

**Action Minutes of the 11th Meeting of the Working Group to Facilitate
Smooth Transition to an Independent Insurance Authority
held at 3:30pm on 25 April 2016
in Room 2492, Financial Services Branch, Central Government Offices**

Present:

Financial Services and the Treasury Bureau

Mr Eddie Cheung, Deputy Secretary for Financial Services and the Treasury (Financial Services) 2 (Convenor)

Ms Joan Hung, Principal Assistant Secretary for Financial Services and the Treasury (Financial Services) Special Duties (Member)

Miss Vinci Chan, Assistant Secretary for Financial Services and the Treasury (Financial Services) Special Duties 1

Mr Michael Li, Assistant Secretary for Financial Services and the Treasury (Financial Services) Special Duties 3 (Secretary)

Independent Insurance Authority (IIA)

Dr Moses Cheng, Chairman (In attendance)

Mr James Wong, Non-Executive Director (In attendance)

Office of the Commissioner of Insurance (OCI)

Miss Nancy Chien, Assistant Commissioner of Insurance (Enforcement) (Member)

Miss Peggy Fu, Senior Insurance Officer (Enforcement)

The Hong Kong Federation of Insurers (HKFI)

Mr Allan Yu, Chairman of Task Force on the Independence of the Insurance Authority (Member)

Ms Selina Lau, General Manager, Communications & Committee

Insurance Agents Registration Board (IARB)

Mr Ambrose Cheung, Chairman (Member)

Ms Alice Kong, Secretary General

The Hong Kong Confederation of Insurance Brokers (CIB)

Mr Bhabani S. Rath, Chairman (Member)

Mr Adrian King, Honorary Secretary & Convener of IIA Working Group

Professional Insurance Brokers Association (PIBA)

Mr Philip Mak, Chairman (Member)

Mr Gary Soo, Vice Chairman

Insurance Intermediaries

Mr Chan Yim-kwong, Convenor, Insurance Industry Regulatory and Development Concern Group (ICG) (Member)

I. Confirmation of action minutes of the 10th meeting

Action

1.1 There were no comments on the action minutes and the minutes would be uploaded to FSB's website.

II. Matters arising from the 10th meeting

(a) Progress on the preparation for data transfer

2.1 OCI reported that the tender document for the Insurance Intermediaries System (i.e. IIA's computer system for the online register of insurance intermediaries, direct regulatory regime and data transfer from the three SROs) had been finalised and issued in March 2016. Bidders were required to submit their tenders to OCI by end of April 2016. It was anticipated that evaluation of contractors' proposals would take some weeks. Upon completion of requisite evaluation, the relevant service contract would then be awarded. Thereafter, OCI would arrange meetings between the successful bidder and SROs' IT contractors to discuss details of the data transfer exercise.

(b) Draft guideline on pecuniary penalty

2.2 The Meeting noted that HKFI had submitted further written comments on the draft guideline on pecuniary penalty. Those

comments would be incorporated into the draft for IIA's reference.

2.3 In response to PIBA's question, the Convenor welcomed any further written comments on the draft guideline on pecuniary penalty. CIB said it would submit further written comments to the Working Group ("WG"). The Convenor added that it was anticipated IIA would formally consult the industry before finalising the relevant codes and guidelines. The draft guidelines prepared by the WG were meant to be foundation work to expedite the process as IIA had not yet recruited staff to carry out regulatory work.

III. Update on the implementation of the Amendment Ordinance

3.1 PAS(FS)SD gave an update on IIA's recruitment of a team of in-house staff to assist it in taking forward some urgent legal and administrative work. The deadline of application for the job openings was end April 2016. It was anticipated that the first batch of IIA staff members would report duty in the second half of 2016.

3.2 PAS(FS)SD also reported that, at its second meeting held in March 2016, IIA had agreed that, to facilitate a smooth transition, the existing guidance notes and guidelines promulgated by OCI would be adopted by IIA with minor technical changes or updates. The amendments were technical in nature which would not affect the substantive effect of the guidance notes and guidelines. OCI / IIA would engage the industry as appropriate on the promulgation of the amended guidance notes and guidelines nearer the time.

3.3 Regarding the transitional arrangement of the WG, PAS(FS)SD said that IIA had agreed that it would take up the work of the WG after it had recruited sufficient staff.

