CIB BULLETIN

JULY ISSUE 2020

香港保險顧問聯會
THE HONG KONG CONFEDERATION OF INSURANCE BROKERS

Chairman's Message

Under the impact of COVID-19, the insurance industry is suffering both globally and locally. According to Lloyd's forecast, the pandemic is going to cost the industry US$203 billion, comprising claims paid and failures in investment portfolios.

We have seen underwriters tightening their terms, reducing their capacity and, for some classes of insurance, raising premium rates. Our job as brokers becomes more challenging when faced with this new normal. In the meantime, brokers are struggling to operate in these disrupted times and are bringing through considerably fewer new business proposals. On existing policies, some customers might have cancelled them or reduced coverage or, in the worst-case scenario, have not paid their premiums.

On the life side, new office premiums in respect of policies issued to mainland visitors decreased by 57.7% to HK$5.4 billion in the first quarter of 2020, according to statistics recently released by the Insurance Authority (IA). Restrictions imposed on cross-boundary passenger traffic to contain the COVID-19 outbreak caused premiums to contract by 27% on a quarterly basis. This is expected to continue for some time until the situation improves.

The HK$80 billion Employment Support Scheme was launched by the government to provide financial support to employers to pay staff wages and maintain business operations. This will definitely benefit our members who are going to apply for the subsidies during this difficult time.

Unfortunately, we had to cancel our Spring Dinner, which was scheduled in February due to the pandemic. While business activities have slowed down, the work of our General Committee has never stopped. We continue having Zoom meetings amongst ourselves and with other stakeholders, including the IA.

Stay safe and healthy! ■

Yours sincerely,

Patrick Chan
Chairman | July 2020

FACING UP TO THE NEW NORMAL?

Continuing the Relationship

While the COVID-19 pandemic and its related social distancing and work-from-home protocols have reduced opportunities for meetings and general discussions, CIB has managed to retain its close relationship with the Insurance Authority (IA). This has occurred on both a working level, and through electronic and face-to-face meetings at the executive level. Further meetings are already planned. These contact sessions have resulted in a number of issues being dealt with and it is gratifying that the restrictions have not prevented the continuing relationship from achieving ongoing benefits for our members.

As the IA continues to refine its guidelines and regulatory and disciplinary procedures, CIB has been offering advice based on the personal experience of our executives and independent professional team members so that this accumulated knowledge will not be lost. ■

Changes at the Insurance Authority

The Insurance Authority (IA) has announced the reappointment of Ms Carol Hui as Executive Director, Long Term Business, and Mr Simon Lam as Executive Director, General Business, for further terms of three years. At the same time, it announced the departure of Mr Stephen Po as Executive Director, Market Conduct, and Mr Raymond Tam as Executive Director, Policy and Development.

Prior to joining the IA, Mr Stephen Po had a long career with the Securities and Futures Commission while Mr Raymond Tam was formerly senior actuary at the Office of the Commissioner of Insurance before spending time in Canada.

Pending a search for suitable replacements, Mr Clement Cheung, Chief Executive Officer, will oversee the IA's Policy and Development Division and Mr Peter Gregoire, General Counsel, will head its Market Conduct Division. ■

Reaching Out to Members

Despite the constraints of the pandemic, early April saw CIB roll out our new Help Desk for the assistance and benefit of members. While we have always provided assistance to members with their enquiries on a wide range of issues, the Help Desk represents a new dedicated and concentrated approach to your concerns, with particular reference to often complex questions related to regulatory compliance with the new regime imposed by the Insurance Authority (IA). With its own dedicated e-mail address and telephone number and administered by CIB's Legal Officer, the Help Desk is intended to provide a prompt and comprehensive service to members on any concerns or issues they may wish to raise.

Members are encouraged to submit their questions by e-mail so that particularly the more complex enquiries can be fully and clearly spelled out for detailed written response, and with full investigation and research into the issue as may be necessary. We realise that in many cases, small and seemingly insignificant issues are of great concern to individual members. Therefore the Help Desk is there to address all enquiries of whatever size or complexity, treating them all as being of equal importance.

This preference to deal with enquiries by e-mail should not be seen as an impersonal approach but rather for administrative efficiency and to facilitate the wider aims of the Help Desk system as described below. Your telephoned enquiries will be equally welcomed, especially for the quicker questions, and CIB staff will always be happy to talk about any points you wish to discuss.

