai-ming, MH

**Members absent** : Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP  
Hon Jeffrey LAM Kin-fung, SBS, JP  
Hon WONG Ting-kwong, BBS, JP

**Public officers attending** : Agenda Item I  
  
Miss Emmy WONG  
Deputy Secretary for Financial Services and the  
Treasury (Financial Services)<sup>2</sup> (Acting)  
  
Ms Annie CHOI, JP  
Commissioner of Insurance

**Attendance by invitation** : Agenda Item I  
  
The Insurance Institute of Hong Kong  
  
Mr Michael HAYNES  
President  
  
Society of Certified Financial Organizer  
  
Mr Ken WONG  
Spokesman  
  
The Institute of Financial Planners of Hong Kong  
  
Ms Eleanor WAN  
Chief Executive Officer  
  
The Hong Kong Federation of Insurers  
  
Mr Alex CHU  
Deputy Chairman  
  
Hong Kong Insurance Practitioners General Union  
  
Ms Juan LEUNG  
President

The Hong Kong Confederation of Insurance Brokers

Mr Ronald LAI  
Vice Chairman

Consumer Council

Ms Connie LAU  
Chief Executive

Ms Vera TAM  
Chief Research and Trade Practices Officer

Democratic Alliance for the Betterment and Progress of  
Hong Kong

Mr KWAI Ting-kong  
Financial Affairs Deputy Spokesperson

Professional Insurance Brokers Association

Mr Philip MAK  
Public Relations Sub-committee Member

Individual

Ms CHUNG Kwan-chun  
Member of Sai Kung District Council

General Agents and Managers Association of Hong  
Kong Limited

Mr Kenneth LEUNG  
1st Vice President

Hong Kong Society of Certified Insurance  
Practitioners

Mr Jackie CHUN  
Immediate Past President

Hong Kong Chamber of Insurance Intermediaries

Mr Patrick HO  
President

The Hong Kong General Insurance Agents Association  
Limited

Mr Teem LAM  
Chairman

The Life Underwriters Association of Hong Kong  
Limited

Ms Andy MOK  
Assistant Director

The Independent Financial Advisors Association  
Limited

Mr Glenn TURNER  
Chairman

**Clerk in attendance:** Ms Anita SIT  
Chief Council Secretary (1)5

**Staff in attendance :** Mr KAU Kin-wah  
Assistant Legal Adviser 6

Mr Noel SUNG  
Senior Council Secretary (1)4

Ms Haley CHEUNG  
Legislative Assistant (1)8

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## **I Proposed establishment of an independent Insurance Authority**

### *Submissions from deputations attending the meeting*

(LC Paper No. CB(1)3015/09-10(01) — Submission from Society of Certified Financial Organizer

LC Paper No. CB(1)3008/09-10(01) — Submission from The Institute of Financial Planners of Hong Kong

LC Paper No. CB(1)3008/09-10(02) — Submission from The Hong Kong Federation of Insurers

LC Paper No. CB(1)2969/09-10(01) — Submission from The Hong Kong Confederation of Insurance Brokers  
and CB(1)3008/09-10(03)

LC Paper No. CB(1)2969/09-10(02) — Submission from Consumer Council

LC Paper No. CB(1)2969/09-10(03) — Submission from Hong Kong Society of Certified Insurance Practitioners

LC Paper No. CB(1)2969/09-10(04) — Submission from Hong Kong Chamber of Insurance Intermediaries

LC Paper No. CB(1)2969/09-10(05) — Submission from The Life Underwriters Association of Hong Kong Limited

LC Paper No. CB(1)3008/09-10(04) — Submission from The Independent Financial Advisors Association Limited)

### *Submissions from organizations not attending the meeting*

(LC Paper No. CB(1)2969/09-10(06) — Submission from Mr LARM Wai-leung, member of North District Council

LC Paper No. CB(1)2969/09-10(07) — Submission from Ms WONG Mo-tai, BBS, MH, JP, member of Shatin District Council

LC Paper No. CB(1)3008/09-10(05) — Submission from The Insurance Agents Registration Board

LC Paper No. CB(1)3015/09-10(02) — Submission from Mr YEUNG Wai-sing, MH, member of the Eastern District Council

LC Paper No. CB(1)3015/09-10(03) — The Hong Kong Association of Banks)

*Other relevant papers*

(LC Paper No. CB(1)2525/09-10(01) — Administration's paper on "Proposed establishment of an independent Insurance Authority"

LC Paper No. CB(1)2525/09-10(02) — Administration's consultation paper on "Proposed establishment of an independent Insurance Authority"

LC Paper No. CB(1)2522/09-10 — Background brief on proposed establishment of an independent Insurance Authority prepared by the Legislative Council Secretariat

LC Paper No. CB(1)2604/09-10(01) — Administration's paper on "Proposed establishment of an Independent Insurance Authority" (Power-point presentation materials)

LC Paper No. CB(1)2933/09-10 — Minutes of special meeting on 19 July 2010 (Paragraphs 1 to 34 are relevant)

The Chairman welcomed representatives of the Administration and deputations to the meeting. He reminded the deputations that their views presented at the meeting would not be covered by the protection and immunity provided under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382). He invited the deputations to present views on the Administration's proposals for establishment of an independent Insurance Authority (IIA).

