

LCQ 3: Procurement of third party risks insurance

Following is a question by the Hon Cheung Hok-ming and a reply by the Secretary for Home Affairs, Mr Tsang Tak-sing, in the Legislative Council today (January 19):

Question:

It was reported that, before the amended section 28 of the Building Management Ordinance and the Building Management (Third Party Risks Insurance) Regulation came into operation on January 1 this year, some insurance companies took advantage of the unfamiliarity of some owners' corporations (OCs) with the contents of the new regulation and claimed that the policies of third party risks insurance already taken out by them did not comply with the requirements of the new regulation and that they were required to take out extra insurance, resulting in such OCs paying excessive insurance premium. In this connection, will the government inform this Council how the authorities will step up publicising the new regulation to OCs so as to avoid their taking out unnecessary insurance mistakenly because they are unclear about the contents of the new regulation; how the authorities will follow up on cases in which insurance companies are suspected of having misled OCs into taking out extra insurance, and what measures are in place to strengthen the monitoring of the sale practices of the aforesaid insurance companies, and whether the authorities will assist the OCs concerned in recovering the premium for the extra insurance which they were misled into taking out?

Reply:

President,

Thanks for the question from the Hon Cheung Hok-ming. The Building Management (Third Party Risks Insurance) Regulation (the Regulation) came into effect on January 1 this year. The Regulation provides for mandatory procurement of third party risks insurance by the owners' corporations (OCs), with the objective of seeking to reduce the risks of huge amount of compensation faced by owners in case of accidents and, at the same time, offer better protection for members of the public. The Regulation requires that the third party risks insurance policy should cover liabilities incurred by an OC in relation to the common parts of the building and the property of the OC in respect of the bodily injury to and/ or the death of a third party. The minimum insured amount of the policy shall be \$10 million for each event.

In order to enable the OCs and public to have a better understanding of the new legislation, the Home Affairs Department (HAD) has been taking various measures to actively publicise the content of the new legislation including:

First, HAD has arranged a large number of seminars to introduce and explain the requirements of the Regulation to the public since 2009. The District Offices have also, in collaboration with the Hong Kong Federation of Insurers (HKFI), organised publicity and education activities to elaborate to the OCs the key points on procuring insurance. These activities have been organised for over 100 times so far;

Second, HAD has produced TV and radio announcements, as well as published leaflets to highlight the key points of the Regulation; and

Third, HAD convened a joint press conference with HKFI in early November last year to explain the responsibilities of the OCs to procure third party risks insurance, as well as the points to note and the relevant procedures. HAD also arranged three regional forums, together with HKFI, in late November last year to better understand the progress of OCs procuring insurance and to follow up with HKFI on the concerns raised by the OCs at the forums.

We understand that the OCs have two major concerns, namely some OCs still being unable to procure insurance and the transition of some existing insurance policies to comply with the new legislation. Regarding the first point, having regard to the spirit of legislation, if the OCs concerned have already made their best endeavour to procure insurance but encountered practical difficulties, and contacted the District Offices of their respective districts for assistance; or the OCs concerned are not able to obtain the Notice of Insurance in view of renewing or handling the transition of their existing insurance policies before the commencement of the new legislation, HAD will not immediately prosecute these OCs. Having regard to their specific needs, we will proactively provide the appropriate assistance.

As for the second point, we have noted through communication that HKFI had already issued a circular to its member companies at the end of last year, stating that when handling the transition of the third party risks insurance policies, member companies should adopt options with flexibility which meet the legislative requirements without charging additional premium if there is no increase in risk exposure. This serves to provide choices for the OCs. Other administrative charges, if

any, should be levied on a cost-recovery basis. HKFI has already requested its member companies to inform their clients (i.e. OCs) of the above matter.

Besides, HKFI has uploaded a set of frequently asked questions and answers onto its website for the reference of members of the public. HKFI has also set up a hotline to handle OCs' general enquiries on the procurement of third party risks insurance. As far as we understand, most enquiries concern whether the existing insurance policies comply with the new legislative requirements and whether the OCs have procured duplicate insurance policies. Through the communication between the insurance companies and OCs, most cases have been properly settled. If any OC is misled by the insurance company to procure third party risks insurance, the OC concerned may file a complaint to the Office of the Commissioner of Insurance (OCI). OCI will carry out investigation and follow-up action.

We will continue to keep close contact with HKFI regarding the OCs' enquiries, as well as provide necessary assistance to the OCs concerned on the procurement of third party risks insurance in collaboration with HKFI.

Ends/Wednesday, January 19, 2011

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