INSURANCE

Considering the growing global trend towards greater transparency and improved communication among stakeholders in nearly every industry, the Insurance Committee has aligned this year's *White Paper* position paper with those ideals. Taiwan is in a tremendous position to make significant strides in these areas and firmly establish itself as a regional or even global leader. Doing so would provide a more stable and consumer-oriented market in Taiwan, enabling all involved to thrive.

The Committee would also like to express its thanks to all of the ministries and bureaus that are not only working so diligently to improve the market in Taiwan, but have also shown a true willingness to listen to the industry's views and consider our concerns. We very much look forward to working with the government to realize the suggestions being put forth in this year's *White Paper.*

Suggestion 1: Review the regulatory policy governing insurance broking.

1.1 *Continue to allow insurance and reinsurance broking to operate concurrently under the same insurance contract.* We strongly suggest reconsideration of the proposed amendment to Subparagraph 2 of Paragraph 1, Article 3 of the "Regulations Governing Insurance Enterprises Engaging in Operating Reinsurance and Other Risk-Spreading Mechanisms," announced on March 9, 2016 with the objective of eliminating possible conflicts of interest. The proposed amendment would prohibit a broker company from concurrently transacting both insurance brokering and reinsurance brokering businesses under the same insurance contract. Imposing such a restriction was discussed when the Insurance Brokers Regulations were being amending in June 2014, but the proposal was eventually withdrawn on the grounds that it would be contradictory to international insurance practices.

The practice of concurrent operations of insurance and reinsurance broking businesses is a natural development driven by market demand as multinational companies – or companies potentially exposed to large, complex risks – require a single broker company with relevant expertise to meet their insurance and reinsurance needs. To avoid possible conflicts of interest, the current regulatory system in Taiwan, in line with the practice in many major insurance markets, such as in the United Kingdom, Australia, Hong Kong and Singapore, requires the proper segregation of the work in the insurance and reinsurance brokering businesses. Furthermore, as long as the broker has duly disclosed any potential conflicts of interest and has obtained the consent of all relevant parties, there is no compelling reason to totally prohibit concurrent operations of insurance and reinsurance businesses.

In order to ensure Taiwanese companies' continuing access to efficient broking services –keeping costs down and maintaining international competitiveness – we therefore suggest that consideration of the amendment be postponed. In the meantime, discussions could be held between the authorities and the insurance broker companies to establish a reasonable and feasible plan that would simultaneously address any concerns about conflicts of interest and ensure that customer needs are met.

1.2 *Allow insurance broker companies to conduct reinsurance business and provide services in China.* In light of the frequent business interaction between Taiwan and China, many Taiwan-based enterprises need risk consultancy services when doing business on the mainland. Unfortunately, under the current "Regulations Governing Permission of Insurance Business Transactions and Investment between the Taiwan Area and the Mainland Area," only companies defined as "insurance enterprises" are allowed to engage in certain lines of business – such as reinsurance, assistance in insurance claim services, loss-control consulting services, and other insurance-related businesses approved by the competent authority – with Chinese insurance enterprises. The definition of "insurance enterprises" does not include insurance broker companies, thereby restricting them from providing services to their Taiwan-based clients doing business in China. This restriction ignores the practical needs of Taiwan enterprises.

The current market situation is that many Lloyd's syndicate members have set up their North Asia offices in China, rather than in Hong Kong or elsewhere, and only such syndicates in China (not London or Singapore) may underwrite Taiwan reinsurance business. It is therefore inevitable for Taiwan insurance broker companies to receive requests to conduct reinsurance business in China. Further, it is common market practice that when a global policy is issued to Taiwan-based enterprises in Taiwan, the insured – which likely include the enterprises' China subsidiaries and affiliates – will require insurance broker companies to provide services when the China subsidiaries and affiliates claim reimbursement.

The current restriction not only prevents insurance broker companies from performing their obligations under the brokerage contract (since providing services in China is a derivative part of the contract), but also seriously undermines the rights and interests of the Taiwan-based enterprises. To accommodate the needs of Taiwan-based enterprises and the market as a whole, it is imperative to open the door for insurance broker companies to provide reinsurance, insurance claim, and loss-control consulting services in China with the approval of the competent authority, as permitted for insurance enterprises.

Suggestion 2: Continue to increase the convenience for consumers to obtain protection insurance.

The Committee recognizes and appreciates the steps that have been undertaken to improve consumers' access to protection products. We continue to encourage the regulatory authorities to take even bolder steps that would further enable citizens to obtain proper coverage in a transparent manner by leveraging innovative products and technology.

2.1 *Enhance the ease of use of digital means to obtain insurance.* Taiwan continues to lag behind other jurisdictions in enabling insurance transactions via electronic means. Referencing major markets around the world, including Hong Kong, the United Kingdom, and the United States, Taiwan should significantly accelerate the adoption of international standards. Allowing easy, transparent, and convenient access to insurance products online will enable a greater portion of society to enjoy the protection coverage that is needed.