#### Presentation of views by deputations

##### *The Insurance Institute of Hong Kong*

2. Mr Michael HAYNES, President of the Insurance Institute of Hong Kong (IIHK), said that the IIHK supported the establishment of an IIA, having regard to the benefits that would be brought about to insurance practitioners and consumers, including the provision of training and education across the insurance industry. In other Asian countries such as Singapore and Malaysia, the independent insurance authority received strong support from the insurance industry, in particular in conducting professional training and examinations for development of the industry. While IIHK believed that an IIA would work well in Hong Kong, in view of the training needs of the industry, IIHK was concerned that the consultation paper was totally silent on topics such as training, education and examination, and the proposal of empowering both the IIA and the Hong Kong Monetary Authority (HKMA) to regulate banks selling insurance products would lead to confusion to consumers and inconsistency in enforcement standard. With the exclusion of the self-regulatory organizations (SROs) from the regulatory regime, there would be a vacuum in education and training, and the IIA should work closely with the established entities, such as IIHK, to ensure there was no breakdown in the provision of training and education for the insurance industry.

##### *Society of Certified Financial Organizer*

3. Mr Ken WONG, Spokesman of Society of Certified Financial Organizer (SCFO), said that the consultation paper lacked details of the proposed regulatory arrangements. The self-regulatory regime had operated effectively for the regulation and development of the insurance industry over the years, and many international insurance companies had established their business in Hong Kong. The proposed arrangement of having two regulatory bodies to regulate one financial sector had proved to be undesirable in the Lehman Brothers Minibonds incident. The IIA should be the sole authority to regulate the insurance industry, including banks and their employees engaged in insurance business. Under the proposal, the manpower of the regulatory authority would increase from 123 to 237 staff. The Government would have

to provide a lump sum of \$500 million to the IIA on its inception. It was questionable whether it was worthwhile to spend such an amount of public money for the purpose. Besides, the proposed levy would result in policyholders having to pay a higher premium.

*The Institute of Financial Planners of Hong Kong*

4. Ms Eleanor WAN, Chief Executive Officer of the Institute of Financial Planners of Hong Kong (IFPHK), said that members of IFPHK were of the view that as an international financial centre, Hong Kong's financial regulatory framework should align with international practices. IFPHK therefore supported the establishment of an IIA which was financially and operationally independent from the Government. The IIA should have the regulatory powers, suitable structure and well defined objectives and adequate resources to perform its functions. Appropriate checks and balances should be put in place to govern the operation of the IIA, which should, apart from regulatory functions, be responsible for facilitating and promoting a healthy and sustainable insurance market. The regulation of insurance intermediaries under the IIA would ensure the standard of services provided to policyholders, and cost-effectiveness. The operation of the IIA should be highly transparent and there should be a high level of involvement of the insurance industry. In this connection, the Government should provide details of the structure, financial and accountability arrangements of the IIA, and how the various existing regulatory bodies and standards would be aligned. The competitiveness of the insurance industry should not be adversely affected by over-regulation as a result of the establishment of the IIA. The regulation of banks in selling insurance products should come under the purview of IIA instead of the HKMA, in order to ensure consistency in the interpretation of regulations. IFPHK also had reservation on imposing a levy on insurance policies as the levy was tantamount to an additional tax which was unfair to the consumers, in view that similar levies were not imposed on other investment instruments. The proposed levy was inconsistent with the funding arrangements for other regulatory bodies in Hong Kong, and would undermine the competitiveness of Hong Kong's insurance products in the international market. A second round of consultation should be conducted to gauge the views of the insurance industry on the operation of the IIA. More details of the various proposals in the consultation paper, as well as the transitional arrangements, should be provided in the second round consultation.

*The Hong Kong Federation of Insurers*

5. Mr Alex CHU, Deputy Chairman of the Hong Kong Federation of Insurers (HKFI), said that HKFI supported in principle the establishment of an IIA. More information about the various proposals in the consultation paper



should be provided. The merits of the existing self-regulatory regime should be retained, and included in the operational arrangements of the IIA. HKFI proposed that the three existing self-regulatory organizations (SROs) should be merged into one organization, to be regulated under the Office of the Commissioner of Insurance (OCI) or the proposed IIA. A working group consisted of representatives of insurance associations should be formed by the OCI to work out the detailed arrangements of the IIA. A provisional IIA, with representatives of HKFI and the various insurance associations, should be established to ensure a smooth transition from the self-regulatory regime to the IIA. The funding arrangement for the IIA should be fair and transparent, and should not hamper the competitiveness of Hong Kong's insurance industry. The IIA should receive subsidies from the Government, and should not solely rely on the financial support from the insurance industry and policyholders. All insurance business in banks should be regulated by the proposed IIA; the proposed arrangement for HKMA to regulate insurance business in banks would only give rise to inconsistent regulatory standards, duplication of work, confusion to consumers and over-regulation. A second round of consultation should be carried out regarding the detailed arrangements of the proposed regulatory regime.

