

# 立法會 *Legislative Council*

LC Paper No. CB(1)695/18-19(04)

Ref: CB1/PL/FA

## **Panel on Financial Affairs**

### **Meeting on 19 March 2019**

#### **Updated background brief on the establishment of and financial arrangements for the Insurance Authority**

### **Purpose**

This paper provides background information on the establishment of and financial arrangements for the Insurance Authority ("IA"). It also gives a brief account of the major views and concerns raised by Members since the Fifth Legislative Council ("LegCo") on IA's financial arrangements and related issues.

### **Background**

#### Establishment and organizational structure

2. The Insurance Companies (Amendment) Ordinance 2015 ("the Amendment Ordinance")<sup>1</sup> was enacted on 10 July 2015 to amend the Insurance Companies Ordinance (Cap. 41) to provide for, among others, the establishment of IA to take over the statutory functions of the Office of the Commissioner of Insurance ("OCI") (a government department) for regulating insurance companies and the supervisory functions of the three Self-Regulatory Organizations ("SROs").<sup>2</sup> The Amendment Ordinance also renamed the Insurance Companies Ordinance as the Insurance Ordinance ("IO").

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<sup>1</sup> The Insurance Companies (Amendment) Ordinance 2015 provides for, inter alia, the establishment of the Insurance Authority ("IA"), the enforcement powers of IA, the establishment of the Insurance Appeals Tribunal and a statutory licensing regime for insurance intermediaries.

<sup>2</sup> The three Self-Regulatory Organizations are the Insurance Agents Registration Board established under the Hong Kong Federation of Insurers, the Hong Kong Confederation of Insurance Brokers and the Professional Insurance Brokers Association.

3. To allow a smooth transition from the existing regulatory regime from OCI to IA, the Amendment Ordinance is being implemented in three stages namely: (1) establishing the Provisional Insurance Authority ("PIA") (without regulatory functions and co-exists with OCI) in December 2015; (2) renaming PIA as IA to take over regulatory functions from OCI in June 2017;<sup>3</sup> and (3) enabling IA to implement the statutory licensing regime and take over the regulation of insurance intermediaries from the three SROs tentatively in 2019.

4. Section 4AA(1) of IO provides that IA is to be consisted of a chairperson (a non-executive director of IA), a chief executive officer ("CEO") (an executive director of IA), and not less than six other executive or non-executive directors, all to be appointed by the Chief Executive ("CE"). The membership of IA effective from 28 December 2018 consists of a chairman, eight non-executive directors and five executive directors. As of March 2018, there were five divisions in IA, each headed by an executive director, and approximately 190 staff members. IA's Industry Advisory Committees on Long Term Business and on General Business are the main platforms for IA to exchange views with stakeholders in the insurance sector.<sup>4</sup> The organizational structure of IA is shown in **Appendix I**.

#### Financial arrangements and oversight

5. The Government's policy objective is for IA to fully recover its costs via income from the market and become financially independent of the Government. It is the long-term target that about 70% of the expenditure of IA be met by levy and the remaining 30% by various authorization, licence and user fees.<sup>5</sup> In respect of the levy, IA imposes a levy of 0.1% on insurance

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<sup>3</sup> In order to commence the new regulatory regime to be administered by IA in June 2017, the following nine pieces of subsidiary legislation were tabled before the Legislative Council at the meeting of 26 April 2017: Insurance Companies (Actuaries' Qualifications) (Amendment) Regulation 2017, Insurance Companies (Register of Insurers) (Prescribed Fee) (Amendment) Regulation 2017, Insurance Companies (Authorization and Annual Fees) (Amendment) Regulation 2017, Insurance Companies (Determination of Long Term Liabilities) Regulation (Amendment) Rules 2017, Insurance Companies (Margin of Solvency) Regulation (Amendment) Rules 2017, Insurance Companies (General Business) (Valuation) Regulation (Amendment) Rules 2017, Insurance Companies (Amendment) Ordinance 2015 (Commencement) Notice 2017, Insurance Ordinance (Amendment of Schedules) Notice 2017 and Insurance Companies (Actuaries' Standards) Regulation (Amendment) Rules 2017.

<sup>4</sup> IA has also formed the Future Task Force of the Insurance Industry to gauge views of industry practitioners and other stakeholders.

