

## **Updates on the Insurance Companies (Amendment) Bill 2014**

### **A. Overall progress**

- Meetings held: 18 meetings held to date, including one for receiving deputations. Clause-by-clause examination commenced in December 2014.
- Policy areas covered during clause-by-clause examination since our last report to the Working Group (“WG”): Amendments to the secrecy and disclosure provisions, licensing regime for insurance intermediaries, inspection and investigation powers on insurance intermediaries, conduct requirements, IIA's power to make rules and stipulate codes of conduct for insurance intermediaries and the Insurance Appeals Tribunal.
- Target: To complete scrutiny of the Bill by July 2015 and set up the Provisional Insurance Authority by the end of 2015.

### **B. Major issues discussed by the Bills Committee during clause-by-clause examination of the Bill**

#### Restrictions in relation to personnel of insurance agencies / broker companies (sections 64J and 64K added by Clause 71 of the Bill)

- Issue: A Member raised that the updated wording, which restricts the person to “deal with any matter that relates to a regulated activity” at another agency / broker company, imposes a stricter requirement than the existing Insurance Companies Ordinance (Cap. 41) which only requires the person not to “provide advice to policy holders” for another agency / broker company. On the other hand, other Members opined that it was difficult to implement the restrictions in practice and a Member suggested restricting a person to participate at another agency / broker company at the same time.
- Response: We are preparing Committee Stage Amendments to refine the wording of the provisions with a view to addressing concerns of Members and the industry.

“Best interest” conduct requirement principle (section 89(a) added by Clause 84 of the Bill)

- Issue: The Bills Committee had no objection that the “best interest” principle should be set out in the Bill. In light of the industry’s concern, the Bills Committee requested the Administration to provide a supplementary paper to set out the policy intent and practices in overseas jurisdictions, before further discussing whether amendments would be necessary.
- Response: We had a meeting with HKFI. We will submit a supplementary paper to the Bills Committee as requested.

Disciplinary proceedings (new sections added by Clause 84 of the Bill)

- Issue: A Member requested the Administration to respond to the industry’s proposal that IIA should be mandated to consult the expert panel in making disciplinary decisions. Other Members held opposite view and considered that IIA’s disciplinary power should not be fettered.
- Response: The purpose of the expert panel is to fill the IIA’s knowledge gap if necessary (similar arrangement in Australia). Consultation with the expert panel should not be a pre-requisite to disciplinary decisions by IIA. We maintain that disciplinary procedures should be set out in procedural guides.

**C. Progress on other major issues reported at the last WG meeting**

Activities performed by employees of insurers (section 64G added by Clause 71 of the Bill)

- Issue: Employees of insurers might give “regulated advice” when performing their jobs such as underwriting and claims handling.
- Progress: We are considering on HKFI’s proposed amendments in consultation with the Department of Justice (“DoJ”).

Insurance agents’ relationship with insurers (section 68(2) – (4B) added by Clause 72 of the Bill)

- Issue: HKFI suggests that an insurer should not be responsible for the acts of its appointed insurance agent if the relevant policy holder

knows that the agent's acts are outside the latter's authority.

- Progress: We are considering HKFI's proposed amendments in consultation with DoJ.

Duty to notify the IIA of change in particulars (section 64P added by Clause 71 of the Bill)

- Issue: The requirement that a licensed insurance intermediary must notify the IIA of any change of particulars within 14 days may be difficult for licensees to comply with.
- Way forward: We are considering CIB's proposed amendments in consultation with DoJ.

Duty to notify the IIA of appointment (section 64Q added by Clause 71 of the Bill)

- Issue: The requirement that a licensed insurance agency or licensed insurance broker company must notify the IIA of any change of any appointment for technical representative (agent/broker) at least one month before the event may be difficult for licensees to comply with.
- Way forward: We are considering CIB's proposed amendments in consultation with DoJ.

**17 April 2015**