*Hong Kong Insurance Practitioners General Union*

6. Ms Juan LEUNG, President of Hong Kong Insurance Practitioners General Union (HKIPGU), stated that the consultation paper should clearly spell out the regulatory standards and sanctions to be adopted by the proposed IIA, as the consultation paper stated that the existing self-regulatory regime gave rise to inconsistent standards in regulating the insurance industry. The OCI should have requested the SROs to provide and make public the relevant enforcement actions/sanctions taken by the organizations if necessary. The expenditure of the proposed IIA was estimated to be about \$240 million per annum, as compared to \$130 million under the existing self-regulatory regime. Consumers should be made aware that they would have to pay a levy for their insurance policies to meet the expenditure of the IIA. The proposed arrangement of regulating the insurance practitioners in banks by two regulatory bodies, i.e. the IIA and HKMA, should not be implemented. A bank staff whose licence was withdrawn by the IIA might continue to perform other duties in the bank, whereas an insurance practitioner facing the same sanction might lose his livelihood. Under the proposed IIA, there should be adequate protection for the interests of insurance practitioners, for the benefit of sustained development of the insurance industry. It was doubtful whether it was necessary to align the local regulatory regime with international practices. Based on the recommendation in the consultation paper, the insurance industry could only provide input and market views to an Advisory Committee of the IIA which did not have concrete powers. The industry was concerned about

the channels in the IIA through which insurance practitioners could put across their views. The second round consultation should address the concerns of the insurance industry.

*The Hong Kong Confederation of Insurance Brokers*

7. Mr Ronald LAI, Vice Chairman of the Hong Kong Confederation of Insurance Brokers (CIB), said that CIB considered that the existing self-regulatory regime had worked well and should continue to be the regulatory framework for Hong Kong's insurance industry. However, in order to meet the demands of the International Monetary Fund (IMF), and to align with international practices, CIB supported the Government's proposal to establish an IIA, which would directly supervise insurance intermediaries. CIB was prepared to assist the Government in shaping the IIA in order that it would operate effectively and maintain Hong Kong's competitiveness as a major insurance centre in Asia. CIB also supported the proposal for the IIA to directly license and supervise the insurance intermediaries. However, CIB was of the view that the IIA should not over-regulate the insurance industry, in excess of the global regulatory standard. Otherwise, international insurance companies would move out of Hong Kong and this would adversely affect Hong Kong's economy. Since the consultation paper only spelt out the Government's intentions in very broad terms, without giving details on how the proposals would be achieved, CIB was prepared to participate in the second formal consultation on the proposals. CIB was gravely concerned about the proposed fees and levy, and the increased costs arising from the establishment of the IIA. CIB was also concerned about the accuracy of the projected cost of the IIA. There should be legislation to ensure representation and input from the insurance industry on the operation of the IIA. CIB strongly disagreed with the proposal for the HKMA to regulate the sale of insurance products in banks, as such arrangement would repeat the mistake of assigning two SROs to regulate the insurance intermediaries. CIB proposed that a provisional IIA should be set up at least one year before the IIA formally took over the regulatory role. During the interim, the OCI and representatives of the insurance industry should work out the structure and guidelines for the IIA. CIB considered that a levy on insurance policies was undesirable, as the levy would drive certain policyholders to purchase insurance overseas, which was detrimental to Hong Kong's insurance market and economy. Setting a ceiling on the levy would be in favour of large insurance companies, and small and medium sized insurance companies would be put at a disadvantageous position. CIB proposed that a direct fee be imposed on insurance companies to cover all costs of the IIA, and it would be up to insurance companies to consider absorbing the costs by themselves or recovering the costs from their customers.

*Consumer Council*

8. Ms Connie LAU, Chief Executive of Consumer Council (CC), said that CC considered that the proposed establishment of an IIA would enhance regulation of the insurance industry and protection of insurance policyholders' interests. With the increase in demand for insurance, and the diversification of insurance products, there was a need to strengthen the regulatory regime for the insurance industry. The number of complaints concerning the insurance industry received by CC had risen from 246 cases in 2000 to 447 cases in 2009. The nature of complaints remained similar over the years, including refusal to provide insurance coverage, excessive increase in policy premium, delay or failure in paying compensation, provision of misleading and/or false information by insurance intermediaries. Recently, there were complaints related to investment-linked insurance products and the nature of complaints became more complicated. If the interests of consumers could not be adequately protected under the existing regulatory regime, consideration should be given to adopting a new regulatory framework, such as the establishment of an independent regulatory body. CC considered that an independent regulatory body would be more objective and impartial in dealing with issues/complaints of a particular industry, and the independent body would enjoy higher credibility and acceptability among the consumers/policyholders. CC therefore strongly supported the establishment of an IIA which would meet the public aspiration for setting up an independent body to regulate the insurance industry. As regards the proposal to empower the HKMA to regulate banks conducting insurance business, CC considered that the detailed arrangement should be carefully worked out so as to prevent inconsistency in regulatory standards. Regarding the proposed 0.1% levy, the consultation paper did not spell out the parties which would be responsible for paying the levy. Based on the local and overseas practice that the regulatory bodies for the financial service sector were usually funded by the relevant sector, CC did not support the proposal that the levy should be borne by policyholders, or the relevant costs be directly transferred to consumers. Measures should be taken to ensure that the insurance premiums would not be increased as a result of the levy. In order to meet the expenditure of the IIA, a service fee could be charged on the relevant parties, e.g. an insurance company involved in a complaint could be charged on the costs for investigating the case. CC considered that as Hong Kong was an international financial centre, steps to enhance the regulation of the insurance industry should be taken without delay.