<sup>5</sup> Authorization fees are payable by insurance companies, licence fees are payable by insurance intermediaries and user fees are charged for provision of specific services. Levies are collected from insurance premiums.

premiums for all insurance policies (capped at \$100 for life policies and \$5,000 for non-life policies), which will be implemented through an incremental approach,<sup>6</sup> and exempt premiums of reinsurance contracts from the levy. The Insurance (Levy) Order and the Insurance (Levy) Regulation came into operation on 1 January 2018 to enable IA to collect levy on insurance premiums from policy holders. The Insurance Companies (Authorization and Annual Fees) (Amendment) Regulation 2017 and the Insurance Companies (Register of Insurers) (Prescribed Fee) (Amendment) Regulation 2017 (covering 11 fee items) came into effect on 26 June 2017 to enable IA to collect authorization fees and user fees respectively.

6. Under sections 128 to 134 of IO, all fees and levies of IA are to be stipulated in regulations and orders to be made by CE which are subsidiary legislation subject to negative vetting of LegCo. Section 135 of IO provides for the mechanism for reduction of IA's levies. The policy intent is that when the reserves of IA are more than twice its estimated operating expenses for the financial year (after deducting depreciations and all provisions) and that IA has no outstanding borrowing, IA has to consult FS with a view to recommending to CE in Council that the rate or amount of a levy be reduced.

7. To help meet part of IA's expenses in the initial years before it achieves the target levels of fees and levy, the Administration has proposed to provide a lump sum of \$650 million to IA for meeting the initial years of its operation.<sup>7</sup> A provision of \$450 million was included in the Estimates of Expenditure 2016-2017 for meeting the shortfall of IA's budget for the first two years. The remaining provision of \$200 million to IA was included in the Estimates of Expenditure 2018-2019.

<sup>6</sup> According to the Schedule to the Insurance (Levy) Order, IA's level of levy will be in accordance with the following schedule –

	<b>From 1 January 2018 to 31 March 2019</b>	<b>From 1 April 2019 to 31 March 2020</b>	<b>From 1 April 2020 to 31 March 2021</b>	<b>From 1 April 2021 onwards</b>
Market levy as a % on insurance premiums	0.04%	0.06%	0.085%	0.1%

<sup>7</sup> Based on a consultancy study conducted by the Administration in 2010, a lump sum of \$500 million was required as seed money and contingency reserve to support IA's initial years of operation. The Administration updated the estimates in November 2015 and revised the lump sum to \$650 million having regard to the additional regulatory functions of OCI (including enforcement of the anti-money laundering regulatory regime) since the study in 2010 to be taken over by IA. The Administration also advised that based on 2010 consultancy study, IA would have an establishment of about 250 staff members at its inception. As for OCI, the number of staff members was 150 as in mid-2014. As indicated in the updated consultancy study in November 2015, IA will have an initial establishment of 299 staff members.

8. The accounting and financial arrangements of IA are set out in sections 5A to 5G of IO. The main provisions include requirements for IA to prepare and submit its corporate plan (including the estimates of income and expenditure) for the next financial year to the Financial Secretary ("FS") for approval and submit annual reports to FS; FS to table IA's estimates, annual reports and audited financial statements before LegCo; and the Administration to pay IA out of the general revenue the monies appropriated by LegCo. As a check and balance, the Director of Audit may conduct value-for-money audit on IA.

9. To enhance transparency in the preparation of IA's annual estimates, during the scrutiny of the Insurance Companies (Amendment) Bill 2014, the Administration has taken on board the suggestion of the relevant Bills Committee for IA to brief the Panel on Financial Affairs ("FA Panel") on the main features of its proposed budget prior to seeking approval by FS.

### **Concerns and views expressed by Members**

10. FA Panel discussed the funding proposal for the establishment of IA at the meeting on 7 December 2015. FA Panel was briefed on IA's proposed budgets for 2016-2017, 2017-2018 and 2018-2019 at the meetings on 6 June 2016, 16 March 2017 and 5 March 2018 respectively. The Administration also briefed FA Panel at the meetings on 15 November 2016 on the legislative proposals for IA to charge levy, authorization fees and user fees. The major views and concerns expressed by members of the Bills Committee on the Insurance Companies (Amendment) Bill 2014 ("the Bills Committee") and FA Panel on the financial arrangements for IA, and its regulatory work are summarized in the ensuing paragraphs.

