



香港人壽保險從業員協會有限公司
The Life Underwriters Association of Hong Kong Limited

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POSITION PAPER

OF

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“PROPOSED ESTABLISHMENT OF AN INDEPENDENT INSURANCE AUTHORITY”

LUAHK

Executive Summary

During the global financial crisis in 2008, according to data generated by the Census and Statistics Department of Hong Kong, the total general and long term insurance premiums was HK\$185.7 billion in 2009, representing approximately 11.4% of the GDP of Hong Kong.

Being one of the key financial services in Hong Kong as well as a leading insurance centre in Asia, a critical mass of professionals and the industry's self-regulatory spirit has attracted many of the world's top insurance companies to invest in Hong Kong business. Taking pride in our insurance industry, we could hardly be convinced by the captioned Consultation Paper on the proposal for an independent Insurance Authority (IA), without considering the value of self regulatory practice of the industry currently and without providing supporting grounds on the independency of IA by the Paper itself.

As the captioned proposal would cause huge impact on the interests of the public and the livelihood of our insurance intermediaries, our Association has joined hands with GAMAHK to release a questionnaire to our members. As at 11 Sept 2010, a total of 529 questionnaires has been received in which, 97% of the interviewees are against of the said proposal. From this viewpoints collected by our members of the industry, and with the points we consolidate hereunder, we object to the proposal of establishment of an Independent IA at this premature stage.



A. Independence of Insurance Authority, better regulation of insurance intermediaries?

“It is proposed that the independent IA should exercise direct supervision over the conduct of insurance intermediaries through the introduction of a licensing regime. The three SROs (Self Regulatory Organizations) would continue to perform the functions of a trade body including, for example, industry promotion, organization of training courses, and setting best practices, etc.” (Consultation Paper-Executive summary point 4)

We appreciate the Government’s good purpose of enhanced regulation, only provided that the regulation reinforces the insurance intermediaries’ conducts and it strives for betterment of the industry. However, will the change proposed above actually contribute to a well disciplined governance over insurance intermediaries?

The unsatisfactory areas of SRO in “Conflict of interests-both perceived and real”

The structure and transparency of the SROs (IARB, CIB & PIBA) are, in fact, showcasing their values on impartiality and professionalism to govern the conducts of insurance, such as IARB consisting of eight members, the majority of whom are non-industry independent professionals, including those from the accounting, legal and representative of Consumer Council, who perform their roles to uphold fairness and justice, as such, the “conflict of interests” seems to be an unfair conclusion towards the present regime. Besides, every cases handled by IARB would be further submitted to Insurance Authority for report and record, to enhance its credibility. Taking an example of the year of 2009, the IARB completed handling 1,175 cases in which the outcome of cases closed were published by the HKFI (as attached), its efforts and contribution to the development of the industry, indeed, shall deserve the applause of our industry and the Hong Kong community, therefore we question about whether it will be necessary for the replacement by an independent IA on the existing self regulatory function practiced by SROs and will this change benefit to the insurance intermediaries ultimately in future?





The myth of regulation of IA

Quoted from the Consultation Paper: “There are merits to allow HKMA to impose additional conduct requirements, on top of what the independent IA may stipulate, on bank employees selling insurance products under Option 2 above. To enable HKMA to conduct proper conduct regulation of these bank employees, there are also merits to vest in the HKMA powers similar to those for the independent IA” (Consultation Paper Chapter 5 item 5.14)

On one hand, the Consultation Paper reiterates how importance for the establishment of an independent IA to regulate the insurance industry, so as to make it to be more competitive in the global financial market. On the other hand, it is unreasonable for the said proposal to delegate parts of regulatory power to HKMA for allowing it to regulate bank employees who sell insurance products, hence we concern whether there will be discrepancies on the standard of regulations imposed to bank employees and insurance intermediaries, whom are regulated by two different authorities-HKMA and an independent IA, but selling same insurance products.

As such, we question whether a better regulation after the establishment of the independent IA under the awkward arrangement.

B. Deter public’s will of buying insurance by imposing additional cost

Quoted from the Consultation Paper: “Our intention is to have 70% of the expenditure of the independent IA met by the levy and the remaining 30% by the various licensing and users fees in the long run.” (Chapter 8 item 8.6)

Another kind of “Consumption Tax”?