All enquiries to the Help Desk are logged so that, as far as possible, they will be answered in the order that they are received; but this is also to build up for CIB a register of the questions raised and in particular to flag those issues which are of concern to numbers of members. These can then be the subject of generally informative articles in future editions of the Bulletin and can be incorporated in future circulations of "Frequently Asked Questions" (FAQ Schedules) for the benefit of all. Thus, while some members may not realise that there is an issue they need to deal with, this publicity will draw it to their attention so that necessary and appropriate steps can be taken. Moreover, we can consolidate members' questions and seek clarification from the IA when necessary, or act as the voice for our members to reflect views and concerns on particular subjects affecting the brokering community.

Since its inception, the Help Desk has received a good response from members. So far, of the questions raised, some 85% relate to regulatory compliance issues and the remaining 15% to a wide variety of matters, all of great importance to the members raising them.

Apart from providing a quick and helpful service for members with matters of concern, CIB does see the database of issues raised now and in the future as an important and valuable aspect of the Help Desk system. To achieve this, we hope that you will avail yourselves of this quick, efficient information service whenever issues arise with which you are uncertain as to the answer or interpretation.

The CIB Help Desk can be accessed by e-mail at helpdesk@hkcib.org or by telephone on 2526 3951, or leave a message at any time for response when the Help Desk is next open. ■

CPD Extension of Period

CIB realised early during the emergence of COVID-19 that the cancellations of CPD sessions due to government-mandated gathering restrictions would prevent many licensed TRs from achieving their required CPD points by the then new annual cut-off date of 31 July 2020. Accordingly, CIB discussed this potential problem with the Insurance Authority (IA) and obtained their agreement to extend the period until 31 October 2020. As the pandemic continues and the gathering restrictions remain in place – and even with the emergence of a number of Zoom and Webinar CPD sessions – obtaining good quality technical CPD as provided by CIB under the government's FIS programme is still suspended as the specialist overseas lecturers are unable to travel. As a result of our further discussions with the IA, the IA announced on 12 June 2020 that the two years will be rolled into one period so that the next cut-off date will be 31 July 2021, with a requirement of 25 CPD points. We are also happy to note that the cap on e-learning for these two assessment periods will be increased from 5 to 7 CPD points each, making a maximum of 14 hours for the period. It is indeed pleasing that the IA has acknowledged the problem we raised and is prepared to take a reasonable and practical view of the issue.

Required CPD hours to be reported to the IA

Registered with CIB before regulatory handover on 23 September 2019	Merged assessment period for 1 January 2019 – 31 July 2021
Registered on or before 31 December 2018	25 CPD Hours
Registered between 1 January and 31 May 2019	22 CPD Hours
Registered between 1 June and 22 September 2019	18 CPD Hours

During these combined periods, the maximum number of e-learning hours allowed is 14. (This does not include Zoom or other virtual presentations which, for the period of the pandemic, are unlimited.)

The reporting deadline is 30 September 2021. Details of reporting procedures will be announced by the IA.

CIB continues to provide CPD seminars as opportunities and speakers' availability allow. Please look out for further announcements about these in specific CIB Circulars. ■

Facing the Pandemic

The COVID-19 pandemic has impacted every business activity around the globe. The insurance industry, which is at the forefront of the risk management industry, has certainly not been spared. In the two related articles on these pages, our CIB General Committee members, Iris Chan and BS Rath, look at the implications from a local broking perspective on the one hand, and from an international industry perspective on the other. Both indicate the serious emerging repercussions of this pandemic on the practice of insurance at home and around the world. ■

COVID-19 Brings New Restrictions

Spreading of contagious and communicable disease exclusions in the Hong Kong insurance market

Contributed by Iris Chan, a Member of the CIB General Committee

The insurance industry, like all other industries, has faced a significant impact from the COVID-19 outbreak. Insurance brokers have received numerous enquiries from clients in relation to coverage and potential claims. Moreover, some clients have sought advice about risk improvement, and health and safety from their brokers. It is important that, as insurance brokers, we are well prepared to answer these common questions. For example, do the employees' compensation insurance policies cover employees who suffered from COVID-19? Do their business interruption insurance policies cover any losses of revenue due to closure caused by COVID-19? Do their current travel insurance policies grant any coverage in relation to COVID-19?

