

**For information
on 4 May 2020**

Legislative Council Panel on Financial Affairs

**Rules Relating to Registration of Orders of
Insurance Appeals Tribunal**

PURPOSE

This paper informs Members of the proposal to make rules relating to the registration of orders of Insurance Appeals Tribunal (“the Rules”) under section 117(b) of the Insurance Ordinance (Cap. 41) (“IO”) to provide for matters relating to the registration of an order of the Insurance Appeals Tribunal (“IAT”) in the Court of First Instance (“CFI”) pursuant to section 109 of the IO.

BACKGROUND

2. Enacted in July 2015, the Insurance Companies (Amendment) Ordinance 2015 (“Amendment Ordinance”) provides for, among other things, the establishment of the Insurance Authority (“IA”); a statutory regime to regulate insurance intermediaries in replacement of the previous self-regulatory system; and the establishment of the IAT to handle appeals from insurers and insurance intermediaries against relevant regulatory decisions made by the IA.

The Insurance Authority

3. The IA was set up on 7 December 2015 pursuant to the Insurance Companies (Amendment) Ordinance 2015 (Commencement) Notice 2015. By the Insurance Companies (Amendment) Ordinance 2015 (Commencement) Notice 2017 (“the 2017 Commencement Notice”), the IA took over the statutory functions of the then Office of the Commissioner of Insurance and became the regulator of insurance companies on 26 June 2017. Subsequently, by the Insurance Companies (Amendment) Ordinance 2015 (Commencement) Notice 2019 (“the 2019 Commencement Notice”), the remaining provisions of the Amendment Ordinance commenced operation on 23 September 2019 to enable the IA to take over the role as the regulator of insurance intermediaries from the

then three Self-Regulatory Organisations (“SROs”)¹.

The Insurance Appeals Tribunal

4. With the 2017 Commencement Notice, the IAT was established pursuant to section 97 of the IO. In accordance with Part XII of and Schedule 10 to the IO, it has jurisdiction to review the specified decisions made by the IA as well as hear and determine a question or issue arising out of or in connection with a review. Specified decisions that are subject to the review by the IAT are set out in Schedule 9 to the IO.

5. During the period between 26 June 2017 and 22 September 2019, the IAT had powers to deal with appeals relating to insurance companies, but no such appeal was received by the IAT in the said period.

6. Pursuant to the 2019 Commencement Notice, the IAT has powers to deal with appeals relating to insurance intermediaries, in addition to insurance companies, with effect from 23 September 2019. Since then, the IAT has received 19 appeals, all being outstanding cases transferred from the appeal tribunals of the then SROs. As at 31 March 2020, the IAT had completed the processing of six cases, and was processing the remaining 13 cases.

PROPOSAL

7. Section 109 of the IO reads –

- “(1) After receiving a notice in writing given by the [Insurance Appeal] Tribunal in the manner prescribed by rules made under section 117, the Court of First Instance may register an order of the [Insurance Appeal] Tribunal in that Court.
- (2) An order so registered is to be regarded for all purposes as orders of the Court of First Instance made within its jurisdiction.”

¹ The then SROs were 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.

8. As the notice under section 109(1) of the IO is to be given by the IAT “in the manner prescribed by rules made under section 117”, it is necessary for the Chief Justice (“CJ”) to make the Rules under section 117(b) of the IO to provide for matters relating to the registration of the IAT’s orders in the CFI under section 109. We **propose** to specify in the Rules that the IAT shall, for the purpose of giving notice in respect of an order pursuant to section 109 of the IO, produce to the Registrar of the High Court a notice in writing in the prescribed form, so as to provide certainty and facilitate the Court in registering an IAT Order

9. We have consulted the Judiciary and incorporated its views into the above proposal.

WAY FORWARD

10. We aim to table the rules to be made by CJ before the Legislative Council in May 2020 for negative vetting.

11. Members are invited to note the proposal.

Financial Services and the Treasury Bureau
April 2020