

**Action Minutes of the 13th Meeting of the Working Group to Facilitate
Smooth Transition to an Independent Insurance Authority
held at 10:00 am on 15 March 2017
in Room 2491, 24/F, West Wing, 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)

Mr Oscar Wong, Assistant Secretary for Financial Services and the Treasury (Financial Services) Special Duties 3 (Des)

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 Peter Tam, Chief Executive

Ms Joanne Wong, Deputy General Manager, Committee

Insurance Agents Registration Board (“IARB”)

Mr Robert Pang, Chairman (Member)

Ms Alice Kong, Secretary General

The Hong Kong Confederation of Insurance Brokers
("CIB")

Mr B 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)

Mr Jeff Wong, Past President, LUAHK; Past
President, GAMA (Member)

Ms Joey Chan, Senior Manager – PR & Industry
Affairs, LUAHK

I. Confirmation of action minutes of the 12th meeting

Action

1.1 Members' comments have been incorporated and the minutes would be uploaded to FSB's website.

II. Update on the implementation of the Amendment Ordinance

2.1 PAS(FS)SD updated the meeting on various preparation work being undertaken by the independent Insurance Authority ("IIA") as set out in the Information Note No. 1/2017. In response to Mr Y K Chan's question, the Convenor said that IIA was likely to be ready to replace OCI to regulate insurance companies by end of Q2 2017. The licensing framework for insurance intermediaries was expected to commence operation 12 to 18 months after IIA had replaced OCI. Before the commencement of the licensing framework, the three SROs would continue to supervise insurance intermediaries and the existing codes and guidelines issued by the three SROs should prevail before the licensing framework came into operation. Furthermore, with the approval of OCI, HKFI had issued a set of codes and guidelines setting out the standards and conduct requirements for authorised insurers when carrying on insurance business. IIA agreed that such codes and

guidelines promulgated by HKFI would continue to have effect and be administered by HKFI when IIA took up the regulatory functions of OCI.

2.2 In response to PIBA's question, PAS(FS)SD said that the proposed amendments to the existing Minimum Requirements for Insurance Brokers promulgated by OCI were technical in nature only. There would not be any changes to the existing minimum requirements for insurance brokers. IIA would inform CIB and PIBA of the amendments in due course. In response to Mr Philip Mak's query, PAS(FS)SD explained that the draft guideline on pecuniary penalty being discussed between IIA and HKFI was applicable to insurers only. There would be another guideline for insurance intermediaries. The Working Group's previous discussion in this respect had been passed to IIA for reference.

III. Establishment of the IIA – Outstanding issues from HKFI's perspective (paper proposed by HKFI)

3.1 The meeting discussed the list of outstanding issues prepared by HKFI. On whether salaried staff of insurance companies needed to obtain an insurance intermediary licence, the Convenor explained that the licensing regime was activity-based, meaning that one who engaged in insurance intermediation activities (defined as "regulated activities" in the law) were required to obtain an insurance intermediary licence. It was difficult for the regulator to comment on numerous hypothetical cases. Regulators usually published FAQs or guidelines to help the public understand if one required a licence. In addition, the law had clearly excluded back-office administrative work and the giving of regulated advice wholly incidental to professional practice from the licensing regime. Having said that, to provide insurance companies some comfort, it would be useful for OCI to meet with HKFI to go through the list of examples and clarify the need for licensing for some straight-forward scenarios.

3.2 On continuing professional development ("CPD") activities, HKFI pointed out that in view of their experience and track records, the existing arrangement that CPD courses organised by the SROs needed not to be assessed by the Hong Kong Council for Accreditation of

Academic and Vocational Qualifications (“HKCAAVQ”) should continue. The Convenor said he saw no reasons why IIA would object to the continuation of the arrangement. CIB reiterated its concern about the costs of obtaining HKCAAVQ’s assessment. In response, PAS(FS)SD said that with IIA’s agreement, OCI had renewed the contract with HKCAAVQ as a transitional measure. IIA would further review assessment arrangements in a holistic manner in future.