As the pandemic's effect on the insurance industry intensifies across the globe, insurers are starting to impose stringent COVID-19-related or contagious/communicable disease exclusions in new or renewal policies, excluding any property damage, financial losses and/or legal liabilities directly and indirectly caused by COVID-19. In addition, what we are now seeing in the insurance market is that there does not exist a standard exclusion clause which is widely acceptable to, and agreeable by, the major insurers. Furthermore, insurers are trying to introduce different versions of new contagious/communicable disease/pandemic exclusions under property, business interruption and engineering insurance policies, globally. For insurance policies which are structured on a co-insurance basis, it is no surprise that co-insurers have found it very difficult to reach an agreement on the same COVID-19 exclusion wording. This could lead to a difference in coverage under the same policies.

In this unprecedented era, vigorous preparation prior to policy renewal is critical and all insurance brokers will need to spend considerable time in understand the implications of new exclusions, as well as how COVID-19 will change the insurers' underwriting appetites, capacities and local underwriting authorities. We all need to be attentive to changes in our clients' needs, risk exposures and the change of their business models and portfolios (e.g. reduction in turnovers, numbers of outlets and employees, geographical exposure and business nature). This way, we can dovetail the most suitable, comprehensive insurance coverage and act in their best interests. ■

"We want to hear your thoughts and opinions, so please get in touch!"

New Revised Articles for CIB

As reported in the February issue of the Bulletin, extensive work has been undertaken by CIB in conjunction with our corporate solicitors, Deacons, to reconfigure CIB's Articles of Association (Articles) to reflect its new role as a professional association and to remove those sections relating to the previous role as a self-regulatory organisation, as well as the regulatory and disciplinary functions which that entailed. The revised document, which includes updated provisions for membership and committee categories, was offered for consultation with members and approved by the General Committee before being submitted to the Companies Registry (CR) for their agreement. We are pleased to advise that the CR has now given written acceptance of the new Articles as submitted, and it remains for CIB to arrange an Extra-ordinary General Meeting of members for their formal adoption. It is hoped that government's related restrictions on gatherings and social distancing allowing, this meeting may be held in the third quarter of this year. Members are urged to attend this meeting as a show of engagement and support after the long break from social meetings, and to learn more of the background and implications of the new Articles. ■

COVID-19 and the Global Insurance Industry

Contributed by BS Rath, Immediate Past Chairman of CIB

The COVID-19 pandemic, in a short span of time, has placed an unprecedented strain on our global economy. Established systems that were thought to withstand the test of time need to be reassessed if we are to survive waves of future pandemics. Individuals, businesses, governments, organisations, whether public or private, have all been equally affected. With disruptions to the way we interact, from the way we conduct business, to the mobility of goods and people across global supply chains, significant losses are the natural outcome in its aftermath. In terms of the financial impact, nobody has yet been able to fathom it correctly, either.

At the end of April in my capacity as representative of the CIB, I was invited to attend a Zoom meeting organised by The World Federation of Insurance Intermediaries wherein Mr Yoshihiro Kawai, Chairman of the OECD-Insurance and Private Pensions Committee (IPPC), gave a presentation on the "Initial assessment of insurance coverage and gaps tackling COVID-19 impacts". The meeting was attended by 22 representatives from all over the world. I have taken a few excerpts from their assessment.

- The majority of losses are from business interruption due to disruption in the supply chain or employee related (liability, health and working away from the office)
- Most risks are uninsured and most insurance contracts exclude such pandemics
- The enormity of the losses, or the anticipated losses in the future, raises questions about the possibility of cover in the future

VARIOUS GOVERNMENTS' POSITIONS

A few examples of measures policy makers are taking to respond to the gap created by the Coronavirus:

- In the United States, legislators requested exclusions to be waived in the context of COVID-19's impact, particularly for travel and business interruption coverage. In New York State, the Department of Financial Services asked all property and casualty insurers to provide a clear explanation to their policyholders on business interruption coverage applicable to COVID-19 losses. In California, the California Department of Insurance requested insurers for data on their potential coverage for business interruption losses. As a result, the Pandemic Risk Insurance Act was introduced by US Congress and will provide up to US$750 billion in taxpayer funds to pay insurance claims for business loss revenue during future pandemics. Insurers will initially pay a total of US$250 million in losses, according to the bill
- In France, the Fédération Française de l'Assurance (FF de l'A) announced that the insurance industry would contribute €200 million to a solidarity fund established by the government for business interruption losses.
- In Germany, insurers and reinsurers are in the process of drafting plans for a multi-billion euro fund to better prepare the country for dealing with future pandemics. The fund will function as a public-private partnership between the government and the insurance industry

