

立法會 *Legislative Council*

LC Paper No. CB(1)604/20-21(05)

Ref: CB1/PL/FA

Panel on Financial Affairs

Meeting on 1 March 2021

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 work since the 2016-2017 session.

Background

Establishment and organizational structure

2. The Insurance Companies (Amendment) Ordinance 2015 ("the Amendment Ordinance")¹ was enacted in July 2015 which amends 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) 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 to the new regulatory regime from OCI and the three SROs to IA, the Amendment Ordinance was implemented in stages including: the formal establishment of IA to take over from OCI the responsibilities of supervising insurance companies in June 2017; implementation of a statutory licensing regime by IA and taking over of the regulation of insurance intermediaries from the three SROs in September 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 as of October 2020 consists of a chairman, eleven non-executive directors and three executive directors. As of March 2020, there were five divisions in IA, and approximately 280 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. IA will start charging licence fee five years after the direct regulation of insurance intermediaries takes place.

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 Administration has provided a seed money of \$650 million to IA in phases.⁶ Moreover, in order to help IA tide over the projected cash shortfall in the short to medium term and maintain an appropriate level of reserves, the Administration further provided a direct capital injection of \$300 million to IA in 2020.⁷

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 2017-2018, 2018-2019, 2019-2020 and 2020-2021 at the meetings on 16 March 2017, 5 March 2018, 19 March 2019 and 17 March 2020 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.

⁷ The grant of \$300 million was approved by the Legislative Council in May 2020.

Administration and IA further briefed FA Panel on the initiatives to promote the development of the insurance industry in Hong Kong at the meeting on 2 December 2019. The Subcommittee on Registration of Determinations and Orders of Public Interest Entities Auditors Review Tribunal Rules and Registration of Orders of Insurance Appeals Tribunal Rules ("the Subcommittee") also expressed views on the work of IA at the meeting on 10 November 2020. The major views and concerns expressed by members at the above meetings are summarized in the ensuing paragraphs.

Financing mechanism and estimates of the Insurance Authority

11. During the discussions at the FA Panel meetings in 2018 and March 2019, members enquired about the measures to be taken by IA if the \$650 million seed money was inadequate in meeting IA's operating expenditure in the initial years, and how IA would cope with the problem of insufficient reserves.

12. 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 only 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. During the FA Panel discussion in March 2019, IA further pointed out that there was limitation for IA to achieve full cost recovery as premium levies were capped, and IA would discuss the matter with the Government while actively exploring new sources of income.

13. At the FA Panel meeting in December 2019, while some members expressed support for the proposal to provide IA with a capital injection of \$300 million, some members opined that the Administration should provide the funding to IA in the form of an interest bearing loan. The Administration and IA explained that IA's funding shortfall in 2020-2021 was mainly attributed to a longer lead time required to complete the takeover of regulatory responsibilities from the former OCI. This caused delay in collection of premium levies and authorization/annual fees (amounting to some \$260 million) from insurers, as well as lower actual income as compared with the estimates adopted in preparing the indicative budget used to work out the initial capital injection of \$650 million. The proposed capital injection of \$300 million served to tide IA over its projected cash shortfall in the short to medium term and allow it to maintain a modest reserve. Unlike other financial regulators such as the Hong Kong Monetary Authority, Securities and Futures Commission ("SFC"), and the Mandatory Provident Fund Schemes Authority

("MPFA"), IA had taken on a unique role of promoting global competitiveness and sustainable development of the local insurance industry. An upper limit imposed on the premium levies and phased increase towards the target levy rate of 0.1%, coupled with the lack of a generous seeding grant, compelled IA to open up other income streams. If the various initiatives to promote the development of the insurance industry in Hong Kong could materialize, the financial position of IA would be significantly bolstered.

Recruitment policies and staff remuneration of the Insurance Authority

14. At the FA Panel meetings in 2017, 2018, March 2019 and 2020, members enquired about IA's timetable in reaching its planned full establishment of about 300 staff members and the mechanism for determining staff remuneration.