The insurance industry sustains the welfare of the community by safeguarding the public’s living. The Government shall in fact render its support to the goodwill of buying insurance. We regret to be informed that the proposed new fee structure comprises various licensing fees and users fees. For example, regarding the levy on insurance premiums for all insurance policies, if a cap on the levy amount per policy is not applied, a single premium life policy of over million could end up paying a large amount. We have a concern that will the levy on insurance premiums become another kind of “consumption tax” to the policyholders in future?



Long-term burden for the insurers, insurance intermediaries and the policyholders

Though it is suggested that the licence fees for insurance intermediaries be waived in the first five years of the establishment of the Independent IA and an incremental approach is adopted in achieving the target level of variable licence fees on insurers. After all, the insurers, the practitioners and the policyholders are going to be responsible for the sources of revenue in the long run. We should question whether it is appropriate to burden the public for the operation costs of the IA in long term.

Supervision of the users fee

As the supervision for monitoring the expenses of the IA remains unknown, the following issues will need to be dealt with:

- What are the business models to set up the new fee structure?
- Who is going to lay down and approve the limit of various users fee?
- How to ensure the users fee is spent properly?
- Who will monitor and investigate the uses of the fee?

C. Super-sized infrastructure with excessive power?

Whether there is a necessity on Additional workforce and remuneration package

To strengthen Independent IA, the Consultation Paper recommends it initially will employ 237 staff, which amounts to additional 50% staff, comparing to the present staffing level. However, the Paper doesn't explain the specific roles of those additional staff and the rationale on how that significant increase of the workforce satisfies particular targets. In addition, the Consultation Paper recommends a market-driven approach in the setting of remuneration package in which even "incentive pay for staff that exceed the performance requirements" (quoted from Consultation Paper Chapter 6 item 6.8) will be offered. We feel regret that no solid ground is given to convince us about the strategy on employment of huge manpower and the costs to be increased due to such recruitment and remuneration. While the IA enjoys operational and budgetary autonomy, it is doubtful if its operational costs are relied on public's undertaking under a fair and reasonable size of operation.



Conclusion

The public and the industry, in general, expect the Insurance Authority to fulfill its following functions :

1. Enhance the stability of insurance sector that the interest of the insurers, the insurance practitioners, the policyholders and other stakeholders are well protected;
2. Provide a favorable environment for foreign investor and market participants.

Any government's policies shall be formulated subject to fulfill the above targets, hence the government should strike a balance between better governance to the industry and provide spaces for free market development. Excess regulation will certainly suffocate insurance intermediaries' living spaces, eliminate the self-regulatory spirits, as well as aggravate the policyholders' financial burden, so that the insurance market will thus be suffered ultimately. This is the main point that we concern much and we do wish the government will have same concern with us when formulating policies.

In addition, it is emphasized that Hong Kong's insurance industry must be in line with the international practice in the Consultation Paper. As a matter of fact, there is a noticeable global trend to establish a super regulator to merge all kinds of financial services including insurance, banking, securities and others related business. We wish to know whether it is the most feasible way to align with the international practices rather than setting up an IIA, for the sake of strengthening the competitiveness of Hong Kong's insurance industry.

We are not opposing for governance towards the industry, on the contrary we welcome any enhanced business practices which benefits to the policyholders and the insurance industry. However under ambiguous grounds and information given in the Consultation Paper as stated above, we hardly support the proposal of establishment of an independent IA for the time being.

To create positive synergies, we suggest the FSTB to consider a second round of consultation period with earnestness. Not only it creates greater rooms for sophisticated discussion among the Government, the public and the industry, it also helps to identify the most thriving infrastructure for the regulation of the insurance industry. Upholding the Association's mission to serve the best benefits of the industry, we are pleased to contribute our ideas and keep close communication with the Government on the matter of Independent IA.



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About LUAHK

History

Inaugurated in 1973, the Life Underwriters Association of Hong Kong (LUAHK) is a voluntary organization of professional insurance intermediaries destined for professional development of the insurance services for the community of Hong Kong. Today we have about 8,000 members - the greatest organization of insurance intermediaries in Hong Kong.

Mission

The aim of the Association is to enhance and uphold the professional and ethical standard of the life insurance practitioners through the enactment of code of conducts and ethics for its members, education programs and active participation in the policy making for the development of the industry.