

Press release

Government announces consultation conclusions and detailed proposals on the establishment of an independent Insurance Authority

Friday, June 24, 2011

The Government announced today (June 24) the consultation conclusions and the detailed proposals on the proposed establishment of an independent Insurance Authority (IIA) aiming at enhancing regulation of insurance companies and insurance intermediaries to provide better protection for insurance policyholders and facilitating the stable development of the insurance industry.

The Secretary for Financial Services and the Treasury, Professor K C Chan, said, "The IIA would help reinforce Hong Kong's position as an international financial centre.

"We will proceed with further preparation for the establishment of an IIA in response to the general public support for the proposal.

"The proposed setting up of the IIA would align with international practice for financial regulators to be independent, both operationally and financially, of the Government and the industry. The proposed IIA is also expected to be more nimble in responding to new regulatory challenges and facilitating market innovation, as well as maintaining the competitiveness of the industry without undermining regulation."

The consultation findings and the Government's response are set out in the consultation conclusions. "Taking into account the comments received, we have enhanced our proposals and developed more details," he said. "We will continue to engage the insurance industry and relevant stakeholders during the next phase of work in drafting the legislation."

For more effective regulation of insurers and insurance intermediaries, the Government has proposed that the IIA would be provided with express powers to initiate investigations, search and seize materials upon the issue of a warrant, prosecute offences summarily and impose a range of regulatory sanctions in cases of misconduct. Further details are set out in the detailed proposals.

Many respondents in the public consultation exercise expressed support for the direct regulation of insurance intermediaries by the IIA, which would enhance public confidence in professionalism and align Hong Kong's industry developments with international practices.

Under the enhanced proposals, the IIA would hold a direct regulatory role over the conduct of insurance intermediaries through introducing a licensing regime. To facilitate a smooth transition and minimise the impact on pre-existing insurance intermediaries, the Government proposes that those who are validly registered with the self-regulated organisations (SROs) should be deemed to be licensed with the IIA for three years upon its establishment, so that they can carry on their business while applying for licences from the IIA.

While the professional standards for insurance intermediaries are subject to regular reviews in light of local and international insurance market developments and consumer expectations, there is no intention to introduce any changes to the eligibility requirements through the legislative exercise to establish the IIA.

"To ensure a smooth migration to the new regime, we will actively engage the SROs and leverage their experience," Professor Chan said.

The proposals for the regulation of the insurance intermediary activities of banks have also been enhanced, in consideration of comments from the insurance and banking industries. To ensure consistent regulation, the IIA would be the primary and lead regulator for all insurance intermediaries, irrespective of whether or not they are banks and their employees, and the sole authority to stipulate conduct standards and regulatory requirements. Given the substantial difference of the client base of bancassurance activities from that of insurance business, the operation of retail banks on an integrated business basis and the Hong Kong Monetary Authority (HKMA)'s role as the primary and lead regulator of banks, it would be logical and necessary for the IIA to work closely with the HKMA in the regulation of bancassurance activities. The Government proposes that the IIA should be able to delegate to the HKMA specified powers to perform certain front-line regulatory functions. These powers and the delegation procedures would be stipulated in the statute to enhance transparency and accountability. The HKMA would be accountable to the IIA in exercising such delegated powers. Disciplinary powers would be vested with the IIA and the HKMA would participate actively in the disciplinary process to ensure consistency.

To enhance the accountability of the IIA in the exercise of powers, the Government has also enhanced the proposal for establishing an independent Insurance Appeals Tribunal to handle appeals by insurers and insurance intermediaries against relevant regulatory decisions. The proposed statutory tribunal would operate on a full-time basis and be chaired by a person who is eligible for appointment as a judge of the High Court, and would include a number of market practitioners and others with relevant knowledge and experience of the insurance industry.

To tap the expertise and experience of insurance practitioners, the Government also proposes to set up at least two Industry Advisory Committees to advise and make recommendations to the IIA's Governing Board. The IIA should be empowered to appoint an expert panel from which it may seek expert advice, as appropriate, on insurance products and industry practices, with a view to assisting the IIA in the disciplinary process.

Regarding the funding mechanism of the IIA, to reduce the impact on insurers and policyholders, the Government proposed in the 2010 consultation document that the IIA would fully recover its operational costs in the sixth year of its operation, and the Government would provide a \$500 million lump sum subsidy. After carefully considering the views of respondents and the current portfolio of large premium policies held by insurers, the Government proposes to cap the market levy on non-life insurance policies with annual premiums at or above \$5 million, and life insurance policies with single or annualised premiums at or above \$100,000. We also propose to exempt re-insurance contracts from levying. These measures would sustain the competitiveness of our insurance industry.

The consultation conclusions and the detailed proposals for the proposed establishment of an IIA have been uploaded to the Financial Services and the Treasury Bureau (the Bureau) website (www.fstb.gov.hk/fsb/ppr/consult/iaa_conclusion.htm). The Bureau will brief the Panel on Financial Affairs of the Legislative Council on July 4, and has embarked on the next phase of engagement with the stakeholders with a view to drafting the enabling legislation for establishing the IIA. In the process, the Government will continue to listen to views from the public. The draft key legislative provisions are expected to be available in early 2012 for further engagement with stakeholders.

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