

**Action Minutes of the 5<sup>th</sup> Meeting of the Working Group to Facilitate  
Smooth Transition to an Independent Insurance Authority  
held at 10:00am on 4 December 2014  
in Room 2491, 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)

Mr Adrian Lam, Assistant Secretary for Financial Services and the Treasury (Financial Services) Special Duties 1

Miss Lynette Yau, Assistant Secretary for Financial Services and the Treasury (Financial Services) Special Duties 3 (Secretary)

Office of the Commissioner of Insurance

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

Miss Peggy Fu, Senior Insurance Officer (Enforcement)

Mrs Rose Chan, Chief Executive Officer/Special Duties

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 Adrian King, Honorary Secretary & Convener of IIA Working Group

Mr Eric Lee, Secretary-General & Registrar

Professional Insurance Brokers Association (PIBA)

Mr Philip Mak, Vice Chairman (Member)

Mr Gary Soo, Hon Secretary

Insurance Intermediaries

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

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

**I. Confirmation of action minutes of the 4<sup>th</sup> meeting**

Action

1.1 The action minutes, with Members' comments incorporated, had been uploaded to FSB's website.

**II. Matters arising from the 4<sup>th</sup> meeting**

(a) Progress on the preparation for data transfer

2.1 OCI reported that preparation for development of the computer system for the future IIA was going on. In preparation for the transfer of records kept by the self-regulatory organisations (SROs) to the independent Insurance Authority (IIA), SROs had provided OCI with information on the format and volume of their records of registrants and complaints maintained over time. OCI would follow up with SROs as necessary to ascertain the completeness of such records. As far as insurance agents' records were concerned, OCI noted that it was the policy of the Appeal Tribunal of HKFI to keep records of appeal cases for three years only, and requested the Appeal Tribunal to consider not disposing of such records from now on.

OCI

IARB/  
HKFI

(b) Codes and guidelines to be issued by IIA

2.2 The Convenor said that the purpose of the current exercise to compile a compendium of existing codes and guidelines issued by SROs was to facilitate IIA to draw up its codes and guidelines in future. The codes and guidelines were solid regulatory materials under the existing self-regulatory regime. By referring to them, IIA did not need to develop its codes and guidelines from scratch, and could have a sound understanding of the expectations and regulatory practices of the SROs under the self-regulatory regime. In response to Mr Y K Chan, the Convenor confirmed that all comments on the compendium of existing codes and guidelines provided by Working Group members would be passed to IIA for consideration, including Mr Chan's comment concerning the applicability of the code on "referral of business" to agents. The Convenor added that the Administration could consider necessary clarifications of the relevant provisions in the Bill and reiterated that it was a statutory requirement for the IIA to consult the industry before issuing any codes or guidelines.

2.3 Mr Y K Chan and CIB opined that there should be separate sets of Code of Conduct for agents and brokers. The Convenor responded that some conduct principles would be applicable to all intermediaries. Nevertheless, he believed that IIA would take into account the difference in roles and functions of agents and brokers when drafting the Code.

2.4 CIB also commented that IIA should consult SROs in the drafting process and suggested IIA to issue the draft Code by sections to facilitate a more efficient engagement process. The Convenor said that drawing reference from the experience of other comparable regulators like the Mandatory Provident Fund Scheme Authority, he expected that IIA would set up a drafting committee to prepare the codes and guidelines. Members of the committee should include representatives from the industry and other sectors. He also expected that IIA would consult the industry on the draft codes and guidelines to ensure that they were practical.

### III. Progress update on the IIA Bill

3.1 PAS(FS)SD briefed members on the latest progress on the legislative exercise for establishing the IIA.

3.2 On the requirement under s64P of the IIA Bill that a licensee should notify IIA within 14 days for any change of particulars, CIB suggested that a lighter punishment be imposed for failure to notify IIA within 14 days for change of particulars that were not required to be published in the register of insurance intermediaries.

