

ITEM FOR ESTABLISHMENT SUBCOMMITTEE OF FINANCE COMMITTEE

**HEAD 148 – GOVERNMENT SECRETARIAT :
FINANCIAL SERVICES AND THE TREASURY BUREAU
(FINANCIAL SERVICES BRANCH)
Subhead 000 Operational expenses**

Members are invited to recommend to Finance Committee the retention of the following supernumerary directorate post in the Office of the Commissioner of Insurance of the Financial Services and the Treasury Bureau (Financial Services Branch) for a period of about 17 months from 25 May 2014 to 31 October 2015 –

1 Assistant Commissioner of Insurance
(D2) (\$136,550 - \$149,350)

PROBLEM

The existing supernumerary Assistant Commissioner of Insurance (ACI) (D2) post in the Office of the Commissioner of Insurance (OCI) of the Financial Services Branch (FSB) under the Financial Services and the Treasury Bureau (FSTB) will lapse on 25 May 2014. Retention of this post is required for, among other things, the continual performance of new regulatory functions stipulated in the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance (AMLO) implemented since 1 April 2012 and the Mandatory Provident Fund Schemes (Amendment) Ordinance 2012 (MPFS (Amendment) Ordinance) implemented since 1 November 2012.

/PROPOSAL

PROPOSAL

2. We propose to retain the supernumerary ACI post in OCI for about 17 months from 25 May 2014 to 31 October 2015 to continue performing the tasks mentioned in paragraph 1 above.

JUSTIFICATION

3. The enforcement duties in respect of the Anti-Money Laundering (AML)/Counter-Terrorist Financing (CTF) regulatory regime on insurance institutions and compliance with conduct requirements regarding Mandatory Provident Fund (MPF) intermediaries from the insurance sector as stipulated in the AMLO and MPFS (Amendment) Ordinance respectively are long-term regulatory commitments of the Insurance Authority (IA). In view of the scale and complexity of the requisite work involved, the Finance Committee (FC) approved on 25 May 2012 the creation of one supernumerary directorate post of ACI in OCI (designated as ACI(Enforcement)) (ACI(E)) for 24 months with immediate effect. The Administration has reviewed the operational needs of the post and considered it necessary to retain the post so as to provide regulatory steer and direction as well as to oversee all the relevant supervisory and enforcement duties as elaborated in the ensuing paragraphs.

Performing AML regulatory functions

4. The AMLO, which came into operation since 1 April 2012, stipulates the customer due diligence measures and record-keeping requirements to be undertaken by financial institutions in line with the AML/CTF standards as promulgated by the Financial Action Task Force (FATF), the standard setting body for the international AML/CTF standards. To implement the AML regulatory functions, the IA has to carry out inspections and investigations on insurers and insurance intermediaries viz. insurance brokers and insurance agents (collectively referred to as “insurance institutions” hereafter), and follow up those investigations which require further action that might lead to subsequent disciplinary actions and/or prosecutions. The IA has started rolling out on-site inspections and off-site reviews on insurance institutions for AML/CTF compliance. There is a large number of entities involved (currently 154 insurers and about 79 335 insurance intermediaries (including individuals and companies)) and continual and ongoing efforts are required from the relevant AML Team of OCI under the regulatory oversight of ACI(E).

5. In addition, regulatory inputs will be required from OCI for the forthcoming territory-wide risk assessment exercise for AML/CTF purpose, proposed legislative amendments to AMLO to align with the revised FATF recommendations, and preparation for the FATF mutual evaluation exercise on technical compliance and effectiveness scheduled for 2015-16.

/Frontline

Frontline regulator for MPF intermediaries

6. Since the implementation of the MPFS (Amendment) Ordinance on 1 November 2012, the IA has assumed the statutory role as the frontline regulator responsible for the supervision and investigation of registered MPF intermediaries whose main line of business is in the insurance sector. The IA would help ensure compliance by MPF intermediaries from the insurance sector with the conduct and other relevant statutory requirements specified in the MPFS (Amendment) Ordinance¹. In performing these regulatory functions, the IA is to maintain close liaison with the Mandatory Provident Fund Schemes Authority and other frontline regulators.

7. There are currently 387 corporate MPF intermediaries and some 31 830 individual MPF intermediaries. Among the corporate and individual MPF intermediaries, about 86% (i.e. 331) and 79% of them (i.e. some 25 020) respectively have their main line of business in the insurance sector. At present, the IA does not exercise direct regulation of insurance intermediaries as they are supervised by three Self-regulatory Organisations (SROs)². With the implementation of the new statutory regulatory regime on MPF intermediaries, the IA has commenced routine inspections on MPF intermediaries from the insurance sector, and investigations into their non-compliance, for enhancing investor protection.

