

Bills Committee on Insurance Companies (Amendment) Bill 2014 (“the Bill”)

Summary of Public Comments on the Bill and the Administration's Response

- Constitution of the Independent Insurance Authority (New Part IA and New Schedules 1B, 1C & 1D)

Clause No.	Respondent's Views	Administration's Response
Part IA and Schedules 1B, 1C & 1D		
<i>Composition of the independent Insurance Authority (“IIA”)</i>		
Section 4AA	<ul style="list-style-type: none"> ● The IIA should be truly independent and impartial for its role to regulate the insurance industry and protect policy holders' interests. It should be independent of the insurance industry. [Consumer Council] ● There should be a statutory minimum proportion of IIA members coming from the insurance industry (e.g. at least 25% or one-third). [HKIIA, HKGIAA, MIB, ECIIB, HKAB, HKCII, AIA, HKFI, PIBA, Yeung Wai Sing, LUSEB, ICCB, ECIRSB, Atta Lee, Cynthia Cheung, Michael Fung] ● The IIA should include members who represent specific insurance sectors (e.g. life insurance, general insurance, frontline insurance intermediary, insurance brokerage, reinsurance, etc.) [HKGIAA, HKCII, AIA, CIB, HILA, HKFI, PIBA, IFPA, ICCB, IIA Concern Group, LUSEB] ● The IIA should have a member from the banking sector. [HKAB] 	<ul style="list-style-type: none"> ● According to the Insurance Core Principles 2 promulgated by the International Association of Insurance Supervisors, an insurance regulator should be independent of the industry and the government. Members of the IIA should have expertise relevant to the regulatory functions of the IIA. As specified in new section 4AA(3) of the Bill, apart from at least two non-executive directors with knowledge of and experience in the insurance industry, the IIA should comprise persons with knowledge in actuarial science, accountancy, law, consumer affairs, or other suitable professional experience. ● We consider it unnecessary to specify the proportion of members of the IIA from the industry so as to maintain flexibility in appointing the most suitable persons to the IIA to perform its statutory functions. Moreover, we are not aware of such specification in

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	<ul style="list-style-type: none"> ● There should be a cap on the number of members of the IIA (e.g. 15 or 17). [MIB, ECIIB, HILA, HKIPGU] ● The IIA should comprise no less than 12 members. [Jeffrey So] ● All policy holders, including public officers, should be eligible for appointment as a member of the IIA. [Jeffrey So] 	<p>the statutory provisions on the composition of the relevant financial services regulators in other international financial centres.</p> <ul style="list-style-type: none"> ● Members of the IIA should have expertise relevant to the regulatory functions of the IIA. We consider it unnecessary to set a maximum/minimum for the number of members of the IIA so as to maintain flexibility in appointing the most suitable persons to the IIA to perform its statutory functions. ● In order to promote its independence, we do not propose appointing any public officers to the IIA.
Schedule 1B	<ul style="list-style-type: none"> ● The Chief Executive ("CE")'s appointment of IIA members should be made from a panel of candidates identified and recommended by the Financial Secretary ("FS"), who has the expertise and will have regard to relevant policy considerations. [AIA] ● Apart from CE and the Executive Council, there should be a separate mechanism for the reconstitution or disbandment of the IIA. [Jeffrey So] 	<ul style="list-style-type: none"> ● The IIA is an important regulator. Our proposal on appointment to the IIA is in line with the arrangement for the appointment to other financial services regulators.