### **Financing mechanism and estimates of the Insurance Authority**

11. Members of the Bills Committee noted that IA was empowered to appoint its staff and consultants, and determine their remuneration and terms and conditions. They stressed the need to put in place a mechanism for regulating the size of IA to prevent over-expansion.

12. The Administration explained that IA would have a larger establishment than OCI mainly because IA would take up the additional responsibility of administering the licensing system for insurance intermediaries. IO required that IA's annual estimates, which included estimated staff costs and professional service fees, to be approved by FS and the approved estimates must be tabled before LegCo. These measures would provide an effective check and balance.

The Administration stressed the need to provide IA with operational flexibility in employing and engaging suitable talents and determining the appropriate level of remuneration having regard to the actual circumstances and prevailing market situations so that IA could cope with the regulatory challenges effectively and respond swiftly to market changes. This was in line with the practice of other financial regulators, such as the Securities and Futures Commission ("SFC") and the Mandatory Provident Fund Schemes Authority ("MPFA").

13. During the discussions at the FA Panel meetings on 7 December 2015 and 5 March 2018, members enquired about the measures to be taken if the lump sum provision of \$650 million for IA was inadequate to meet its operating expenditure in the initial years.

14. The Administration advised that it might consider different options including providing additional funding to IA in the form of a loan. Also, there were provisions in IO enabling IA to borrow money with the approval of FS. Given the healthy and stable development of the insurance industry in the previous years on which basis the income projection of IA had been worked out, it was envisaged that the proposed \$650 million would be sufficient to support the operation of IA in the initial five to six years.

15. IA stressed that it would deploy its resources prudently and adjust its budget as necessary having regard to the need for it to be financially independent of the Administration in the long run. Based on the six-year forecast of IA's income and expenditure, it was estimated that the operating deficit in the initial years would partially be offset by expected growth in the income from authorization fees from insurance companies given the stable development of Hong Kong's insurance industry. The six-year forecast also suggested that IA would achieve an operating surplus in 2021-2022 when the target levy rate of 0.1% was reached. IA had started collecting authorization fees from insurance companies and fees for specific services with effect from 26 June 2017, and levies from policy holders since 1 January 2018. It would take some time for IA to accumulate operational experience and gather information on its income and expenditure before it could work out a more accurate budget and better assess its financial position.

#### Collection of levy by Insurance Authority

16. Some members of the Bills Committee opined that the levy to be collected by IA should not be borne by policy holders on concern that this might increase the price of insurance products. Some FA Panel members were of the view that insurers and insurance intermediaries should bear IA's expenditure because they would benefit from the new regulatory regime.

17. The Administration advised that one of the main objectives of IA was to protect policy holders, and based on the "user-pay" principle it would be justified to collect levies from policy holders. It was also important for IA to be financially independent to perform its statutory regulatory functions in an equitable and impartial manner. Insurance companies were required to pay variable authorization fee in addition to fixed authorization fee under the new regulatory regime.

18. At the FA Panel meeting on 5 March 2018, some members opined that IA should consider reviewing whether the cap of the variable fee should be raised, especially for large insurance companies. IA advised that the variable fee was calculated as a percentage of insurance liabilities of individual insurance companies. IA would formulate measures to attract more insurance companies to set up regional headquarters in Hong Kong, which would increase IA's income from authorization fees.

#### Recruitment and pay policies of the Insurance Authority

19. At the FA Panel meetings on 7 December 2015, 6 June 2016, 16 March 2017 and 5 March 2018, some members enquired about the recruitment policies of IA and how it would benchmark the remuneration of its staff. In view of the acute shortage in the supply of insurance talents in Hong Kong, some members suggested that IA should explore whether the staff establishment for administering the licensing regime could be reduced.

20. IA advised that it would determine its size of establishment having regard to actual operational needs. IA would have full strength of about 300 staff members on board in 2018-2019. This level of manpower was considered appropriate taking into account the functions of IA including the regulation of over 100 000 insurance intermediaries in Hong Kong. In determining the remuneration of its staff, IA had engaged a human resources consultant for advice and considered adopting arrangements similar to those of other statutory regulatory bodies including SFC and MPFA. Moreover, reference had been made to the salary levels of comparable positions in the market. Given the difficulties in staff recruitment and heavy workload of its existing staff, IA would explore ways to reduce its manpower requirement including promoting the use of information technology at work (such as implementing digitalization of the licence application process).