Implementation of the AML and MPF regulatory regime

8. The ACI(E) post is to provide continual steer and directives to the AML and MPF Intermediaries Teams in implementing the regulatory regimes for performing the AML and MPF tasks, including reviewing industry guidelines/codes and procedural guides, setting out on-site inspection systems and planning, designing and carrying out an investigation strategy and imposing disciplinary sanctions as necessary, overseeing staff training; as well as acting as the subject directorate officer to liaise with both Hong Kong and overseas regulators on AML and MPF intermediaries matters.

/Other

¹ The Mandatory Provident Fund Schemes Authority has issued guidelines on the compliance with the conduct requirements specified in the MPFS (Amendment) Ordinance.

² The three SROs are the Insurance Agents Registration Board established by the Hong Kong Federation of Insurers, the Hong Kong Confederation of Insurance Brokers and the Professional Insurance Brokers Association.

Other duties

9. The post of ACI(E) also oversees the Insurance Intermediaries Team of OCI to monitor the operation of the current self-regulatory regime for insurance intermediaries. Under the legislative proposals for the establishment of an independent Insurance Authority (IIA), a statutory licensing regime for insurance intermediaries will replace the current self-regulatory regime administered by the three SROs.

10. ACI(E) has been leading the Insurance Intermediaries Team to support FSTB in preparing for the transition from the self-regulatory regime to the new statutory licensing regime. The scope of work will cover the preparatory work for the future transfer of relevant regulatory data of insurance intermediaries from the three SROs to the IIA, as well as consolidating existing codes of conduct and supervising guidelines published by the three SROs to facilitate the work of the IIA in future.

Retention of the post of ACI(E)

11. We propose that the supernumerary post of ACI(E) be retained for about 17 months from 25 May 2014 to 31 October 2015 to continue overseeing the performance of the relevant regulatory duties and heading the AML Team and the MPF Intermediaries Team in OCI. While such regulatory commitments are long-term in nature, taking into account the Administration's plan to establish the IIA in 2015, we consider this proposed retention period appropriate. The continual need for the post will be reviewed in light of progress of the establishment of the IIA.

Encl. 1 12. The proposed job description of the post of ACI(E) is at Enclosure 1.
Encls. 2 An organisation chart of OCI showing the proposed retention of the post of ACI(E)
& 3 is at Enclosure 2 and the existing portfolios of all other ACIs are at Enclosure 3.

Non-directorate Support

13. The post of ACI(E) is supported by an MPF Intermediary Team, an AML Team and an expanded Insurance Intermediaries Team comprising Insurance Officers and other supporting staff.

ALTERNATIVES CONSIDERED

14. We consider it not feasible for the duties of ACI(E) to be absorbed by other colleagues in OCI upon the lapse of the post on 25 May 2014.

15. At present, there are three other ACIs in OCI: ACI (Policy and Development) (ACI(P)), ACI (General Business) (ACI(G)) and ACI (Long Term Business) (ACI(L)). ACI(P) is responsible for overseeing policy and legislative matters. ACI(P) is heavily engaged in a number of important initiatives, including the development of a Risk-based Capital Framework for Insurance Business with a view to aligning Hong Kong's capital adequacy and solvency regime with the international trend for insurance regulation; providing input to FSTB on the establishment of a Policyholders' Protection Fund as well as the IIA and drawing up relevant implementation details; participating in the International Association of Insurance Supervisors in relation to cross-border supervision matters; and liaising with the China Insurance Regulatory Commission and the insurance industry regarding the Mainland and Hong Kong Closer Economic Partnership Arrangement measures and Mainland/Hong Kong co-operation.

16. ACI(G) and ACI(L) are responsible for monitoring general business insurers and long-term insurers respectively. The capacity of the General Business Division and Long Term Business Division under these two respective ACIs have already been over-stretched because of increasing workload in enhancing the monitoring of the financial position of insurers and conducting more frequent inspections on and stress testing of insurers.

17. We have critically examined whether these three ACIs can absorb the additional work of ACI(E). As the workload of these Divisions has increased significantly in recent years as explained in paragraphs 15 and 16 above and there is no indication that the situation would change in the near term, it will not be operationally feasible for these three ACIs to take up the additional duties of the post of ACI(E) without seriously affecting the effective discharge of their current duties.