*Democratic Alliance for the Betterment and Progress of Hong Kong*

9. Mr KWAI Ting-kong, Financial Affairs Deputy Spokesperson of Democratic Alliance for the Betterment and Progress of Hong Kong (DAB),

said that from the perspective of enhancing regulation of the financial market and relevant sectors, and promotion of the standard of service of the insurance industry through cooperation between the Government and the relevant industry, DAB supported the establishment of the IIA. In the process of enhancing control and alignment with international practices on regulation of the insurance industry, the Government should give due consideration to the interests of all parties concerned and over-regulation affecting the healthy development of the industry should be averted. The proposed levy for establishing the IIA, coupled with the proposed levy for setting up a policyholders' protection fund, would increase the burden of insurance policyholders, and undermine the competitiveness of the insurance industry, resulting in a large number of customers turning to companies in overseas countries for insurance coverage. The Government should provide information on the funding arrangements in other jurisdictions, and set a ceiling on the amount of the levy. When the operation fund for the IIA had reached a certain level, the Government should suspend collecting the levy. Given the increase in investment-linked insurance products and related complaints, the Government should strengthen regulation of the sale of structured investment-linked insurance products, and enhance the disclosure requirements on the terms and conditions of insurance policies/products, commission received by the intermediaries and calculation of insurance premiums, so as to enhance consumer protection. The Government should also consider incorporating the Insurance Claims Complaint Bureau under the IIA, and empowering the IIA to handle complaints relating to the proposed voluntary Health Protection Scheme. The Government should carefully consider the proposal to empower the HKMA to regulate the sale of insurance products by banks as this might lead to inconsistency in enforcement actions, and gaps in the regulatory framework.

*Professional Insurance Brokers Association*

10. Mr Philip MAK, Public Relations Sub-committee Member of Professional Insurance Brokers Association (PIBA), said that while PIBA supported the enhancement of the regulation of the insurance industry and protection of consumers' interests, the Association had great reservation on the proposed establishment of an IIA. The proposal would seriously affect the development of small and medium sized insurance companies, and the competitiveness of the local insurance industry, as the proposal would lead to increase in the compliance cost and reduced choices of insurance products. PIBA was worried about the proposed imposition of a 0.1% levy on insurance premiums, as this might have a significant impact on high value insurance policies, resulting in customers seeking insurance coverage from companies located in, say Macau or Singapore. The competitiveness of Hong Kong's insurance industry might be undermined. Without setting a ceiling on the levy,

the level of levy might continue to rise. As the proposed IIA would have a staff establishment of 237 officers, it might continue to grow, as in the case of the Mandatory Provident Fund Schemes Authority whose establishment had increased from 287 to 672 staff over the years. The insurance industry and policyholders would have to bear unduly the costs of the IIA. PIBA was concerned that the consultation paper did not provide details of the powers of the proposed IIA. PIBA regretted that the Government had dispensed with the option of enhancing the existing self-regulatory regime. PIBA objected to the proposal of regulating the insurance industry through two regulatory bodies, namely the IIA and the HKMA, which would give rise to duplication of work and double regulatory standards. PIBA regretted that the Governing Board of the IIA would not consist of any representatives from the insurance industry. Mr Philip MAK reiterated that PIBA supported the enhancement of the regulation of the insurance industry, and the instatement of an appropriate regulatory framework for the industry. PIBA proposed that an Advisory Committee should be set up comprising representatives of the Government, insurers and insurance intermediaries, accountancy firms, securities companies and banks to review the regulatory framework for the insurance industry, and the roles of the SROs which might be integrated into one single body. Given the divergent views on the proposed establishment of the IIA, PIBA proposed that a second round consultation should be conducted to further gauge the views of the parties concerned.

*Ms CHUNG Kwan-chun, Member of Sai Kung District Council*

11. Ms CHUNG Kwan-chun, Member of Sai Kung District Council, said that she personally supported the establishment of an IIA to perform a direct and hence more effective role in supervising the conduct of insurance intermediaries, including the licensing of the insurance intermediaries. She also supported empowering the IIA to investigate into misconduct of insurance practitioners and impose disciplinary sanctions. The three SROs could continue to perform their roles as trade associations promoting the development of the insurance industry. She was of the view that the levy should be set at a rate lower than 0.1% in order to reduce the burden of policyholders. Given that nearly 30% of insurance business was carried out by banks, the IIA should directly regulate banks in the sale of insurance products, and enhance banks' after-sale service.

*General Agents and Managers Association of Hong Kong Limited*

12. Mr Kenneth LEUNG, 1st Vice President of General Agents and Managers Association of Hong Kong Limited, said that the majority of the members of the Association objected to the establishment of an IIA, as the existing regulatory regime had functioned well over the years, even during the

Asian financial crisis in 1998 and the global financial crisis in 2008. The insurance industry, with about 68 000 insurance intermediaries, contributed to 11% of the Gross Domestic Product (GDP) of Hong Kong, and received high ratings from international credit rating agencies. The self-regulatory regime introduced since 1993 was a very cost-effective and transparent system. The number of complaints received was small relative to the large number of insurance intermediaries and huge business volume. The self-regulatory approach was also applied to other professional sectors such as doctors, lawyers and accountants, and such a regulatory regime had proved to be appropriate for regulating the insurance industry. An independent regulatory body might get out of control and might not be effective in coping with crises, and would also increase the financial burden of consumers. The Hong Kong insurance industry had enjoyed a high reputation, and any move to align the local regulatory regime with the practice of other jurisdictions might not be to the best interest of the industry.

