

立法會 *Legislative Council*

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Panel on Financial Affairs

Meeting on 2 March 2020

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 the Panel on Financial Affairs ("FA Panel") on IA's financial arrangements and related issues since the 2016-2017 session.

Background

Establishment and organizational structure

2. The Insurance Companies (Amendment) Ordinance 2015 ("the Amendment Ordinance")¹ 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").² The Amendment Ordinance also renamed the Insurance Companies Ordinance as the Insurance Ordinance ("IO").

¹ 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.

² 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 regulatory regime from OCI to IA, the Amendment Ordinance was 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; and (3) enabling IA to implement the statutory licensing regime and take over the regulation of insurance intermediaries from the three SROs in the second half of 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 October 2019 consists of a chairman, eleven non-executive directors and five executive directors. As of March 2019, there were five divisions in IA, each headed by an executive director, and approximately 270 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.³ 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.⁴ In respect of the levy, IA imposes a levy of 0.1% on insurance premiums for all insurance policies (capped at \$100 for life policies and \$5,000 for non-life policies), which is implemented through an incremental approach,⁵ and exempt premiums of reinsurance contracts from the levy. IA started collecting authorization fees and user fees since June 2017, and premium levies

³ IA has also formed the Future Task Force of the Insurance Industry to gauge views of industry practitioners and other stakeholders.

⁴ 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.

⁵ According to the Schedule to the Insurance (Levy) Order, IA's level of levy will be in accordance with the following schedule –

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

since January 2018.

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 the Legislative Council ("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 the Financial Secretary ("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 Government has provided the seed money of \$650 million to IA in phases.⁶ When FA Panel was briefed on the Government's initiative to promote the development of the insurance industry in Hong Kong at the meeting on 2 December 2019, the Government indicated its plan to provide a direct capital injection of \$300 million to IA for it to tide over the projected cash shortfall in the short to medium term and maintain an appropriate level of reserve.

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 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, the IA will brief FA Panel on the main features of IA's proposed budget prior to seeking approval by FS.

Concerns and views expressed by Members

10. FA Panel was briefed on IA's proposed budgets for 2016-2017, 2017-2018, 2018-2019 and 2019-2020 at the meetings on 6 June 2016, 16 March 2017, 5 March 2018 and 19 March 2019 respectively. The

⁶ 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.

Administration also briefed FA Panel at the meetings on 7 December 2015 and 15 November 2016 on the funding proposal relating to the establishment of IA and the legislative proposals for IA to charge levy, authorization fees and user fees respectively. FA Panel was briefed by the Administration and IA on the initiative to promote the development of the insurance industry in Hong Kong at the meeting on 2 December 2019. The major views and concerns expressed by members are summarized in the ensuing paragraphs.

Financing mechanism and estimates of the Insurance Authority

11. During the discussions at the FA Panel meetings on 7 December 2015, 5 March 2018 and 19 March 2019, members enquired about the measures to be taken if the seed money of \$650 million for IA was inadequate to meet its operating expenditure in the initial years, and how IA would cope with the problem of insufficient reserve.

12. 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.

13. IA responded that the six-year forecast of IA's income and expenditure suggested that IA would achieve an operating surplus in 2021-2022 when the target levy rate of 0.1% was reached. As IA started collecting various fees and premium levies since June 2017 and January 2018 respectively, 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. At the FA Panel meeting on 19 March 2019, IA pointed out that there was limitation for IA to achieve full cost recovery as premium levies was capped at present, and IA would discuss the matter with the Government while actively exploring new sources of income.

14. Regarding the Government's proposal to provide IA with a capital injection of \$300 million, at the FA Panel meeting on 2 December 2019, while some members expressed support for the proposal, some members opined that the Government should provide the funding to IA in the form of an interest bearing loan.

Recruitment policies and staff remuneration of the Insurance Authority

15. At the FA Panel meetings on 6 June 2016, 16 March 2017, 5 March 2018 and 19 March 2019, members enquired about the recruitment policies of and

difficulties encountered by IA, how IA would determine the remuneration of its staff, and when IA envisaged it would attain the full establishment of about 300 staff members.

16. IA advised that it would determine its size of establishment having regard to actual operational needs. The target strength of about 300 staff members was considered appropriate taking into account the functions of IA including the regulation of over 100 000 insurance intermediaries in Hong Kong. IA would continue to exercise vigilant control on headcount. Given the difficulties in staff recruitment and heavy workload, IA would work with related parties to hold seminars and briefings for students on the prospects of and career opportunities available in the industry in order to attract new entrants. IA would also 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). As regards the remuneration of staff, IA had engaged a human resources consultant for advice and considered adopting arrangements similar to those of other statutory regulatory bodies including Securities and Futures Commission and Mandatory Provident Fund Schemes Authority. Reference had also been made to the salary levels of comparable positions in the market. The Corporate Services Committee of IA would also review the structure and level of staff remuneration and recommend adjustments where necessary.

17. 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.

