INSURANCE - HONG KONG

Lawmakers building HK$1 million safety net for policyholders

May 22 2018 | Contributed by Howse Williams Bowers

Introduction

Hong Kong has mandatory compensation schemes in place for non-life insurance policies covering motor vehicle third-party claims and employee work-related injuries. However, there is no compensation scheme for life insurance policies or other types of general (ie, non-life) insurance if an insurer becomes insolvent.(1) On March 5 2018 lawmakers met to discuss a new bill to establish a policyholders' protection scheme (PPS) to protect policyholders' interests in case an insurer becomes insolvent.(2) This safety net will cover:

- individuals;
- small and medium-sized enterprises; and
- building owners' corporations.

The principal assistant secretary for Financial Services and the Treasury Bureau has announced that the new bill will be introduced into the Legislative Council during the 2018 to 2019 legislative year.

Key features of PPS

If approved, the PPS will be governed by the Policyholders' Protection Board, which will comprise:

- members from the Insurance Authority and Financial Services and the Treasury Bureau; and
- professionals from the insurance, finance and accounting industries, among others.

All authorised insurers in Hong Kong will have to participate and pay an initial levy of 0.07% of their income from premiums to build up the two compensation funds – namely:

- the life fund (for long-term policies), which is targeted to be HK$1.2 billion; and
- the non-life fund (for general policies), which is targeted to be HK$75 million.

These funds will be subject to review after the PPS has commenced operation and will be accumulated over 15 years.

Exceptions include reinsurers, captive insurers and insurers not authorised to carry on the business of any protected policies and those that are exempted by the board. Foreign incorporated insurers will also be exempted on a case-b y-case basis if it can be shown that:

- the policies are covered by a foreign scheme of a similar nature; and
- the scope and level of protection under the foreign scheme is no less than the scope and level of coverage available under the PPS.

The maximum coverage will be HK$1 million per life or non-life policy.

AUTHORS

Kevin Bowers

Michael Withington

In the event of insurer insolvency, PPS funds will be deployed to compensate policyholders or secure the continuity of the policy as follows.

Life and accident and health policies

For life and accident and health policies, the priority will be securing the continuity of the policies, as any premature surrender or encashment could cause losses to policyholders. The life fund would be used to facilitate the transfer of the whole or part of the policies to another insurer or a special purpose insurer (set up by the board) in case no commercial buyer can be identified. Compensation will be capped at 100% for the first HK$100,000 of any claim plus 80% of the balance and cannot exceed HK$1 million on a per-policy basis.

Non-life policies

For non-life policies (other than accident and health policies with guaranteed renewability), the non-life fund will provide compensation for claims up to 60 days after the date of the insurer insolvency or until policy expiry (whichever is earlier). Compensation will be capped at 100% for the first HK$100,000 of any claim plus 80% of the balance and cannot exceed HK$1 million on a per-claim basis.

If the funds are insufficient to meet all the liabilities (especially during the fund accumulation stage), PPS could borrow from a third party to bridge the liquidity gap and increase the levy.

For further information on this topic please contact Kevin Bowers or Michael Withington at Howse Williams Bowers by telephone (+852 2803 3688) or email (kevin.bowers@hwbhk.com or michael.withington@hwbhk.com). The Howse Williams Bowers website can be accessed at www.hwbhk.com.

Endnotes

(1) The Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap 32) and the Insurance Ordinance (Cap 41) include provisions for dealing with insurer insolvency.

(2) Legislative Council Panel on Financial Affairs, Policyholders' Protection Scheme Bill (LC Paper CB (1)624/17-18(06), March 5 2018, available here. See also, Information Note, Policyholders' protection schemes in selected places (IN08/17-18), March 1 2018.