*Hong Kong Society of Certified Insurance Practitioners*

13. Mr Jackie CHUN, Immediate Past President of Hong Kong Society of Certified Insurance Practitioners, said that the existing self-regulatory regime had proved to be effective over the years, and had enabled the insurance industry to successfully tide over the financial crises in past years. The self-regulatory regime for insurance intermediaries had also worked well. Consideration could be given to merging the two self-regulatory bodies for insurance intermediaries into one, so as to ensure consistency in regulatory standards. Since no major inadequacies had been identified in the existing regulatory system, it was unnecessary to set up an independent regulatory body to regulate the insurance industry, although enhancement to the existing regulatory regime could be considered. The international practice was to establish a unified regulatory body to regulate different financial service sectors. The Lehman Brothers Minibonds incident had highlighted the problems associated with empowering multiple regulatory bodies to regulate the financial service sectors. The SROs were in the best position to enhance the competitiveness of the insurance industry. The Society objected to empowering the HKMA to regulate banks in selling insurance products, as it would lead to inconsistency in regulatory standards and enforcement measures, duplication of work, and waste of resources. If an IIA was to be established, there should be sufficient representation of the insurance industry in the organization. The proposed fees and levy system would increase the financial burden of insurance companies. Customers of pre-paid insurance policies might turn to insurance companies in other jurisdictions for insurance coverage. The 0.1% levy would significantly increase the administration cost for small scale insurance policies. More details should be provided to justify the large number of staff for the IIA, and the bonus payment arrangement was

unsuitable for a public regulatory body. In order to ensure the accountability of the IIA, the organization should be subject to the examination of the Audit Commission.

*Hong Kong Chamber of Insurance Intermediaries*

14. Mr Patrick HO, President of Hong Kong Chamber of Insurance Intermediaries (HKCII), said that while the HKCII supported the enhancement of the regulation of the insurance industry, it objected to the proposed establishment of the IIA just for the sake of aligning with international practices. The proposal had not included an overall regulatory framework for the sustainable development of the financial services sector, nor detailed arrangements of the IIA. Improvements to the OCI might be required, but no drastic changes to the existing regulatory regime were necessary. The consultant's proposals lacked objectivity and transparency, and contained certain misleading messages. While the consultation paper made reference to the regulatory regime in Singapore, United Kingdom (UK) and Australia, the IMF had criticized the Singapore and the UK authorities for failing to provide adequate information to enable the IMF to assess whether they had complied with the core principles for regulation of the insurance industry. Mr HO pointed out that the insurance market in Singapore was different from that of Hong Kong, as only 62 out of the 158 insurance companies in Singapore were independent companies. After the global financial crisis, the Financial Services Authority in UK had also transferred its responsibility on regulation of the financial services sector to the Bank of England. The Chief Executive of HKMA had remarked that any reform of the regulatory framework for the financial services sector should be pursued prudently. In the United States (US), most of the regulatory bodies for the insurance industry were under the state governments. The Government should provide information as to the arrangements of other jurisdictions in aligning their regulatory regime for the insurance industry with international practices. The insurance intermediaries should be consulted on the proposed changes of the regulatory arrangements, in order to protect their interests. Separate sale points should be provided in banks for sale of investment-linked insurance products and other insurance services. Given that the self-regulatory regime had operated extremely well in the past, and the same arrangement had been applied to regulation of the conduct of doctors, lawyers and accountants, the existing self-regulatory regime should be maintained, or the spirit, experience and knowledge of self-regulation would be lost in the insurance industry. If the increase in the number of complaints was the rationale for establishing an IIA, the HKMA and the Hong Kong Association of Banks (HKAB) should cease to exist given the large number of complaints and protests made by buyers of Lehman Brothers Minibonds.

*The Hong Kong General Insurance Agents Association Limited*

15. Mr Teem LAM, Chairman of the Hong Kong General Insurance Agents Association Limited, said that the self-regulatory regime for the insurance industry had proved to be effective in past years, and the SROs and OCI had performed extremely well in regulating the industry. Even with the establishment of the proposed IIA, the three SROs should not be dispensed with. Instead, a uniformed licensing system should be put in place so that the three SROs could continue to regulate the insurance industry under the supervision of the OCI/IIA. The competitiveness of Hong Kong's insurance industry might be undermined if the 0.1% levy was imposed on insurance policies. In addition to the proposed 0.1% levy, there were other levies imposed on different types of insurance policies, which would increase the burden of policyholders. The administration cost would be relatively high if a levy was imposed on insurance policies of low money value, e.g. travel insurance. A range should be set for the level of levy to be charged for insurance policies of different pecuniary value. The imposition of a levy on certain types of insurance policies such as medical insurance was unfair to the policyholders, as the insurance coverage would help reduce Government expenditure on public services. The insurance, securities and banking industries should be regulated under separate regulatory authorities. The regulation of banks in selling insurance products by both the proposed IIA and HKMA would only give rise to inconsistency of regulatory standards and actions. A second round consultation should be conducted to enable the parties concerned to further discuss the proposals.

*The Life Underwriters Association of Hong Kong Limited*

16. Ms Andy MOK, Assistant Director of the Life Underwriters Association of Hong Kong Limited (LUAHK), said that the insurance industry had contributed to the well-being of society, providing insurance protection for the community and livelihood for tens of thousands of insurance workers. Any changes to the regulatory framework for the insurance industry would affect the whole community. While the insurance industry did not oppose to any enhancement to the regulation of the industry, the proposed regulatory framework might stifle the insurance intermediaries' living space, and increase the burden of policyholders. LUAHK was concerned that the insurers, insurance intermediaries and policyholders had to shoulder the costs of the proposed IIA, and the consultation paper did not provide details of the expanded role and powers of the proposed IIA, with a significant increase in staff size. LUAHK was also concerned about the lack of checks and balances for the proposed IIA. The dual regulation of banks selling insurance products would give rise to confusion, duplication of work, unfairness and controversies. Since the self-regulation regime had operated well over the



years, and the details and full justifications for the proposed changes of the regulatory regime were not available, LUAHK objected to the IIA proposal.