FINANCIAL IMPLICATIONS

18. The proposed retention of the supernumerary post of ACI(E) will bring about an additional notional annual mid-point salary of \$1,739,400. The full annual average staff cost of the proposal, including salaries and staff on-cost, is \$3,159,000. We will include the necessary provision in the draft Estimates of 2014-15 and 2015-16 to meet the cost of the proposal. The provision for the non-directorate support will be absorbed from within the existing resources of FSTB.

PUBLIC CONSULTATION

19. The Legislative Council Panel on Financial Affairs was consulted on 6 January 2014. The Panel had no objection to Government submitting the proposal to the Establishment Subcommittee and the FC for approval.

/ESTABLISHMENT

ESTABLISHMENT CHANGES

20. The establishment changes in OCI for the last two years are as follows –

Establishment (Note)	Number of posts			
	Existing (as at 1 March 2014)	As at 1 April 2013	As at 1 April 2012	As at 1 April 2011
A	4+(1) [#]	4+(1)	4	4
B	37	37	37	37
C	38	38	38	41
Total	79+(1)	79+(1)	79	82

Note :

A – ranks in the directorate pay scale or equivalent

B – non-directorate ranks, the maximum pay point of which is above MPS Point 33 or equivalent

C – non-directorate ranks, the maximum pay point of which is at or below MPS Point 33 or equivalent

() – number of supernumerary directorate posts

– as at 1 March 2014, there was no unfilled directorate post in OCI

CIVIL SERVICE BUREAU COMMENTS

21. The Civil Service Bureau supports the proposed retention of the supernumerary ACI post. The grading and ranking of the post are considered appropriate having regard to the level and scope of responsibilities.

ADVICE OF THE STANDING COMMITTEE ON DIRECTORATE SALARIES AND CONDITIONS OF SERVICE

22. As the proposed post is on a supernumerary basis, its retention, if approved, will be reported to the Standing Committee on Directorate Salaries and Conditions of Service in accordance with the agreed procedure.

**Proposed Job Description
Assistant Commissioner of Insurance (Enforcement)**

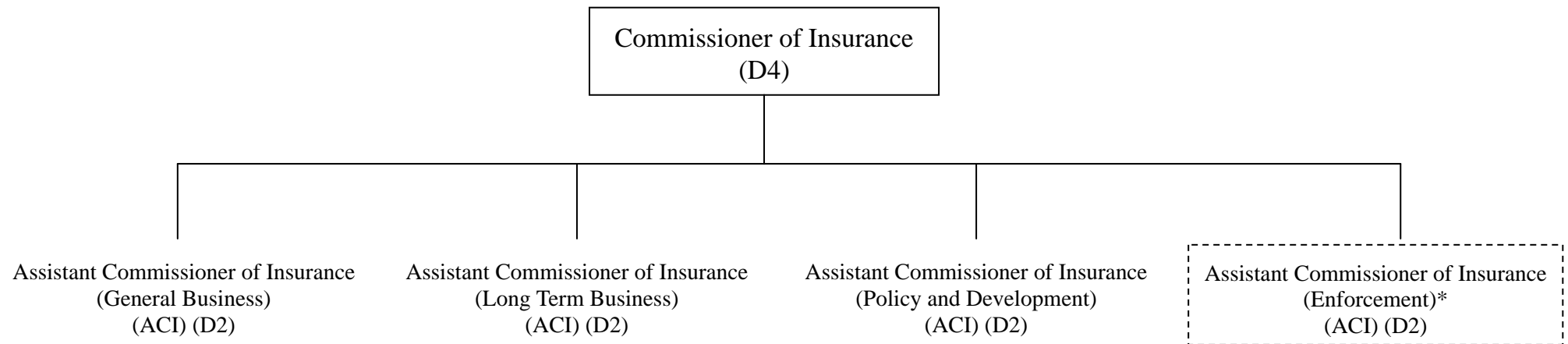
Rank : Assistant Commissioner of Insurance (D2)