21. At the FA Panel meeting on 5 March 2018, members raised enquiries about the recruitment of the CEO of IA, confidential undertaking and post-service employment requirements on the officer, and measures to prevent against possible conflict of interest.

22. IA advised that it would need to recruit a new CEO before mid-2018 when the secondment of the incumbent CEO, who was a civil servant, was due to end. IA would determine the level of remuneration having regard to the recommendations of the relevant consultancy study conducted in 2015, advice of IA's recruitment consultant, and pay levels in other similar public organizations. The mechanism for regulating the conduct and integrity of IA's staff was generally in line with that applicable to civil servants.

### Regulatory work of the Insurance Authority

23. At the FA Panel meeting on 6 June 2016, some members suggested that IA should look into the complaint cases being handled by the three SROs and take appropriate follow-up actions. IA responded that it had noted that there were inconsistencies in the existing complaint handling mechanism administered by the SROs and would review the mechanism to ensure its efficiency and effectiveness.

24. At the FA Panel meeting on 16 March 2017, some members suggested that IA should consider issuing guidelines to insurance companies with a view to standardizing certain key terms used in insurance policies, such as the definition of "terminal diseases". IA advised that it could not directly regulate individual insurance products but would take relevant measures (like rolling out public education programmes) to enhance consumers' awareness to protect their rights and interests in purchasing insurance products. Moreover, the industry had established an independent mechanism to handle claim disputes, and IA would soon commence preparatory work on the establishment of the Policy Holders' Protection Scheme.

25. At the FA Panel meetings on 15 November 2016 and 16 March 2017, members enquired about the progress in formulating relevant guidelines and code of conduct for insurance intermediaries.

26. The Administration advised that it would liaise with IA and the insurance industry in formulating guidelines on various matters for implementing the new regulatory regime, and arranging publicity campaigns including the provision of hotline services. The Working Group of Transition (which included representatives of the existing three SROs) had been established to work out the detailed arrangements on transitional issues including developing the code of conduct for insurance intermediaries. The target was for IA to promulgate the code of conduct before commencement of the statutory licensing regime.

### Sustainable development of the insurance industry

27. At the FA Panel meetings on 16 March 2017 and 5 March 2018, members sought details on IA's work in promoting the sustainable development of the insurance industry including measures to attract new entrants to the industry and enhance the professional development of existing practitioners, to help the industry tap opportunities arising from the development of the Guangdong-Hong Kong-Macao Bay Area ("Greater Bay Area"), as well as to promote the development of maritime insurance in Hong Kong.

28. IA advised that it had been liaising with stakeholders in promoting the sustainable development of the insurance industry, and would implement measures focusing on enhancing the image of the insurance industry, promoting continuous professional development of industry practitioners, attracting new talents to the industry, and enhancing consumer protection. A Future Task Force had also been established to explore the future of the insurance industry in Hong Kong. To attract new blood to the industry, IA would liaise with various academic institutions on the provision of relevant programmes, and organize promotional activities to enhance the image of the industry.

29. IA assured members that it had been discussing with the China Insurance Regulatory Commission on the possibility of allowing the sale of certain simple insurance products through a specific platform developed between Hong Kong and the Mainland. On the efforts in promoting the development of maritime insurance in Hong Kong, IA responded that it had been reviewing whether there was room to relax existing restrictions on maritime insurance business. The Administration and IA would examine relevant measures adopted in other jurisdictions including requiring ships registered under Hong Kong flags to procure maritime insurance in Hong Kong, and providing tax incentives.

### **Council questions**

30. Hon CHAN Kin-por raised written questions on "Measures to facilitate the development of the insurance industry" and "Development of the Hong Kong insurance trade in the Greater Bay Area" at the Council meetings of 5 July 2017 and 23 January 2019 respectively. The questions sought details of how IA would promote the use of financial technologies by the insurance industry, and the measures to assist Hong Kong insurance trade in developing businesses in the Greater Bay Area. Hon Holden CHOW raised a written question at the Council meeting of 16 January 2019 on "Tax measures for aviation and maritime industries". The question covered issues, among others, tax measures to be introduced for promoting the development of marine



insurance businesses in Hong Kong. The questions and the Administration's written responses are provided in hyperlinks in **Appendix II**.