15. 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 its headcount, and 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). Given that IA would take on additional duties related to group-wide supervision and regulation of intermediaries, it had increased 29 headcounts in 2020-2021. As the pace of recruitment hinged on a number of factors including availability of suitable talents in the market, IA was uncertain if all vacancies could be filled in 2020-2021. On 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 SFC and MPFA. 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.

Regulatory work of the Insurance Authority

16. During the FA Panel discussions in 2017 and March 2019, and the Subcommittee discussion in 2020, 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". There were enquiries about how IA would enhance the regulation of intermediaries and the protection for policy holders, in particular against mis-selling of insurance products. Some members further urged IA to step up public education including channels for lodging complaints against mis-selling of insurance products, to enhance training of insurance intermediaries on new

insurance products in the market, and to handle the problem where policy holders were administered with unnecessary medical treatment in order to maximize insurance claims.

17. 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. 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.

18. As regards mis-selling of insurance products, the Administration responded that any persons who were dissatisfied with the sales process of insurance products could lodge complaints to IA against the insurance intermediary and/or insurance company concerned. IA would act in accordance with its functions and powers under IO and decide each case with reference to individual circumstances of the case. Since the taking over of the regulation of insurance intermediaries from the then three SROs with effect from September 2019, IA had taken a number of measures to enhance the regulation of insurance intermediaries, including issuing various rules, codes and guidelines, as well as imposing continuing professional development requirements for individual licensee. IA had also arranged publicity on the complaint channels to facilitate members of the public in lodging complaints relating to insurance companies and intermediaries.

Sustainable development of the insurance industry

19. At the FA Panel meetings in 2017, 2018 and December 2019, 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, as well as help the industry tap opportunities arising from the development of the Guangdong-Hong Kong-Macao Bay Area ("Greater Bay Area").

20. 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. As regards enhancing market access for the local insurance industry in the Greater Bay

Area, the Administration advised that following the third meeting of the Leading Group for the Development of the Greater Bay Area convened in November 2019, the Central Government announced three policy measures related to the insurance sector, namely (a) supporting Mainland insurers to issue catastrophe bonds in Hong Kong; (b) extending the preferential treatment to Hong Kong qualified reinsurers under the "China Risk Oriented Solvency System"; and (c) removing the requirement on years of operating experience for Hong Kong service suppliers to provide insurance loss adjusting services in the Mainland. The Administration would continue to liaise with the relevant Mainland authorities on other initiatives such as cross-boundary motor vehicle insurance products and after-sale service centres.

21. In response to members' enquiry about IA's measures to alleviate hardship of the insurance industry amidst the outbreak of coronavirus disease-2019 ("COVID-19") at the FA Panel meeting in 2020, IA advised that it had to strike a pragmatic balance between business development and policyholders' protection. In view of the challenges posed by the outbreak of COVID-19, IA had rolled out the first batch of temporary facilitative measures for selected products and would explore with the industry other feasible ways to sustain market vibrancy while ensuring that customers were treated fairly.

