

**Bills Committee on Insurance Companies (Amendment) Bill 2014**

**List of follow-up actions arising from the discussion  
at the meeting on 3 March 2015**

Exempted persons (section 51 of the Insurance Companies Ordinance (Cap. 41) ("ICO")) (under clause 63)

- (a) Noting that the Administration has not conducted a review under the present legislative exercise on the exemptions provided to persons in the existing section 51, the Administration is requested to take note of a member's views that the future independent Insurance Authority ("IIA") should review the need to continue the exemption, in particular having regard to maintaining the integrity of the regulatory regime and minimizing possible abuse of the exemption provision.

Secrecy (section 53A of ICO) (under clause 64)

- (b) The proposed amended subsection (1AA) and new subsection (1AAB) of section 53A set out the entities to be subject to the secrecy provision in section 53A(1). The Administration is requested to: (i) explain the purpose of setting out the covered entities in two separate subsections; (ii) explain the reasons for not providing explicitly that members of the Industry Advisory Committees and other committees established by IIA will be covered; and (iii) examine comparable provisions in other ordinances in considering the need to improve the present drafting of the provisions.

Disclosure of information (section 53B of ICO) (under clause 65)

- (c) The proposed amended section 53B(1A) and the new subsection (1B) provide that IIA may disclose to overseas regulatory authorities information on matters relating to the affairs of an insurers or a licensed insurance intermediary (except the affairs of any individual policy holder). The Administration is requested to respond to a member's suggestion that IIA, in addition to consider the conditions set out in section 53B(1)(b), should only disclose information to overseas regulatory authorities which have entered into bilateral or multilateral information exchange agreements with IIA.

Licensing regime for insurance intermediaries (under clause 71)

(d) *Definition of controller in new section 64F of ICO*

The definition of "controller" in relation to a partnership and a company has adopted a threshold of 15% in relation to (i) the control of the capital or profits (for a partnership) and issued share capital (for a company); and (ii) the exercise of voting rights. The Administration is requested to explain the reasons for using the 15% threshold in the definition, and examine the relevant thresholds adopted for in relation to "controller" in other legislation.

(e) *Restrictions of licensed insurance intermediaries in new sections 64I, 64J and 64K of ICO*

New section 64I provides that a licensed insurance agency or licensed individual insurance agent must not be appointed by more than the maximum number of authorized insurers that are prescribed in rules made under section 127 (i.e. subsidiary legislation to be made by IIA). New sections 64J and 64K further set out the restrictions applicable to the personnel of licensed insurance agencies and licensed insurance broker companies. Members note that while sections 64J and 64K allow a person to be a director for more than one licensed insurance agencies and licensed insurance broker companies, he/she can only deal with matters which relate to a regulated activity of one insurance agency or a broker company. The Administration is requested to: (i) address members' concern about difficulties in enforcing the restrictions in sections 64J and 64K, as directors of an insurance agency or a broker company are required to participate in the decision making process in relation to the conduct of regulated activities of the entity concerned; and (ii) provide information on the requirement or practice in this regard in other jurisdictions.

Drafting issue

- (f) In the proposed amendments to section 53C(2) of ICO (under clause 66), in the light of comments of the Legal Adviser to the Bills Committee, the Administration has agreed to consider replacing the phrase "1(b), (1A) and (1B)" with "1(b), (1A)(b) and (1B)(b)".