IV. Draft guideline on "fit and proper" criteria

4.1 The Convenor introduced the draft guideline of "fit and proper" criteria, which had been formulated based on the relevant existing criteria adopted by the SROs, the Guidance Note on "Fit and Proper"

Criteria under the Insurance Companies Ordinance (“GN4”) issued by OCI and relevant existing guidelines issued by local and overseas regulatory authorities.

Minimum educational attainment for licensed individual insurance agents and technical representatives (“TRs”) for agencies/brokers

4.2 The Convenor pointed out that the existing minimum requirement of completing Form 5 needed to be updated as school-leavers would have completed Form 6 under the new senior secondary education framework. He added that for a simple updating exercise, changing the requirement from Form 5 to Form 6 would suffice. However, it might be opportune to discuss whether the minimum requirement was still appropriate given that some jurisdictions were raising the requirement to degree-holders. A higher entry requirement would help enhance public image of insurance intermediaries although less new talents would be qualified for entry into the profession of insurance intermediaries. A range of considerations needed to be balanced when setting the minimum requirement because it reflected the industry and regulator’s expectation of the quality of the next generation of insurance intermediaries.

4.3 CIB agreed that a higher educational attainment requirement for insurance practitioners would in general enhance the image of the industry. It considered it appropriate to raise the education requirement for chief executives / responsible officers (“ROs”) of insurance intermediary companies because they would deal with regulatory and compliance matters. However, the proposed requirement of obtaining a minimum of level 3 for Chinese Language at the Hong Kong Diploma of Secondary Education Examination would pose a language barrier to overseas talents, who were particularly sought after in specialised brokerage businesses. In response, the Convenor suggested that an overseas educational attainment equivalent to meeting the minimum entrance requirement for degree programmes of the candidate’s home country should also be accepted and hence the language barrier problem would be solved. The focus was not language requirements but the minimum educational attainment level we expected of an insurance intermediary under the new regime.

4.4 Members opined that the majority of the workforce in the insurance industry was engaged in sale activities and the proficiency of which might not be measured solely by academic attainment. HKFI added that some agencies had already experienced difficulty in recruiting TRs, hence the impact of the new education requirements should be carefully assessed. PIBA pointed out that apart from revising the education requirements, it would be important to work out a holistic plan to attract talents to join the industry.

4.5 In response to HKFI's suggestion of using the Qualification Framework ("QF") as a reference standard, the Convenor said that QF was not as widely understood by the general public, but it could be used as a reference for determining if an alternative level of educational attainment was equivalent to the requirement finally adopted by IIA.

4.6 The Convenor welcomed members to submit further written comments on the minimum educational attainment requirement and other matters concerning fit and proper criteria.

Requirements on minimum age and industry experience for ROs of licensed insurance agencies

4.7 The Meeting noted the proposed requirements that an RO of a licensed insurance agency would be subject to the same requirements as an RO of an insurance broker company in relation to minimum age and industry experience i.e. minimum age of 21 and a minimum of 2 years' management experience in the insurance industry.

4.8 In response to HKFI's query, PAS(FS)SD said that as all existing ROs validly approved by the SROs before the transition would be deemed as being approved by IIA during the three-year transitional period, existing ROs eligible for the deemed approval under the Amendment Ordinance would be able to meet the proposed minimum age and industry experience requirements upon expiry of the transitional period.

Other comments

4.9 CIB opined that item (g) "other business which the person

carries on or proposes to carry on” under “Fit and Proper Criteria” on page 4 of the draft guideline might not be relevant, particularly when the other business concerned was irrelevant to the insurance business. It also raised concern that item (e) “has been convicted of a criminal offence or is the subject of unresolved criminal charges” under “Honesty, Integrity and Reputation” on page 8 of the draft guideline might lead to unfavourable assessment on a person’s fitness and propriety if the person being the subject of unresolved criminal charges was in fact innocent. In response, the Convenor said that reference had been made to the existing guidelines of the Securities and Futures Commission (“SFC”) in drafting the above items. In determining whether a person was fit and proper, IIA would take into account a number of factors and the degree to which those factors would affect the person’s fitness and propriety.

4.10 CIB opined that consideration should be given to ensure that the guideline could be clearly interpreted and enforced, and the different roles of agents and brokers.