Council questions

22. 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

23. The Administration and IA will brief FA Panel on IA's proposed budget for 2021-2022 at the meeting on 1 March 2021.

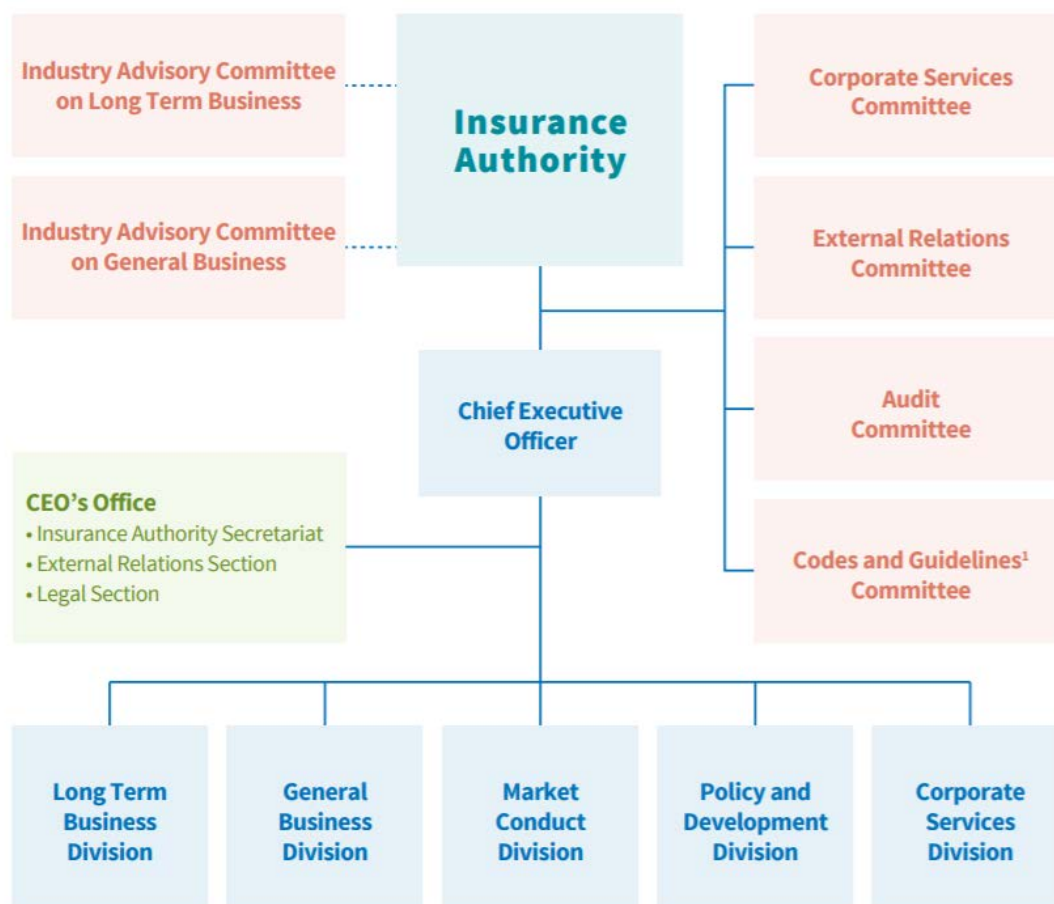
Relevant papers

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

Council Business Division 1
Legislative Council Secretariat
25 February 2021

THE ORGANISATIONAL STRUCTURE

(As at 31 March 2020)



Source: Insurance Authority's Annual Report 2019-20

List of relevant papers

Date/Period	Event	Paper/Minutes of meeting
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	Administration's paper (LC Paper No. CB(1)78/16-17(08)) Minutes (LC Paper No. CB(1)364/16-17) 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))

Date/Period	Event	Paper/Minutes of meeting
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)
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)

Date/Period	Event	Paper/Minutes of meeting
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))
22 May 2019	Insurance Companies (Amendment) Ordinance 2015 (Commencement) Notice 2019 was tabled at LegCo	Legislative Council Brief (File Ref.: INS/2/3C)
3 June 2019	An information paper on commencement of the new statutory regulatory regime for insurance intermediaries	Administration's paper (LC Paper No. CB(1)1062/18-19(03))
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)) Minutes (LC Paper No. CB(1)376/19-20) Follow-up (LC Paper No. CB(1)382/19-20(02))
17 March 2020	FA Panel was briefed by the Administration and IA on IA's proposed budget for the financial year of 2020-2021	Administration's paper (LC Paper No. CB(1)428/19-20(07)) Minutes (LC Paper No. CB(1)805/19-20) Background brief (LC Paper No. CB(1) 428/19-20(08))

Date/Period	Event	Paper/Minutes of meeting
4 May 2020	An information paper on commencement of the rules relating to registration of orders of Insurance Appeals Tribunal	<u>Administration's paper</u> (LC Paper No. CB(1)576/19-20(02))
21 October 2020	Rules relating to registration of orders of Insurance Appeals Tribunal were tabled before the Legislative Council	<u>Registration of Orders of Insurance Appeals Tribunal Rules</u> <u>Report of the Subcommittee</u> (LC Paper No. CB(1)266/20-21)