*The Independent Financial Advisors Association Limited*

17. Mr Glenn TURNER, Chairman of the Independent Financial Advisors Association Limited (IFAA), said that as the proposals in the consultation paper would enable the move of the insurance industry to a high excellence level, IFAA supported the proposals. IFAA was of the view that there should be strong industry participation in the new IIA. The HKMA should not be involved in the regulation of bank employees selling insurance products. There should be a common sense approach to the pricing of fees and levies. The proposed funding mechanism had a suspect revenue model and could drive significant and important insurance business offshore, in some cases to competing centres such as Singapore. There should be alignment among the IIA, the HKMA, the Mandatory Provident Fund Schemes Authority (MPFA) and the Securities and Futures Commission (SFC), and convergence of regulation. There should be benchmarks and performance targets for the IIA for the coming years, and the relevant legislation should include a mechanism to regularly review the arrangements for the IIA in the future.

The Administration's response

18. At the invitation of the Chairman, the Commissioner of Insurance (C of I) gave a preliminary response to some of the views presented by the deputations, as follows:

- (a) Based on responses received during the three-month public consultation on the proposed establishment of the IIA ended on 11 October 2010, the majority of the respondents supported the proposal, including the arrangement to empower the IIA to directly issue licences to insurance intermediaries. The Government would take into consideration the views, concerns and counter-proposals received from stakeholders and the public in drawing up the detailed proposals for establishing the IIA in a consultation conclusion report. The Government would further discuss with the insurance industry on the detailed arrangements of the IIA;
- (b) The self-regulatory regime for the insurance industry was set up by the Government in the 1990s after consultation with the insurance industry. Given the development of the insurance market and insurance products, the significant increase in insurance intermediaries and insurance premiums, and the public

concern regarding possible conflict of interest, the self-regulatory mode might no longer be appropriate for the future development of the industry, notwithstanding the contribution made by the three SROs for the industry in past years. In many overseas jurisdictions, such as the US, UK, Canada, Australia, the Mainland and Taiwan, insurance regulators all practised direct regulation of insurance intermediaries;

- (c) The proposed IIA was to align with international insurance supervisory principles set by organizations such as the IMF and the International Association of Insurance Supervisors that required regulators be given financial and operational autonomy. In most overseas jurisdictions, the insurance regulatory body was financially and operationally independent from the Government. The proposal to establish an IIA was to meet the basic requirement of the international regulatory standard for the insurance industry;
- (d) Different regulatory regimes were adopted in different jurisdictions for regulation of the insurance, banking and securities sectors, e.g. regulation through a unified regulatory body, twin peaks and sector - based regulatory bodies. The IIA was proposed based on the existing arrangement that the insurance, banking and securities sectors were regulated by separate regulatory bodies in Hong Kong;
- (e) As regards the concern that the proposed IIA might have excessive powers, the IIA, which would be governed by a Governing Board, would have to submit its annual budget and report to the Financial Secretary and the Legislative Council respectively, and be subject to audit/review by the Audit Commission and the Ombudsman. A statutory appeals tribunal would be set up to handle appeals against the decisions of IIA, and an independent Process Review Panel would be established to review the internal operating procedures of the IIA. The relevant levies and fees would be specified in legislation;
- (f) With regard to the regulation of banks and their employees in selling insurance products, the current proposal was that IIA would be the primary regulator setting out the legislative requirements, codes of conduct and sanctions, whereas, in view of the client profile and sale environment of the banks, the HKMA would be the frontline regulator, and empowered to

impose regulatory requirements specific to the banks in addition to those set by the IIA. Given the divergent views expressed by some deputations, the Administration would further examine the arrangement on the regulation of the sale of insurance products in banks;

- (g) At present, the OCI was primarily funded by public money, and recovered about 37% of its operating costs from licence fees paid by insurers. The full cost of the proposed IIA would be recovered from the insurance industry and the market over time, through imposition of fees on insurers/intermediaries and users, and a levy on insurance premiums. The Administration would further consider the arrangements of the levy;
- (h) There were concerns about perceived and real conflict of interest in the existing self-regulatory regime. For instance, when a complaint was found to be unsubstantiated by the SROs, the complainant would still have doubts on the impartiality of the SROs. An IIA empowered to regulate, investigate complaints and impose sanctions on insurers and insurance intermediaries would be able to address this concern; and
- (i) As regards small and medium sized insurance companies and corporate intermediaries, the current entry requirements or codes of conduct would not be changed in the context of the establishment of the IIA. In fact, these requirements were subject to constant reviews, having regard to market needs, development of new products and public expectations.

## Discussion

### *Regulation of one sector by two regulatory bodies*

19. Mrs Regina IP pointed out that Members and many deputations were of the view that the proposed arrangement of empowering both the IIA and the HKMA to regulate insurance business was a means of "empire building" by HKMA. Such an arrangement had proven to be undesirable in the Lehman Brothers Minibonds incident. In many other jurisdictions, banks engaged in insurance and securities business were subject to the regulation of the respective regulatory bodies for the insurance and securities sectors. Mrs IP opined that the Administration should stand firm in its policy of regulating different sectors through separate regulatory bodies, and should not be inclined to empowering the HKMA to regulate insurance business in banks. Mr Abraham SHEK and Mr IP Wai-ming shared Mrs IP's view. Mr SHEK said

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that the Administration should learn from the lesson of the Lehman Brothers Minibonds incident, and refrain from assigning two regulatory bodies to regulate a particular sector. Ms Emily LAU shared the concern and remarked that the Administration should carefully consider the concern expressed by Members and deputations regarding the regulation of the insurance sector by two regulatory bodies. Mr IP Wai-ming requested that the Administration should provide information regarding the practice in other jurisdictions on regulation of the insurance industry, in particular the sale of insurance products in banks.