3.3 On the IT cost for data transfer incurred by SROs during the transition, the Convenor said that FSTB would explore with IIA the feasibility for IIA’s IT contractor to absorb part of the data transfer work from the SROs for the sake of cost efficiency and protecting data integrity. The meeting agreed that IIA should not underestimate the complexities of data migration from three separate systems to a new system. For transfer of paper or filmed records, IARB said that they had prepared an inventory of the records to be transferred. The Convenor advised that there could be missing records and there should be proper disposal and acknowledgement of receipt of records by the SROs and IIA respectively.

3.4 On transfer of expertise from the SROs to IIA, the Convenor said that the IIA Chairman had indicated his wish to retain the regulatory experience and expertise of the SROs. IIA would work out relevant plans to recruit industry talents through a fair and open recruitment process. In response to SROs’ concern about human resource planning such as whether a staff member of an SRO recruited by IIA could continue to work with the SRO for a brief period before joining IIA to minimise operational disruption, the Convenor said that IIA would inform the SROs of the transition and recruitment timetable once they were ready to do so and actively consider mutually beneficial arrangements to minimize disruption.

IV. Compendium of existing conduct standards published by the three Self-Regulatory Organizations with proposed additions in the light of new statutory conduct requirements

4.1 The Convenor made a PowerPoint presentation on the development of international conduct standards in the financial services sector. He pointed out that the compendium circulated to Members

reflected the existing conduct standards published by the three SROs with new provisions proposed in light of new statutory conduct requirements and the prevailing international standards. The document served to facilitate early discussion regarding conduct standards to shorten the lead time required by IIA to prepare a draft for consultation with the industry because it was envisaged that the discussion between IIA and the industry in this respect could take some time.

4.2 CIB opined that an appropriate level of generality would facilitate compliance and avoid regulatory arbitrage. On the other hand, IARB opined that, having considered the nature of insurance agents' activities, the guideline should be formulated in greater details to provide clearer and more specific guidance for insurance agents.

4.3 CIB also raised the following specific comments on the compendium :-

- (a) Page 5: whether the reference to section 133 of the amended Insurance Companies Ordinance ("ICO") should read "the court *may*, in determining the question, take into account";

*[Post-meeting note: Section 133(5)(b) of the amended ICO reads "if a provision in the code or guideline appears to the court to be relevant to a question arising in the proceedings, the court *must*, in determining the question, take into account any compliance or non-compliance of the provision.]*

- (b) Pages 8 to 9: the overarching principles should be applicable to all lines of insurance business. At present, principles 6 to 9 appeared to apply to long term insurance business only. For information disclosure, CIB opined that proper disclosure should be made to insurers in addition to policyholders;
- (c) Pages 13 to 14: "insurance twisting" and "affording the policyholder reasonable time to consider the licensee's recommendation" were not applicable to insurance brokers;

and

- (d) the use of the terms “customer”, “policy holder” and “potential policy holder” should be reviewed with a view to covering all situations in different lines of insurance business;

4.4 Mr Y K Chan opined that section 90 of the amended ICO provided for the conduct requirements for regulatory purpose. He queried whether principle 5 was outside the scope of section 90 and opined that principle 9 appeared to be irrelevant to life insurance agents, who did not manage or handle policyholders’ assets or funds.

4.5 After discussion, the Convenor concluded that the SROs clearly favoured separate guidelines for insurance agents and brokers respectively given the different nature of their activities. He undertook to reflect the SROs’ sentiments to IIA.

VI. Any other business

5.1 The Convenor said that, after IIA took up OCI’s regulatory functions, it would be more effective for the SROs to discuss detailed transitional issues with IIA direct. HKFI and CIB suggested that a steering committee could be set up to oversee the overall transition while a sub-working group could work on operational issues. They opined that FSTB should continue to chair the meeting for the sake of continuity. The Convenor opined that it would be more appropriate for the Executive Director (Market Conduct) of IIA to chair the Working Group while FSTB could continue to sit in to ensure continuity. He would discuss with IIA how best to make the Working Group efficient and effective when their senior executives were in place.

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