INSURANCE INDUSTRY'S POSITION

The impact of COVID-19 on the insurance sector will not be limited to the claims incurred as a result of the insurance coverage provided. Like other sectors, insurance companies will also face the impact of confinement measures and staff absences, and will need to implement business continuity arrangements to ensure their ability to maintain core operations. They will also face reduced revenues as the demand for various types of insurance coverage (event cancellation, travel, etc.) declines. Insurance companies are also significant investors in equity and fixed income markets and will face losses as a result of equity market losses, bond impairments or ratings action, and reinvestment risk as central banks around the world support the economy with interest rate cuts. This could result in solvency impairment in some cases, with particular challenges to be expected in the life sector and particularly for companies offering products with return guarantees.

- Commercial property policies generally exclude pandemics or communicable diseases, or not one of the perils covered in a named peril policy
- In the United Kingdom, The Association of British Insurers released a statement indicating that most companies will not have coverage for business interruption resulting from business closures due to COVID-19
- In Australia, the Insurance Council of Australia has indicated that coverage for business interruption under commercial property policies is normally only triggered as a result of physical damage. Some policies might provide coverage for business interruption, although the insurance industry has introduced general exclusions for losses resulting from "quarantinable diseases"
- In France, the FF de l'A was quoted in a ratings report as indicating that almost all commercial insurance policies exclude claims related to epidemics. However, in a recent filing, AXA agreed to pay COVID-19 related Business Interruption claims raised by a group of Parisian restaurateurs. The French court rejected AXA's argument that the pandemic was uninsurable and made it clear that if AXA intended to exclude such a risk, it should have done so expressly in its policy.

CONCLUSION AND THE WAY FORWARD

The core purpose of any insurance programme or contract is to offer protection and mitigate risks by offering a risk transfer mechanism in the form of insurance. Many will be expecting their insurance coverage to reimburse some of these costs and offset losses. Is the insurance industry prepared to foot the bill? The world is adapting and moving towards a new normal, and it's about time that the insurance industry does too by providing a solution.

It is evident that the current system requires work as existing policies do not provide effective cover. The logical way forward is for collaboration and partnership between governments, regulators and insurance providers where they can devise effective cover, capitalise it and then build reserves so that coverage is available to individuals and businesses at a price that the market determines. If we do not take this opportunity and plan for the future, society will blame the insurance industry for years to come. Perhaps dealing with each claim based on its merit and planning suitable cover for the future is the most viable way forward. Necessity is the mother of invention. ■

Insuring Hong Kong's Future

Contributed by Winnie Wong, Board Member of the Financial Services Development Council

Hong Kong has been a leading insurance hub in Asia since the late 1960s – a period when Hong Kong experienced high economic growth and attracted a number of international insurance companies and financial institutions to establish a presence here. As Hong Kong's insurance industry has matured and became more diverse, it has asserted its position as an insurance centre in the region.

Hong Kong is one of the most open insurance markets in the world with high concentration of insurers and insurance density, and 163 authorised insurers as of the end of December 2019. As part of the financial services pillar, the insurance sector (together with financial services other than banking) contributed close to 7% of the GDP[1], playing a key role in the transformation and development of Hong Kong. Insurance also shows important social value as it serves as a major facet in social welfare and has become increasingly relevant as Hong Kong faces a rapidly growing elderly population. Against this background, the government has always recognised the need for continued growth of the insurance sector and has launched such efforts as introducing tax concessions and modifying regulatory requirements.

In order to enhance the sector's competitiveness among global financial centres, the Financial Services Development Council (FSDC) contends that it is time to reassess Hong Kong's existing environment and design measures to cement its role as a centre of excellence and attractive location for regional headquarters of all insurers. There are many positive features, such as simplicity and ease of application, in the current regime that need to be retained. At the same time, the FSDC considers that the operating environment can be further enhanced by tax aspects catering to the needs and activities of the insurance industry. In relation to this, consideration must also be given to the potential impact of the evolving international tax developments on tax rates and tax incentives before implementation.