20. Mr CHAN Kin-por remarked that the merit of regulating the insurance industry under a single regulator, including the sale of insurance products in banks, was consistency in regulatory standards and enforcement practices, which in turn would provide a level-playing field for insurance companies and banks in the sale of insurance products. Mr CHAN opined that the IIA should be responsible for regulating banks in insurance business, and should seek the assistance of HKMA only when necessary.

21. The Chairman remarked that given that banks were allowed to operate banking, securities and insurance businesses at the same time, and other companies, such as travel agents, might also be involved in the sale of insurance products, the Administration should consult the relevant parties and carefully work out the regulatory arrangements for such companies.

22. C of I responded that many jurisdictions had already established an independent body to regulate the insurance industry. Different jurisdictions, however, adopted different arrangements in regulating the sale of insurance products in banks. C of I stressed that under the current proposal, the IIA would act as the primary regulator, e.g. only candidates who had passed the qualification examination conducted by IIA would be registered and issued with a licence as insurance intermediaries, including bank employees selling insurance products. The IIA would lay down the codes of conduct, investigate complaints and impose sanctions where appropriate. As HKMA was tasked with regulating banks under the Banking Ordinance (Cap. 155), and given the specific client profile and sales environment in banks, HKMA might need to impose additional requirements for banks in selling insurance products. Taking into account the views of Members and industry organizations, the Administration would further consider the arrangements for regulation of sale of insurance products in banks.

#### *Practice in other jurisdictions*

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23. Ms Emily LAU requested the Administration to provide information on the current practices in other jurisdictions for regulation of the insurance

industry, i.e. details of the jurisdictions which regulate the insurance sector based on the self-regulatory regime, or through an independent insurance authority. She said that without such information, it was difficult for Members to assess whether the Administration's current proposals were in tandem with the developments in the international arena.

24. Mr Philip MAK of PIBA remarked that the self-regulatory regime had been practiced in Hong Kong since 1995. PIBA was one of the organizations responsible for the licensing of insurance brokers, assessment of members' compliance with the requirements specified by the Insurance Authority and investigating complaints. A complaint was dealt with through a two-tier system; the Monitoring Subcommittee would assess whether a complaint was substantiated whereas the Disciplinary Committee comprising members and independent individuals would consider the actions to be taken. PIBA had also applied to the Insurance Authority to allow independent individuals to chair the disciplinary committee, although the chairman would serve the committee on a voluntary basis and might be liable to personal liabilities. Mr MAK said that PIBA supported measures to enhance regulation of the insurance industry, and where necessary, integrating PIBA with CIB for regulation of insurance intermediaries, or even merger of the two bodies with HKFI in forming a single regulatory body to regulate insurers and insurance intermediaries.

25. Mr Ronald LAI of CIB said that CIB had reservation of merging the three SROs, namely HKFI, PIBA and CIB, into one single regulatory body, as based on the existing legislation, PIBA and CIB represented the interests of the insured whereas the HKFI represented the interests of insurers. Any integration of the three organizations would create confusion taking into account the different interests represented by the organizations, especially in dealing with disciplinary cases.

26. Mr Alex CHU of HKFI said that the Insurance Agents Registration Board (IATB) under the HKFI was responsible for registering insurance agents as appointed by insurers. Any complaints of breaches of the Code of Practice for the Administration for Insurance Agents would be heard by a committee of eight members, including five representatives from non-insurance sectors. The committee was chaired by a former Legislative Council member, and consisted of lawyers, accountants, and representative of the Consumer council as its members. Each case would be dealt with impartially, and the sanctions ranged from reprimand to permanent suspension of licence. As regards the increase in the number of complaints from about 200 cases in 2000 to about 400 cases in 2009, Mr CHU pointed out that the number of insurance policies had increased two to three folds during the same period. Mr CHU remarked that the annual expenditure of the three SROs amounted to about \$20 million, as compared to the estimated annual expenditure of over \$200 million for the proposed IIA.

27. Mr IP Wai-ming remarked that notwithstanding the increase in insurance policies, there was a marked increase in the number of complaints against insurers and insurance intermediaries in the past years. Given that the Monitoring Subcommittee would assess whether a complaint was substantiated before a disciplinary committee would consider taking disciplinary actions, the public might consider that the relevant organization was creating barriers in handling complaints.

28. C of I advised that the OCI received about 1 600 complaints against insurance companies/intermediaries in 2009, out of which about 1 100 cases were referred to the SROs for investigation. C of I pointed out that despite a decrease in investment-linked insurance business between 2007 and 2009, the number of complaints during the same period had increased from about 150 cases to about 500 cases. Therefore, there might not be a direct linkage between the number of insurance policies and that of complaints.

#### *Over-regulation*

29. Ms Emily LAU pointed out that many deputations had expressed concern about excessive regulation by the proposed IIA over the insurance industry, whereas the need to protect the interests of the consumers was also a major concern of Members and the public, in view that there were many complaints against insurers and insurance intermediaries.

