

New Regulator in Hong Kong

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Written by Dennis B. Funa



Dennis B. Funa

INSURANCE FORUM

Last June 26, 2017, a new regulatory authority in Hong Kong, dubbed as the independent Insurance Authority (IA) became operational, replacing the Office of the Commissioner of Insurance (OCI). The Provisional Insurance Authority (PIA) became a transitory authority as regulation transitioned from the OCI to the IA.

In proposing the creation of the IA, the HK Secretary for Financial Services and the Treasury, Prof. K.C. Chan stated: “We propose that the independent IA should be given the required regulatory powers to issue licenses, conduct routine supervision, inspection, and imposing disciplining sanctions against breaches, etc. Such regulatory powers apply not only to insurers, but also to insurance intermediaries, including insurance agents and insurance brokers.”

It has been described as a more powerful regulator than its predecessor. The much strengthened and enlarged regulator was originally conceived with the enactment of the Insurance Companies (Amendment) Ordinance (Amending the Hong Kong Insurance Companies Ordinance (HKOCI) on July 10, 2015 in a bid to make the insurance regulator financially, politically, and operationally autonomous and independent of government and to make regulations compliant with international standards. While it will be independent from government, its initial funding will come from government. The IA will be governed by the Governing Board. For its first CEO, John Leung Chi-yan, the former Commissioner of Insurance, has been appointed. He will serve until June 25, 2018.

The principal functions of the Insurance Authority are to ensure that the interests of policyholders and potential policyholders are protected and to promote the general stability of the insurance industry. The IA also has the following major duties and powers: a) authorization of insurers to carry on insurance business; b) regulation of insurers’ financial condition, primarily through the examination of the annual audited financial statements; and, c) development of legislation and guidelines on insurance supervision.

The regulatory framework over the insurance industry is provided in the amended Insurance Ordinance. Under this framework, the IA would have inspection, investigation, and disciplinary powers over regulated entities. Notably, the IA has the power to impose a fine up to the greater of HK\$10 million or three times the profit

gained or loss avoided as a result of the misconduct. The IA would also have the power to issue guidelines, the counterpart of the Circular Letters in the Philippine Insurance Commission. Under its used terminologies, guidelines would be abbreviated to “GL”, as opposed to our Circular Letters abbreviated as “CL”.

As one example of the reforms, while insurance intermediaries (i.e., the Professional Insurance Brokers Association [PIBA]; the Hong Kong Confederation of Insurance Brokers [CIB]) have been self-regulatory in the past, IA will now have regulatory authority over them. Other self-regulatory entities includes: the Insurance Agents Registration Board, and the Hong Kong Federation of Insurers. What is notable here is that while the Philippines had recently adopted the Self-Regulatory framework in the amended Insurance Code, Hong Kong is dropping self-regulation on the ground that it is not appropriate in the financial services.

Previously, as self-regulated entities, insurers, through the Hong Kong Federation of Insurers (HKFI) issued its own guidelines. Anticipating, future trends in the industry that would have to be addressed, the IA constituted the Future Task Force of the Insurance Industry (FTF) on December 2016, chaired by Moses Cheng, the Chairman of the IA. Among those that will be looked at by the FTF is the adoption of a risk-based capital regime. Another regulation to be put in place is regulation on corporate governance and the “fit and proper” rule.

Dennis B. Funa (dennisfuna@yahoo.com) is the current Insurance Commissioner. He was appointed by President Rodrigo R. Duterte as the new Insurance Commissioner in December 2016.