With the above in mind, the FSDC has explored various potential tax measures as follows:

- Provide further tax incentives to uplift general insurance business in Hong Kong, such as extending the applicability of preferential rates to additional classes
- Expand preferential tax treatments to further develop Hong Kong as a reinsurance and insurance brokerage hub
- Provide further tax exemption on investment-related income (e.g., income from fixed income investment) for insurance funds, which will induce investment activities to return to Hong Kong
- Enhance tax measures to facilitate operational flexibility for insurance companies, such as providing tax deductions for the increase in the statutory reserve

In particular, as insurance brokers play a key role in the placement of insurance and reinsurance businesses, the FSDC recommends that specific preferential tax measures, such as tax exemption for a set period of time, should be made available. The proposed measure should encourage insurance brokers to establish in or relocate their regional hubs to Hong Kong.

The FSDC hopes that the recommendations will create a better cluster of insurance players in Hong Kong, leading to a strengthened ecosystem and driving Hong Kong's insurance market. As the insurance sector is intertwined with many industries, businesses and facets of society, the continued growth of the insurance sector will be beneficial to Hong Kong individuals and the economy as a whole. ■

Remarks:

[1] 2018 figure

Upcoming Events

Extraordinary General Meeting for Approval of New Articles

Given the great uncertainty of the development of Covid-19 in the local community in recent weeks and the extent of the government's related restrictions on gathering and social distancing, we have to defer our initial plan to convene the EGM in August. We will keep monitoring the development and determine the appropriate date for the meeting when situation allows.

Annual Conference 2020

Monday, 2 November 2020 (2:00pm)
27/F, Park Lane Hotel, Causeway Bay

We are finalising the conference theme for this year and more details will be announced via CIB Circulars.

Annual General Meeeting

Provisionally to be held in December 2020.

Protecting Brokers

In past years, there has been considerable discussion on the perceived need for disclosure of brokers' remuneration; not only for the sake of transparency but also due to the provisions of the Prevention of Bribery Ordinance (PBO). The PBO says that any agent who accepts an advantage as reward for any act in relation to his principal's business shall be guilty of an offence, unless it is done with the permission of his or her principal. This issue is significant for brokers because of their legal status as agents of their clients and therefore acceptance of brokerage from insurers would amount to an illegal commission if not pre-agreed with the client.

This issue does not affect insurance agents whose legal status is that of an agent of their appointing insurer. Members will remember that CIB spent many months, if not years, obtaining legal advice and counsels' opinions before resolving this issue and providing a satisfactory solution for brokers acceptable to the Commissioner of Insurance and the ICAC. The key to achieving this outcome was the agreement that the requirement for agreement by the client could be achieved by a tacit agreement through a legally drafted clause added to all documents. This clause stated that by accepting the quotation or renewal terms, the client acknowledged that the broker would receive commission from insurers.

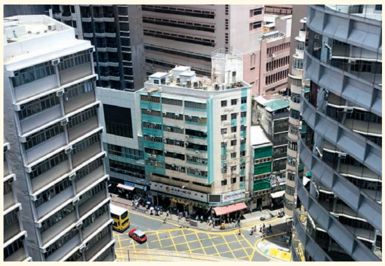
CIB was therefore most concerned in September last year when the Insurance Authority (IA) issued the new Code of Conduct for Licensed Insurance Brokers which simply told the brokers not to contravene the PBO but did not incorporate any form of disclosure and failed to stress the need for a form of client agreement.

The CIB General committee therefore took immediate steps to draw this situation to the attention of the IA and set out clearly the legal and practical implications which had given rise to the need for the obtaining of the client's tacit agreement under the previous CIB sponsored initiative.

We are pleased to say that after discussion and consideration, the IA has now published a practice note filling the void of the lack of a prescribed form of disclosure and has reverted to the original wording as requested by CIB. The Remuneration Statement in the latest practice note entitled Practice Note supplementing Standard and Practice 7.1 of the Code of Conduct for Licensed Insurance Brokers in relation to Disclosure Requirements for Remuneration received by a Licensed Insurance Broker Company from an Insurer and issued on 1 June 2020 follows, word for word, the CIB original except that the word "commission" has been replaced in the IA version by the term "remuneration", which has an even broader context.

It is good to see that the hard work of the past has stood the test of time and that these previous agreements find acceptance under scrutiny today as they did in the past. All agreements were negotiated for a purpose and it is important to remain ever-vigilant to ensure that the significance of long-standing arrangements is not forgotten as new regulations and regimes move on to replace the old. ■

A new office location in keeping with the status of CIB

Talk to us today – CIB is your voice within the industry!

Phone: 2882 9943 **Fax:** 2890 2137 **Email:** info@hkcib.org