The Committee would like to express our appreciation to the Financial Supervisory Commission and Insurance Bureau for the amendments to the "Regulation on Insurance E-Commerce" announced in March 2016. To maintain positive momentum in facilitating insurance e-commerce, we recommend that more products be allowed to be transacted within the electronic framework. Further, while the newly amended regulation allows for the applicant and the insured to be different individuals, there is still a requirement to use a physical identification certificate in order to complete the transaction. Obtaining this "Citizen Certification Card" requires very specialized equipment and precludes most individuals from utilizing this approach. We encourage the relevant authorities to remove this requirement as it clearly discourages bringing the insurance business into the digital age.

We also urge reconsideration and amendment of the requirement under the Consumer Protection Law for a three-day "pre-review" period. This requirement serves no meaningful purpose and is counter to the aims of e-commerce and other telephonic delivery mechanisms in enabling transactions to be performed expeditiously. As insurance contracts already include a generous 10-day cancellation period after receipt of the policy, with no cost incurred by the customer, the pre-review is superfluous.

The Committee applauds the recent government efforts to promote FinTech within Taiwan. However, an FSC ruling released on October 22, 2015 seems contrary to this direction, as it stipulates that only 10 insurance broker or agency companies will be allowed to conduct digital online insurance, and requires that these companies have a minimum annual revenue of NT$500 million to qualify. This requirement would clearly exclude young and innovative companies, enabling only traditional and established businesses (which are accustomed to engaging in face-to-face sales by agents) to apply. This approach is not aligned with global norms, and in fact we were unable to find any other jurisdiction with such requirements. In order to properly harness the power of FinTech, these limitations should be removed in the interest of increasing the number of participants and accelerating the growth of digital insurance in this country.

Lastly, as digital and telephonic means to acquire insurance are becoming increasingly popular with consumers, electronic recordings of clients' responses for underwriting purposes should be accepted as a legal basis to challenge or rescind a policy. Elimination of this option creates heightened risk for the insurance industry as a whole and limits product availability for consumers. We request that Article 9(3) of the "Directions for Insurance Enterprises Engaging in Telemarketing Insurance Products" be revised to permit the legal acceptance of electronic recordings for the above-mentioned purposes. The change would bring Taiwan in line with international practices in this regard and help to further promote digital insurance.

2.1 ***Remove the disparity between life and non-life insurers in offering travel inconvenience insurance.*** Article 138 of the Insurance Act allows non-life companies to issue three-year term accident and medical products. But it does not permit life insurers to issue travel insurance products. This disparity gives non-life companies an advantage in offering robust travel insurance products and creates an un-level playing field. In line with international practice, we recommend amending Article 138 to allow traditionally non-life features of travel insurance products (such as travel inconvenience protection) to be issued by life insurance companies.

Suggestion 3: Alleviate the undue financial pressure stemming from unintended consequences of increasing the business tax rate for insurance companies.

The more than doubling of the business tax rate on financial institutions in 2014 has placed financial pressure on foreign life insurers in a disproportionate manner compared to the industry as a whole. In its current form, the business tax formula actually penalizes the sale of protection/risk-focused policies, in contradiction to the government's stated goal of promoting exactly these types of products for the benefit of society at large. We urge the government to explore potential solutions to provide a remedy.

According to a research study commissioned by the FSC and conducted by a respected local law firm, most EU countries and OECD countries – including the United States, United Kingdom, Canada, France, Korea, Japan, Australia, New Zealand, South Africa, Singapore, and Malaysia –exempt the life insurance industry from business tax. In the very few countries that do apply a similar tax to insurance products, the tax is positioned in a value-added structure and is explicit rather than being embedded within the insurance premium. We recommend changing the tax structure to the value-added structure and explicitly itemizing the tax, distinct from the premium, as is done in other jurisdictions in the interest of transparency to the consumer.

The Committee recognizes that amending the law to make this type of change is a complex process. However, other actions can be taken in the near term to improve the situation:

1. Reclassify the tax items of "core business" and "exclusive core business," moving protection products to the

"exclusive core business" category and applying a 2% tax rate.

2. Follow the fundamental international principles of non-retroactive taxation, reasonable reliance, and non-differential treatment within an industry by allowing policies written prior to the tax increase to continue to be taxed at the rate in force at the time the contract was written.
3. Mitigate the impact of tax increase to the foreign life insurers by:
   a) Allowing life insurers to deduct retained claim payments as part of the tax formula, as is already the case for non-life insurers.
   b) Exempting protection and health products from the business tax.