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<i>Independent Advisory Committees ("IACs")</i>		
Schedule 1C	<ul style="list-style-type: none"> ● The IACs should include a minimum number of members from specific insurance sectors or representing specific industry bodies. [MIB, ECIIB, PIBA, ECIRSB] ● Subject to the approval of CE and the Executive Council, the Chief Secretary and the FS may appoint any suitable person into any committee of the IIA without consulting the IIA. [Jeffrey So] 	<ul style="list-style-type: none"> ● Section 1 of the new Schedule 1C prescribes that members of an IAC include the chairperson and CEO of the IIA, not more than two executive directors of the IIA, as well as persons with knowledge of or experience in the insurance industry, the conduct of insurance intermediary activities and consumer affairs. ● There is no statutory cap on the number of IAC members coming from the insurance industry. We consider it unnecessary to specify a minimum of members coming from the insurance industry so as to maintain flexibility in appointing the most suitable persons to the IAC to perform its advisory functions. ● We consider that the proposal for the FS to appoint members to the IAC is appropriate.
Schedule 1C, section 3	<ul style="list-style-type: none"> ● The IACs should be required to meet more frequently (e.g. every month or every 2 months). [PIBA, HKFI, ECIRSB] 	<ul style="list-style-type: none"> ● According to section 3 of new Schedule 1C, each IAC will be required to meet at least one every 3 months. The IAC may convene more meetings if necessary. We consider that this proposal has

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		struck a balance between flexibility and operational efficiency.
Section 4C	<ul style="list-style-type: none"> ● The IIA should be required to consult the relevant IACs on all material matters or important issues relating to specified areas (e.g. long term business, general insurance business, reinsurance business, any proposed arrangement with the Hong Kong Monetary Authority ("HKMA")). [AIA, HILA, ECIRSB] ● It should be specified in the legislation that the IIA must consider any representations that have been made to it by the IACs. [PIBA] ● The IAC should have agreed terms of reference. [HILA] ● In addition to issues referred to the IIA, the IACs be allowed to suggest items for inclusion on the meeting agenda. [HKFI, ECIRSB] 	<ul style="list-style-type: none"> ● The function of the IACs is to advise the IIA on industry-related issues and policies that are referred to them by the IIA. It is in the IIA's own interest to consult the IACs on material matters affecting the industry in order to solicit its views and achieve regulatory efficiency. We do not see any practical merit in imposing such a statutory requirement on the IIA. Besides, this requirement may give rise to unnecessary disputes as to what constitutes "material"/"important" matters. ● The composition of the IACs makes them effective regular communication platforms between the highest echelon of the IIA and stakeholders, including the insurance industry. We believe that the IIA will consider any presentation made to it by the IACs. The IIA may work out terms of reference of the IACs after its establishment. The Bill does not prohibit the IACs or their members from suggesting agenda items.

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Section 4C Section 4D	<ul style="list-style-type: none"> A “market development committee” (市場推廣委員會) comprising voluntary members from the insurance industry should be set up for promotion of the long term development of the insurance industry. [HKIIA] 	<ul style="list-style-type: none"> We welcome the suggestion. New Sections 4C and 4D of the Bill prescribe that the IIA may establish additional IACs and other committees when it considers necessary.
<i>Delegation of Functions</i>		
Section 4F(5) Section 4G(1)	<ul style="list-style-type: none"> The inspection and investigation powers in relation to regulated activities of banks should be vested with the IIA instead of HKMA. [IFPA, PIBA, 中國科學院廣澳區校友會] 	<ul style="list-style-type: none"> Under new section 4G of the Bill, the IIA may, subject to the approval of CE in Council, delegate its powers to appoint inspectors and investigators to the Monetary Authority (“MA”) for the frontline regulation of banks’ insurance intermediary activities. According to new section 4F(5) of the Bill, a delegation does not prevent the IIA from concurrently performing the function delegated. In other words, the delegated powers will still be vested with the IIA, and it can still exercise them after the delegation.
Section 4G	<ul style="list-style-type: none"> HKMA should set up a subsidiary, which is independent of HKMA’s operations, to exercise the powers delegated by the IIA. This will avoid undue interference with HKMA by the IIA. [Jeffrey So] 	<ul style="list-style-type: none"> The purpose of the delegation proposal under new section 4G of the Bill is to facilitate collaboration between the IIA and the MA in the regulation of banks’ insurance intermediary activities, given the integrated services offered by banks and HKMA’s role as the primary and lead regulator of banks. If