30. Ms Eleanor WAN of IFPHK said that the insurance and banking sectors were concerned about the details of the operation of the proposed IIA.

31. Noting that the staff of IIA would be remunerated with bonus, Mr CHAN Kin-por said that the insurance industry was concerned that one of the performance assessment criteria for IIA staff might be the number of enforcement actions taken against insurance companies/brokers/agents which might result in over-regulation of the insurance industry. Mr CHAN was concerned that if the costs for compliance with the IIA requirements were excessively high, many small and medium sized insurance companies might be forced to cease their business, which would in turn adversely affect consumers' interests given the reduced choices.

32. Mr Michael HAYNES of IIHK said that in the UK, many small insurance companies had been driven out of business after the establishment of the Financial Services Authority. Hong Kong should avoid falling into the same trap and a balance should be struck between regulation and development of the industry.

*Funding arrangement*

33. Noting that the number of staff to be employed by IIA would double the establishment of the existing OCI, and a variable licence fee would be imposed on insurers based on their liabilities, Mr CHAN Kin-por pointed out that the insurance industry was concerned about the increased cost to be shouldered by insurance companies and consumers. Mr CHAN said that the Government should provide detailed information to addressing the concern of the insurance industry during the further consultation with the industry.

34. C of I responded that the Administration would take into consideration the views and concerns expressed by members and the deputations in working out the detailed arrangements of the proposed IIA, and would further consult the industry. C of I explained that the IIA had a larger establishment than the OCI mainly because the IIA would take up the additional responsibility of licensing insurance intermediaries. The existing SROs had to rely on the voluntary service of industry and non-industry members. In some complaint cases, the SROs had to take several years to complete the investigations, possibly due to resource constraints.

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35. Given that many small and medium sized insurance companies were concerned that the 0.1% levy on insurance premiums might undermine their competitiveness, Ms Starry LEE requested the Administration to provide a comparison between the proposed funding arrangements for the IIA and the relevant arrangements in other jurisdictions, with particular regard to the level of levy to be imposed on insurance premiums.

36. C of I responded that different practices were adopted in different jurisdictions on the cost recovery mechanism. The proposed funding arrangement for IIA was to have about 70% of the expenditure met by the levy and the remaining 30% met by various licence and user fees. The 0.1% levy should have little impact on the insurance premiums. The Government would further consider measures to address the industry's concerns about the levy on the insurance policies of high and low monetary values.

*General views*

37. Mr CHAN Kin-por said that while there were divergent views regarding the establishment of the IIA, the deputations generally shared the common concern that the consultation paper had not spelt out the detailed arrangements for the proposed regulatory regime. When the Administration conducted the second round of consultation, it should provide more details to address the industry and the public's concerns. Mr CHAN opined that the merits of the self-regulatory regime should be retained even after the establishment of the

IIA. For instance, adequate representation from the insurance industry should be maintained in the supervisory and disciplinary committees of the IIA.

38. Ms Starry LEE remarked that given the expected increase in the number of insurance policies, partly as a result of the implementation of the proposed voluntary Health Protection Scheme, the need to protect the consumers' interests would be a major public concern. Ms LEE asked whether the three SROs had a consolidated view on the proposed establishment of an IIA, e.g. there should be adequate representation of the insurance industry in the operation of the IIA.

39. Ms Eleanor WAN of IFPHK remarked that in view of the development and increasing complexity of insurance products, and the need to protect consumers' interests, the Administration should, in the long run, review the regulatory arrangements for the sale of insurance products in order to protect the investors/consumers, apart from regulating the issue of insurance products.

40. Mr Ronald LAI of CIB said the CIB and HKFI supported in principle the establishment of an IIA to take over the regulatory responsibilities of the SROs, mainly from a consumer protection point of view and in view of public concern about possible conflict of interests of the SROs.

41. Mr Philip MAK of PIBA said that the HKFI was responsible for registering insurance agents whereas all insurance intermediaries should be members of the CIB or PIBA. The amalgamation of the three SROs under a uniform set of rules was feasible. The enhancement of the existing self-regulatory regime was a possible option to meet the market requirements and protect policyholders, although the consultation paper had not recommended such an arrangement.

42. Mr Alex CHU of HKFI said that HKFI supported in principle the establishment of an IIA, and integration of the three SROs into one organization. However, the merits of the existing self-regulatory regime should be retained in the proposed regulatory regime, professional input and active participation of the insurance industry in the regulatory regime was essential. Mr CHU pointed out that 73% of the complaints lodged with the Insurance Agents Registration Board were found substantiated.

43. Ms Juan LEUNG of HKIPGU said that in order to protect the interest of consumers, it was important that a policyholders protection fund was maintained. Ms LEUNG opined that the SROs should be tasked with the training and development of insurance practitioners.

*Legislative time-table*



44. In reply to Ms Emily LAU's enquiry about the legislative time-table for establishing the proposed IIA, C of I said that a report on the consultation conclusions, and the Government's responses to the views and concerns received would be provided to the relevant Legislative Council Panel for consideration in the first half of 2011, and the relevant bill would be introduced into Legislative Council in the second half of 2011, so that the relevant legislation could be enacted before the end of the current term of the Legislative Council.

**II Any other business**

45. There being no other business, the meeting ended at 4:40 pm.

Council Business Division 1  
Legislative Council Secretariat  
20 December 2010