4.11 IARB noted that an undischarged bankrupt was unlikely to be a fit and proper person. It wondered whether such consideration was appropriate. The Convenor said that guidelines of the SROs, SFC and the Financial Conduct Authority of the United Kingdom had included such a consideration. IARB suggested that the wording “a person is unlikely to be fit and proper” be replaced by “IIA will take into consideration” to enhance the flexibility of assessing a person’s financial soundness.

4.12 In response to PIBA’s and HKFI’s question, PAS(FS)SD said that the same “fit and proper” criteria would be applicable to owners and directors of a licensed insurance agency or insurance broker company, as well as the licensed employees of an insurance company. CIB opined that in determining the role of a controller, consideration should be given to different corporate structures, which might give rise to difficulty in identifying the person exercising control over a business entity. The Convenor said that the legal definition of “controller”

under the Amendment Ordinance¹ was very wide, capturing those who were directly or indirectly exercising control of the licensed business entity in question. In determining whether a person was indeed a controller, it was likely that IIA would determine if the person in question was bona fide exercising control of the company.

V. Draft guideline on “continuing professional development” requirement

5.1 The Meeting discussed various aspects in enhancing the overall continuing professional development (“CPD”) framework, including relevance and quality of CPD activities, introduction of core subjects on ethics management and governance, high accreditation fees, lengthy and complex approval process, mechanism to assess the effectiveness of CPD activities, e-learning, equivalence with QF credits, etc.

5.2 On accreditation, CIB said that accreditation applications to the Hong Kong Council for Accreditation of Academic and Vocational Qualifications (“HKCAAVQ”) were very expensive which deterred applications for the accreditation of CPD seminars. It also opined that HKCAAVQ was an inappropriate body for accrediting tertiary institutions such as university degree courses and the application requirements were too complex. Members suggested that IIA set up its own accreditation committee and the three SROs, i.e. HKFI-IARB, CIB and PIBA, be allowed to continue organise their own CPD activities

¹ Pursuant to new section 64F added by section 74 of the Amendment Ordinance, controller –

- (a) in relation to a sole proprietorship –
 - (i) means an individual who ultimately owns or controls the carrying on of regulated activities by the sole proprietorship; or
 - (ii) if the sole proprietor is acting on behalf of another person, means the other person;
- (b) in relation to a partnership, means an individual who –
 - (i) is entitled to or controls, directly or indirectly, not less than a 15% share of the capital or profits of the partnership;
 - (ii) is, directly or indirectly, entitled to exercise or control the exercise of not less than 15% of the voting rights in the partnership; or
 - (iii) exercises ultimate control over the management of the partnership; or
- (c) in relation to a company, means a person who –
 - (i) owns or controls, directly or indirectly, including through a trust or bearer share holding, not less than 15% of the issued share capital of the company;
 - (ii) is, directly or indirectly, entitled to exercise or control the exercise of not less than 15% of the voting rights at general meetings of the company; or
 - (iii) exercises ultimate control over the management of the company.

without the need to go through the accreditation procedure to keep the net as wide as possible.

[Post-meeting note: The assessment fees as charged by HKCAAVQ had not been adjusted since the commencement of the CPD requirements under IIQAS back in 2002 (with a CPD activity not more than 8 hours still pitched at \$8,000). HKCAAVQ had historically approved 1,420 CPD activities (with 14,157.5 CPD hours in total), out of which 400 CPD activities (with 4,347 CPD hours in total) were offered as at end of April 2016. Under the current regime, SROs were allowed to organise qualified CPD activities themselves without being assessed by HKCAAVQ. Studies for local or overseas university bachelor degrees or postgraduate degrees in any discipline relating to the scope of qualified CPD activities could be granted 10 CPD hours for each year's studies, subject to a maximum of 6 years for the same programme. HKCAAVQ was also the sole Accreditation Authority under the Hong Kong Qualifications Framework for a spectrum of industries.]

5.3 The Convenor welcomed written comments after the meeting. He said that subject to the passage of the Appropriation Bill by LegCo, the Government would launch a pilot scheme to enhance talent training and development for the insurance industry which included enhancements to CPD. He suggested the industry to discuss measures to improve CPD at the forum for steering the implementation of the pilot scheme.

VI. Any other business

6.1 The Meeting noted that, according to the work plan adopted at the previous meeting, the next meeting would be tentatively held in June to discuss the draft code of conduct for licensed insurance intermediaries.

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