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		the power were to be delegated to a body which does not have a regulatory oversight of banks, it would defeat the whole purpose of the proposal and not bring about the synergy effect as envisaged under the delegation proposal.
Section 4G	<ul style="list-style-type: none"> It should be specified how delegation of powers by the IIA to HKMA is to be made, e.g. on a case-by case basis or a one-off delegation. [HILA] 	<ul style="list-style-type: none"> This will be a one-off delegation so that the MA may have the flexibility to inspect and investigate banks' insurance intermediary activities as and when necessary. It would be very inefficient if we need to seek a fresh approval from CE in Council each time even for a daily routine inspection.
Section 4G	<ul style="list-style-type: none"> Regulated entities of both the IIA and HKMA should be consulted on the draft Memorandum of Understanding ("MoU") between the two regulators in relation to the delegation of powers. [AIA] 	<ul style="list-style-type: none"> The MoU, which will be signed between the IIA and MA, is on the arrangements in relation to the two regulators' collaboration in exercising the delegated powers. This is not equivalent to regulatory requirements to be observed by banks and insurance intermediaries, and we do not consider it appropriate to mandate the regulators to consult their regulatees on the draft.
<i>Accounting and financial arrangements</i>		
Section 5B	<ul style="list-style-type: none"> There should be a mechanism in place for the Government to regulate 	<ul style="list-style-type: none"> The new section 5B of the Bill requires the IIA to

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Section 5D	the size of the IIA to prevent its over-expansion. [HKIPGU]	prepare and submit its corporate plan (which, among other things, includes the estimates of the IIA's income and expenditure) to the FS for approval. The new section 5D requires the IIA to submit its annual report to the FS. This should provide an effective check and balance.
Section 132	<ul style="list-style-type: none"> ● Oppose the levy on policy holders. The levy should be charged on insurance industry using a risk-based approach. [Consumer Council] ● Oppose the arrangement to fund the IIA by fees payable by insurers and insurance intermediaries, and levies charged on insurance premiums which will not benefit policy holders. [HKIIA, IIA Concern Group, Kwai Chung South Resident Association] 	<ul style="list-style-type: none"> ● Given that one of the main objectives of the IIA is to protect policy holders through, among other things, putting in place a statutory licensing system for insurance intermediaries, we consider it justified to recover its cost partly by collecting a levy from policy holders.

List of Respondents

Abbreviations	Name of Organizations / Individuals
AIA	AIA Group Limited
Cynthia Cheung	Cheung Sin Tung Cynthia
CIB	The Hong Kong Confederation of Insurance Brokers
-	Consumer Council
ECIIB	Employees Compensation Insurer Insolvency Bureau
ECIRSB	Employees' Compensation Insurance Residual Scheme Bureau
Michael Fung	Fung Kei Lap Michael
HILA	Hong Kong Insurance Law Association Limited
HKAB	The Hong Kong Association of Banks
HKCII	Hong Kong Chamber of Insurance Intermediaries
HKFI	The Hong Kong Federation of Insurers
HKGIAA	The Hong Kong General Insurance Agents Association Ltd
HKIIA	Hong Kong Insurance Intermediaries Association
HKIPGU	Hong Kong Insurance Practitioners General Union
ICCB	Insurance Claims Complaints Bureau
IFPA	Insurance & Financial Practitioners Alliance
-	IIA Concern Group
-	Kwai Chung South Resident Association
Atta Lee	Lee Long Ni Atta
LUSEB	Life Underwriters & Sales Executive Board (HK) Ltd
MIB	Motor Insurers' Bureau of Hong Kong

PIBA	Professional Insurance Brokers Association
Jeffrey So	So Chi Hong Jeffrey
Yeung Wai Sing	Yeung Wai Sing, Eastern District Council member
-	中國科學院廣澳區校友會