### **Latest development**

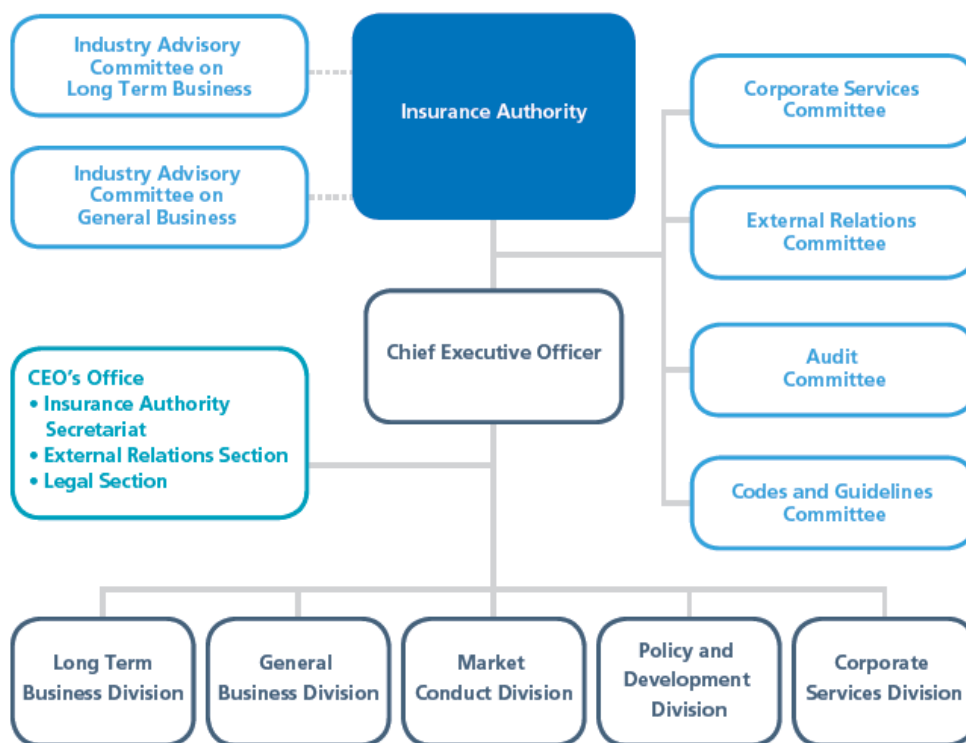
31. The Administration will brief FA Panel on IA's proposed budget for 2019-2020 at the meeting on 19 March 2019.

### **Relevant papers**

32. A list of relevant papers is in **Appendix II**.

Council Business Division 1  
Legislative Council Secretariat  
15 March 2019

## The Organisational Structure



Source: Insurance Authority's Annual Report 2017-18

## List of relevant papers

Date/Period	Event	Paper/Minutes of meeting
May 2014 to July 2015	The Bills Committee on Insurance Companies (Amendment) Bill 2014 was in action	<a href="#">Report of the Bills Committee</a> (LC Paper No. CB(1)1055/14-15)  <a href="#">Legislative Council Brief</a> (File Ref: C2/2/50C)  <a href="#">Legal Service Division report</a> (LC Paper No. LS50/13-14)
10 July 2015	The Legislative Council ("LegCo") passed the Insurance Companies (Amendment) Bill 2014	<a href="#">Hansard</a>
14 October 2015	The Insurance Companies (Amendment) Ordinance 2015 (Commencement) Notice 2015 gazetted on 9 October 2015 was introduced into LegCo	<a href="#">Legislative Council Brief</a> (File Ref.: INS/2/3C(2015))  <a href="#">Legal Service Division Report</a> (LC Paper No. LS2/15-16)
7 December 2015	The Panel on Financial Affairs ("FA Panel") was briefed by the Administration on its funding proposal relating to the establishment of the Insurance Authority ("IA")	<a href="#">Administration's paper</a> (LC Paper No. CB(1)209/15-16(04))  <a href="#">Minutes</a> (LC Paper No. CB(1)540/15-16)  <a href="#">Background brief</a> (LC Paper No. CB(1)209/15-16(05))
28 December 2015	The Chief Executive announced the appointments of the Chairperson and seven Non-executive Directors of the Provisional Insurance Authority	<a href="#">Press release</a>

