

Bills Committee on Insurance Companies (Amendment) Bill 2014

**List of follow-up actions arising from the discussion
at the meeting on 9 February 2015**

Inspections and investigations to be conducted by the independent Insurance Authority ("IIA") (under clause 55)

- (a) On the proposed new section 41B(6) of the Insurance Companies Ordinance (Cap. 41) ("ICO") in relation to the appointment of persons as inspectors by IIA, the Administration is requested to clarify the scope of persons under the phrase "a person, or a person belonging to a class of persons", including whether it covers persons who are not employees of IIA, and whether there will be qualification requirements on such persons.
- (b) On the proposed new section 41D(1) of ICO in relation to the appointment of persons as investigators by IIA, the Administration is requested to clarify the scope of "one or other persons", and whether there will be qualification requirements on such persons.
- (c) The proposed new section 41D(2) of ICO provides that "The costs and expenses incurred by an investigator, other than an employee of IIA, may be paid out of moneys provided by the Legislative Council." ("LegCo") However, there is no corresponding provision in the new section 41B in relation to the appointment of an inspector. As an inspector appointed under the new section 41B may include persons other than IIA's employees, the Administration is requested to clarify whether IIA would seek additional funding from LegCo on the costs and expenses incurred by an inspector who is not IIA's employee.
- (d) The proposed new sections 41B(8) and 41D(4) of ICO specify different manners of an inspector and an investigator before they exercise their power on persons stipulated in new sections 41B(3) and 41D(6). Under the new section 41B(8), an inspector "is required to produce a copy of the appointment to that person for inspection as soon as practicable". Whereas under the new section 41D(4), an investigator "must produce a copy of the direction or appointment to that person for inspection." The Administration is requested to explain the reasons for imposing different requirements on an inspector and an investigator and the policy considerations involved.

The Financial Secretary ("FS")'s power to request other financial regulators to initiate investigations (under clause 55)

- (e) The proposed new section 41D(1) of ICO provides that IIA "may in writing direct ... employees, or with the consent of FS, appoint ... persons, to investigate the matter". The Administration is requested to provide information on other relevant legislation, including the Securities and Futures Ordinance (Cap. 571), the Mandatory Provident Fund Schemes Ordinance (Cap. 485) and the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance (Cap. 615), whether they contain provisions empowering FS to request on his own initiative the financial regulator concerned to conduct an investigation. If such power for FS is provided in the relevant legislation, the Administration is requested to consider the need to provide similar provisions in the Bill.

Drafting issue

- (f) The phrase "a person, or a person belonging to a class of persons" in the proposed new section 41B(6) of ICO is cumbersome. The Administration is requested to review the drafting.

Council Business Division 1
Legislative Council Secretariat
2 March 2015