

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

**The Administration's Response to Members' Requests and Questions  
Raised at the Meeting on 24 November 2014**

**Purpose**

This paper sets out the Administration's response to issues raised by Members at the Bills Committee meeting on 24 November 2014.

**(1) Financial arrangements for the independent Insurance Authority  
("IIA")**

*(a) Funding Option to the IIA*

2. We take note of the Member's view and will consider loans as a funding option.

*(b) Annual Estimates of the IIA*

3. We take note of the Members' suggestion and will consider adopting the existing arrangement agreed between the Administration and the Legislative Council ("LegCo") for the budgetary process of the Securities and Futures Commission ("SFC"), under which the Administration briefs the LegCo Panel on Financial Affairs on the main features of SFC's proposed budget prior to seeking approval by the Financial Secretary. For background information, new section 5B added by Clause 15 of the Bill provides that the IIA's annual estimates are subject to the approval by the Financial Secretary and the approved estimates must be tabled before LegCo.

**(2) Order to pay costs of investigation**

4. New sections 41J and 64ZZO added by Clauses 55 and 71 respectively provide that if a person is convicted by a court on a prosecution instituted as a result of the findings of an investigation, the court may order the person to pay the costs of the investigation incurred by IIA in whole or in part.

5. The objective of the provisions is to allow the IIA to recover the costs incurred in the investigation of complex criminal cases, such as that for engaging outside experts (e.g. forensic auditors). In reality, we expect that the majority of cases of misconduct substantiated after the IIA's investigation would result in the IIA's disciplinary actions instead of criminal offences (e.g. fraud). In other words, we do not expect the provisions to be applicable to most of the investigations by the IIA. Furthermore, since a court order is required for the recovery of investigation costs under new sections 41J and 64ZZO, the reasonableness of the costs would also be subject to the court's supervision.

### **(3) Relationship between insurers and insurance agents**

6. As we have set out in our reply (ref: CB(1)257/14-15(02)) to the Bills Committee, new section 68(1) to (4C) added by Clause 73 of the Bill seek to modernize the drafting of the existing section 68(1) to (4). We have no intention to change the existing scope of liability of an insurer for the acts of an insurance agent appointed by the insurer under the Insurance Companies Ordinance (Cap. 41). We will follow up with the Hong Kong Federation of Insurers ("HKFI") on their concern and report the outcome to the Bills Committee.

### **(4) Transitional arrangements for insurance intermediaries**

7. We will follow up with the HKFI on their proposal related to the transitional arrangements for insurers and report the outcome to the Bills Committee.

**Financial Services and the Treasury Bureau  
December 2014**