<b>Date/Period</b>	<b>Event</b>	<b>Paper/Minutes of meeting</b>
5 April 2016	Special meeting of the Finance Committee for examination of Estimates of Expenditure 2016-2017	<a href="#">Written questions raised by Members and Administration's replies for the session on "Financial Services"</a> (Reply serial numbers: FSTB(FS)001, 009, 010, 011, 012, 013, 014, 024, 033, 035, 037, 038, 039, 044, 060, 092, 098, 099 and 103)
6 June 2016	FA Panel was briefed by the Administration and IA on IA's proposed budget for the financial year of 2016-2017	<a href="#">Administration's paper</a> (LC Paper No. CB(1)987/15-16(04))  <a href="#">Minutes</a> (LC Paper No. CB(1)1162/15-16)  <a href="#">Background brief</a> (LC Paper No. CB(1)994/15-16(01))
15 November 2016	FA Panel was briefed by the Administration and IA on the subsidiary legislation for IA to collect levy on insurance premiums from policy holders, authorization fees from insurance companies, and other fees on specific services provided by IA	<a href="#">Administration's paper</a> (LC Paper No. CB(1)78/16-17(08))  <a href="#">Minutes</a> (LC Paper No. CB(1)364/16-17)  <a href="#">Background brief</a> (LC Paper No. CB(1)78/16-17(09))
6 February 2017	FA Panel was briefed by the Secretary for Financial Services and the Treasury on the Chief Executive's 2017 Policy Address	<a href="#">Administration's paper</a> (LC Paper No. CB(1)459/16-17(04))
16 March 2017	FA Panel was briefed by the Administration and IA on IA's proposed budget for the financial year of 2017-2018	<a href="#">Administration's paper</a> (LC Paper No. CB(1)660/16-17(06))  <a href="#">Minutes</a> (LC Paper No. CB(1)1178/16-17)  <a href="#">Background brief</a> (LC Paper No. CB(1)660/16-17(07))

<b>Date/Period</b>	<b>Event</b>	<b>Paper/Minutes of meeting</b>
26 April 2017	Nine pieces of subsidiary legislation for IA to take over the regulatory functions of the former Office of the Commissioner of Insurance gazetted on 21 April 2017 were introduced into LegCo	<a href="#">Legislative Council Brief</a> (File Ref.: INS/2/3C(2017))  <a href="#">Legal Service Division Report</a> (LC Paper No. LS58/16-17)
14 June 2017	The Insurance (Levy) Regulation and the Insurance (Levy) Order gazetted on 9 June 2017 were introduced into LegCo	<a href="#">Legislative Council Brief</a> (File Ref.: INS/2/3C(2017))  <a href="#">Legal Service Division Report</a> (LC Paper No. LS78/16-17)
5 July 2017	Hon CHAN Kin-por raised a written question on measures to facilitate the development of the insurance industry	<a href="#">Hansard</a> (pages 11120 – 11123)
5 March 2018	FA Panel was briefed by the Administration and IA on IA's proposed budget for the financial year of 2018-2019	<a href="#">Administration's paper</a> (LC Paper No. CB(1)625/17-18(04))  <a href="#">Minutes</a> (LC Paper No. CB(1)924/17-18)  <a href="#">Background brief</a> (LC Paper No. CB(1)625/17-18(05))  <a href="#">Follow-up</a> (LC Paper No. CB(1)699/17-18(02))
17 April 2018	Special meeting of the Finance Committee for examination of Estimates of Expenditure 2018-2019	<a href="#">Written questions raised by Members and Administration's replies for the session on "Financial Services"</a> (Reply serial numbers: FSTB(FS)002, 006, 007, 010 and 032)

<b>Date/Period</b>	<b>Event</b>	<b>Paper/Minutes of meeting</b>
27 July 2018	The Chief Executive announced the appointment of the Chief Executive Officer of the Insurance Authority	<a href="#">Press release</a>
18 December 2018	An information paper to FA Panel on the proposal for IA to collect new user fees to recover the cost of providing specific services	<a href="#">Administration's paper</a> (LC Paper No. CB(1)308/18-19(01))
21 December 2018	The Chief Executive announced the appointments of the Chairperson and Non-executive Directors of the Insurance Authority	<a href="#">Press release</a>
16 January 2019	Hon Holden CHOW raised a written question on tax measures for aviation and maritime industries	<a href="#">Press release</a>
23 January 2019	Hon CHAN Kin-por raised a written question on development of the Hong Kong insurance trade in the Guangdong-Hong Kong-Macao Greater Bay Area	<a href="#">Press release</a>