18. 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, the 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

19. At the FA Panel meetings on 6 June 2016 and 19 March 2019, members suggested that IA should look into the complaint cases being handled by the three SROs and take appropriate follow-up actions, and enquired about the mechanism for handling complaints from policy holders against insurance companies and intermediaries.

20. IA responded that a majority of complaints received were associated with misrepresentation, claims handling, conduct and quality of service, and the Insurance Complaints Bureau⁷ provided a dispute resolution mechanism to resolve claim disputes between policy holders and insurers. Complaints lodged against insurance intermediaries would be handled by the three SROs until the new licensing regime came into operation.

21. At the FA Panel meetings on 16 March 2017 and 19 March 2019, 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". Some members urged IA to step up public education and training of insurance intermediaries about the insurance products in the market, and to handle the problem where policy holders were administered with unnecessary medical treatment to maximize insurance claims.

22. 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. The Administration added that some insurance companies had issued letters to advise medical practitioners that they should only prescribe treatments which were clinically justified regardless of whether their patients had acquired insurance coverage.

23. At the FA Panel meetings on 15 November 2016, 16 March 2017 and 19 March 2019, members enquired about the progress in formulating relevant guidelines and code of conduct for insurance intermediaries.

24. 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.

⁷ The Insurance Complaints Bureau ("ICB") was set up in January 2018 to supersede The Insurance Claims Complaints Bureau to handle complaints from policyholders arising from personal insurance contracts. Claim-related complaints received by ICB are handled by way of adjudication while non-claim related complaints by way of mediation.

Sustainable development of the insurance industry

25. 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.

26. 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.

27. At the FA Panel meeting on 19 March 2019, 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.

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Council questions

28. 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

29. The Administration and IA will brief FA Panel on IA's proposed budget for 2020-2021 at the meeting on 2 March 2020.

Relevant papers

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

Council Business Division 1
Legislative Council Secretariat
28 February 2020

THE ORGANISATIONAL STRUCTURE

(As at 31 March 2019)



¹ The committee was renamed as Regulatory Instruments Committee from June 2019 onwards.

Source: Insurance Authority's Annual Report 2018-19

List of relevant papers

Date/Period	Event	Paper/Minutes of meeting
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")	Administration's paper (LC Paper No. CB(1)209/15-16(04)) Minutes (LC Paper No. CB(1)540/15-16) Background brief (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	Press release
5 April 2016	Special meeting of the Finance Committee for examination of Estimates of Expenditure 2016-2017	Written questions raised by Members and Administration's replies for the session on "Financial Services" (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	Administration's paper (LC Paper No. CB(1)987/15-16(04)) Minutes (LC Paper No. CB(1)1162/15-16) Background brief (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	Administration's paper (LC Paper No. CB(1)78/16-17(08)) Minutes (LC Paper No. CB(1)364/16-17)

Date/Period	Event	Paper/Minutes of meeting
	premiums from policy holders, authorization fees from insurance companies, and other fees on specific services provided by IA	Background brief (LC Paper No. CB(1)78/16-17(09))
16 March 2017	FA Panel was briefed by the Administration and IA on IA's proposed budget for the financial year of 2017-2018	Administration's paper (LC Paper No. CB(1)660/16-17(06)) Minutes (LC Paper No. CB(1)1178/16-17) Background brief (LC Paper No. CB(1)660/16-17(07))
5 July 2017	Hon CHAN Kin-por raised a written question on measures to facilitate the development of the insurance industry	Hansard (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	Administration's paper (LC Paper No. CB(1)625/17-18(04)) Minutes (LC Paper No. CB(1)924/17-18) Background brief (LC Paper No. CB(1)625/17-18(05)) Follow-up (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	Written questions raised by Members and Administration's replies for the session on "Financial Services" (Reply serial numbers: FSTB(FS)002, 006, 007, 010 and 032)

Date/Period	Event	Paper/Minutes of meeting
27 July 2018	The Chief Executive announced the appointment of the Chief Executive Officer of the Insurance Authority	Press release
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	Administration's paper (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	Press release
16 January 2019	Hon Holden CHOW raised a written question on tax measures for aviation and maritime industries	Hansard (pages 5080 – 5082)
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	Hansard (pages 5559 – 5561)
19 March 2019	FA Panel was briefed by the Administration and IA on IA's proposed budget for the financial year of 2019-2020	Administration's paper (LC Paper No. CB(1)695/18-19(03)) Minutes (LC Paper No. CB(1)1108/18-19) Background brief (LC Paper No. CB(1)695/18-19(04))

Date/Period	Event	Paper/Minutes of meeting
20 September 2019	The Chief Executive announced the appointments of three new Non-executive Directors of the Insurance Authority	Press release
2 December 2019	FA Panel was briefed by the Administration and IA on the initiative to promote the development of the insurance industry in Hong Kong	Administration's paper (LC Paper No. CB(1)175/19-20(07)) Follow-up (LC Paper No. CB(1)382/19-20(02))