Suggestion 4: Encourage the adoption of protection and retirement insurance products in view of the aging of the society.

4.1 ***Open up investment choices for employee voluntary pension contributions.*** The National Development Council (NDC) predicts that Taiwan will become an "aged" society by 2018 and a "hyper-aged" society – 20% of the population aged 65 or older – by 2025. In addition, the working-age population – those between 15 and 64 years old – is set to gradually decrease beginning in 2016. At present, every 100 working-age people support a dependent population (children and the elderly) of around 35 people. With the rapid growth of an aging population, this figure will balloon to 99 people by 2060.

Longer life expectancy does not necessarily equal the extension of a carefree life. The elderly encounter more health issues, and thus the expenditures on medical insurance and healthcare are expected to increase in the future. In response to the challenges posed by an aging society and a shrinking labor force, the Committee recommends that the government encourage broader protection coverage for the public by reforming the national pension plans and increasing the amount of tax exemption given to premiums on protection-insurance products.

The national pension schemes are managed by the Labor Pension Fund Supervisory Committee or its designated institutions. In recent years, the Ministry of Labor (MOL) and FSC have favored the idea of permitting self-investment pension accounts on an optional basis. The Committee supports this policy, as it makes sense for employees – particularly younger ones with a long investment horizon – to be free to diversify their pension savings by opting for investments with potentially higher returns. In a number of advanced markets, including Hong Kong, Singapore, the United States, and the European Union, the pension schemes allow employees to place some of their pension in non-guaranteed investment options with a risk-return profile that matches their needs. We join the Asset Management Committee in strongly suggesting that the MOL and FSC allow the "voluntary" portion of employees' pension contributions to be allocated to various investment options other than those with the mandated minimum guaranteed returns according to the two-year deposit rate.

In addition, the tax exemption for insurance products has remained at NT$24,000 per person for decades. Given the increasing need for healthcare and for medical insurance, the Committee recommends that the tax exemption be increased as an incentive for the public to buy protection insurance products to prepare for their retirement, thereby reducing the impact of unforeseen events and lessening the government's long-term social security costs and financial burden. Considering the social benefits that protection insurance products could offer, we also advocate the exemption of business tax for the insurers.

4.2 ***Improve the environment for the introduction of retirement products.*** To advance the proliferation of diverse retirement products, we suggest that the cap on the reserve exclusion foreign-currency products be removed.

Retirement products are aimed at providing a long-term and stable return. Accomplishing that goal requires investment diversification, including foreign investment. In general, foreign-currency retirement products are more beneficial for Taiwan customers than New-Taiwan-Dollar-denominated retirement products, given the better pricing resulting from the higher expected returns from overseas investment markets.

Current regulations, however, impose a ceiling of up to 25% on the exclusion of non-investment linked reserves, including Offshore Insurance Unit (OIU) products, from foreign-investment limitations. This exclusion cap has made it difficult for insurers to achieve steady returns on investment as well as to achieve effective risk mitigation. In effect, the ceiling diminishes an insurer's capacity to engage in foreign investment when the reserves of foreign currency products reach 25% of the total non-investment-linked life insurance business. In turn, insurance carriers are discouraged from promoting foreign-currency retirement products.As the development of retirement products plays a pivotal role for an aging population, we recommend the exclusion of all reserves of foreign currency non-investment-linked life insurance business, including OIU, from foreign-investment limitations.

Suggestion 5: Simplify the non-life product filing process to meet commercial market needs.

Personal lines insurance is normally sold to individuals in a standard format in large quantities, whereas commercial insurance is sold to legal entities and may be tailor-made as requested by clients to meet changing market needs. Given the large number of foreign-invested and multinational companies in Taiwan, the existing product-filing process is not fluid enough to ensure that the insurance needs of these companies are met on timely basis. The result is that many companies only buy basic coverage such as property and automotive insurance in Taiwan. In addition, many Taiwanese companies have invested overseas and the Taiwan-based parent company may want to arrange a master policy that covers its worldwide operations. In order to increase Taiwan's competitiveness as the market becomes more globalized, we suggest the following:

a. Apply a simplified product-filing process to non-tariff commercial products and endorsements, treating them differently from personal lines or individual insurance products. This change would help commercial clients meet their needs more expeditiously. It would also help ensure that the risks of commercial clients are well protected or mitigated when they venture into the global market, as well as benefiting investments in Taiwan by new commercial clients.
b. Set up a special product-review mechanism to approve long-duration non-life products in response to commercial market demand. Under the Securities and Exchange Act, by way of example, an investor has up to five years to claim indemnity if any information was wrongly disclosed in the prospectus, leading to the incurrence of loss in the investment decision. But long-duration non-life policies are currently not allowed, even though there is no such restriction under Article 16 of the "Regulation Governing Pre-Sale Procedures for Insurance Products."