3.3 HKFI and Mr Y K Chan said that agents still had concerns about the best interest principle, in particular the possibility of civil claims relying on the principle. HKFI said that it would propose amendments to the relevant provisions for further discussion with the Administration.

HKFI

3.4 On s64J and s64K of the IIA Bill (which were about restrictions of personnel in agencies and broker companies), HKFI said that it would submit proposed amendments to the provisions to address the trade's concern. The Convenor remarked that the Administration welcomed the industry's suggested refinements as long as they would not create loopholes weakening the restriction that personnel in an agency should not engage in regulated activities in a broker company at the same time, and vice versa.

HKFI

3.5 Mr Y K Chan reiterated the agents' concern on the lack of industry's involvement in IIA's disciplinary proceedings. He opined that it was necessary to obtain assurance that IIA understood the technical aspects in a complaint. He asked whether IIA would conduct oral hearing before making disciplinary decisions and whether legal representation would be allowed. CIB added that IIA staff might not fully understand industry practices and IIA should obtain expert advice from practitioners for every disciplinary case. The Convenor explained that the policy intention was to ensure fair hearing in the disciplinary proceedings and a party must be given an opportunity of being heard. The person concerned would be entitled to legal representation during disciplinary proceedings and oral representation should be allowed. HKFI said that it would seek advice from its legal advisor on its proposal for establishing a mechanism on internal oversight of IIA's

disciplinary proceedings. Mr Y K Chan indicated that HKFI's proposal might be able to alleviate the intermediaries' concerns.

*[Post meeting note: To have a better understanding of the existing disciplinary proceedings of the SROs, the Convenor invited SROs to prepare a presentation at the next WG meeting.]*

SROs

3.5 Mr Y K Chan said that agents still had concerns about the maximum fine of \$10 million and suggested the maximum fine for individuals to be set at \$5 million.

3.6 On the provisions relating to offences in relation to inspections and investigations, Mr Y K Chan asked the Administration to consider replacing “involved in” by “participated in” and the appropriateness of using “allow” in relevant provisions.

FSB

3.7 On activities performed by employees of insurers, HKFI estimated that about 5,000 employees would be affected if they were required to be licensed as insurance intermediaries and suggested exempting those who carried out regulated activities incidental to their own professional duties. The Convenor explained that the Bill had already carved out some professionals, such as accountants and lawyers, who might carry out regulated activities incidental to their professional practice. He agreed that insurance professionals like underwriters and claims managers should not be licensed as insurance intermediaries if they only gave regulated advice wholly incidental to their performance of underwriting or claims handling duties. To ensure a level playing field and to prevent possible circumvention, the proposed regulatory regime was activity-based, i.e. persons who engaged in “regulated activities”, whether they were individual agents, technical representatives of agencies or broker companies, or employees of insurers, should be subject to the same licensing and conduct requirements. As such, direct sales staff employed by insurance companies should be licensed. We would further discuss with the industry to see how, under the aforesaid principle, the Bill could cater for insurers' operational needs.

FSB/  
HKFI

3.8 The Convenor suggested, after the legislative work was completed, the Administration and SROs should jointly organise

All

briefings on the regulatory requirements under the new regime, transitional arrangements and issues discussed at the WG for the industry. The Meeting noted that CIB would hold a Q&A session on the regulatory regime with its members.

#### **IV. Any other business**

4.1 Further to the staff attrition problem discussed at the last meeting which CIB said that it had to increase the attractiveness of its staff package to retain and recruit new staff, CIB requested the Administration to consider waiving its annual fee payable to OCI in order to relieve their financial burden. PIBA supplemented that it was using year-end incentive bonus to retain its staff. HKFI agreed that the Administration should consider subsidizing costs incurred by SROs required by the transition. The Convenor raised question on the effectiveness of the fee waiver to address the problem faced by SROs and said that using public money to subsidy trade bodies had to be robustly justified.

#### **V. Date of next meeting**

5.1 The Administration would work out the meeting schedule for 2015 with members' secretariats.

**END**