Responsible to : Commissioner of Insurance

Main Duties and Responsibilities –

1. To oversee the implementation of the Anti-Money Laundering (AML) regulatory regime for the insurance sector under the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance (AMLO), including inspection on compliance of insurance institutions, investigation of non-compliance cases, implementation of the disciplinary process and prosecution of insurance institutions.
2. To liaise with the insurance industry on the latter's compliance with the statutory AML requirements and review the industry guidelines issued under the AMLO to promote and facilitate compliance by insurance institutions.
3. To implement the system for supervision of Mandatory Provident Fund (MPF) intermediaries from the insurance sector under the new statutory regulatory regime, including compliance monitoring, inspection, complaints handling, and investigation.
4. To represent the Insurance Authority in the liaison with other AML and MPF intermediaries regulators.
5. To support the Financial Services and the Treasury Bureau in liaising with the self-regulatory organisations and other industry stakeholders on the transitional arrangements for establishing the independent Insurance Authority (IIA), including overseeing the smooth transfer of registration/disciplinary data of insurance intermediaries, the establishment of an insurance intermediaries computerized system and consolidation of existing codes of conduct requirements for insurance intermediaries for the IIA's reference.

Proposed Organisation Chart of the Office of the Commissioner of Insurance



Legend:

* Supernumerary directorate post to be retained

ACI Assistant Commissioner of Insurance

Job Description
Assistant Commissioner of Insurance (General Business)

Rank : Assistant Commissioner of Insurance (D2)

Responsible to : Commissioner of Insurance

Main Duties and Responsibilities –

1. To authorize and prudentially supervise the general business insurers, including monitoring their financial soundness, their compliance with the statutory provisions and taking precautionary or remedial measures as and when appropriate.
2. To deal with matters affecting the general insurance industry, including –
 - (i) handling Legislative Council (LegCo) business relating to motor and Employees Compensation (EC) insurance;
 - (ii) administration of the Government Facility on Terrorism relating to EC insurance;
 - (iii) effective operation of EC Insurance Residual Scheme;
 - (iv) extension of the compensation coverage of the Motor Insurers' Bureau;
 - (v) liaison with other local and overseas financial regulators on supervisory matters, and attending Supervisory Colleges organised by fellow regulators; and
 - (vi) liaison with the Hong Kong Federation of Insurers and other various related bodies on issues relating to the general insurance industry.
3. To compile general insurance statistics, and review and improve office procedures and operating guidelines.
4. To be responsible for the overall efficient operation of the General Business Division of the Office.

Job Description
Assistant Commissioner of Insurance (Long Term Business)

Rank : Assistant Commissioner of Insurance (D2)

Responsible to : Commissioner of Insurance

Main Duties and Responsibilities –

1. To supervise the day to day operation of Long Term Business (LT) Division and be responsible for the overall efficient operation of the LT Division.
2. To authorize and prudentially supervise the long term business insurers, including monitoring their financial soundness, their compliance with the statutory provisions and take precautionary or remedial measures as and when appropriate.
3. To deal with matters affecting the long term insurance industry, including –
 - (i) processing of mergers and acquisitions, and life portfolio transfer;
 - (ii) dealing with public, media and LegCo members on complaints relating to long term insurers and agents;
 - (iii) leading the Actuarial Team of the LT Division to review various measures relating to actuarial reserving of long term insurers;
 - (iv) liaising with other local and overseas financial regulators on supervisory matters and attending Supervisory Colleges organised by fellow regulators;
 - (v) performing inspection visits and thematic review on long term insurers; and
 - (vi) liaising with Mainland regulatory authorities on RMB policies.
4. To compile long term insurance statistics; and review and improve office procedures and operating guidelines.

Job Description
Assistant Commissioner of Insurance (Policy and Development)

Rank : Assistant Commissioner of Insurance (D2)

Responsible to : Commissioner of Insurance

Main Duties and Responsibilities –

1. To coordinate with Mainland bureaux/regulator on liberalisation measures under Mainland and Hong Kong Closer Economic Partnership Arrangement; enhance cooperation of the insurance sector between Hong Kong and the Mainland; pursue new initiatives of liberalisation; and exchange information on regulatory matters.
2. To develop new/update legislation and rules for the insurance industry; develop a risk-based capital framework for the insurance business in Hong Kong; prepare enabling legislation for the establishment of the Independent Insurance Authority and the Policyholders' Protection Fund.
3. To participate in activities of the International Association of Insurance Supervisors and collaborate with international insurance regulators in developing and updating Insurance Core Principles and papers on various standards and regulatory measures; and participate in the development of legislation for a resolution regime for the financial services sector.
4. To coordinate information exchange between the Office, policy bureaux and local/overseas financial regulators; serve as the Head of Information Technology for all matters on OCI's information systems and website; and administer all matters relating to staffing and office administration.
5. To liaise with external parties such as credit rating agencies, professional bodies and consultants on regulatory matters and handle enquiries from the public and media.
