

Circular No. ID 15/09

18 September 2009

To Principal Officers
Direct Insurers

Dear Sir/Madam

INSURANCE (NOMINATION OF BENEFICIARIES) REGULATIONS 2009

On 4 August 2009, MAS issued an industry consultation on the Insurance (Nomination of Beneficiaries) Regulations 2009 (“the Regulations”) to support the nomination of beneficiaries framework (“the Framework”) in the Insurance (Amendment) Act 2009 (“the Act”).

2 The consultation period closed on 14 August 2009. MAS thanks all respondents for their feedback.

3 MAS has considered the feedback received and has made amendments to the Regulations as appropriate. Comments that may be of wider interest, together with MAS' responses, are set out below.

4 Please contact your Company's liaison officer in MAS should you require further clarification. Thank you.

Yours faithfully

[sent via MASNet]

LOW KWOK MUN
EXECUTIVE DIRECTOR
INSURANCE SUPERVISION DEPARTMENT

RESPONSE TO FEEDBACK RECEIVED – INDUSTRY CONSULTATION ON INSURANCE (NOMINATION OF BENEFICIARIES) REGULATIONS 2009

1 Changes in particulars of beneficiaries, trustees or witnesses

1.1 Some respondents wanted to know whether policy owners are required to submit a separate copy of the relevant Form prescribed in the Regulations to notify insurers of changes in the particulars of beneficiaries, trustees or witnesses named in the original nomination.

MAS' Response

1.2 A separate Form is not required for changes in particulars. Nevertheless, insurers should advise policy owners to inform them of such changes so that payout can be carried out efficiently.

2 Additional copies of Forms

2.1 Form 1 (for the making of trust nominations) and Form 4 (for the making of revocable nominations) allow the policy owner to nominate up to four beneficiaries, with additional copies of the relevant Form to be attached if the policy owner wishes to nominate more than four beneficiaries.

2.2 Some respondents asked whether policy owners are required to fill in all fields in the additional copies of the relevant Form. There were suggestions to allow insurers to accept partially-completed Forms in such cases.

MAS' Response

2.3 The Forms are statutory instruments prescribed in the Regulations. They must be properly completed before a nomination will be considered valid. As such, if a Form is only partially completed, no nomination would be considered to have been made.

3 Use of Form 6 (for giving notice of the revocation of revocable nominations)

3.1 Some respondents wanted to know the difference between Form 5 (revocation of revocable nomination) and Form 6.

3.2 Others sought clarification on whether it is mandatory for policy owners to use Form 6 to give insurers notice of the revocation of a revocable nomination, or if a certified true copy of an assignment, encumbrance or will would suffice.

MAS' Response

3.3 Form 6 is to be used to give notice that a revocable nomination is to be revoked by way of having been overridden by an assignment, encumbrance or will. Conversely, Form 5 is to be used for revocation per se of a revocable nomination.

3.4 Policy owners are required to notify insurers whenever they revoke a revocable nomination, whether this is done by way of a revocation per se or through having been overridden by an assignment, encumbrance or will. (A third way would be via the making of another trust or revocable nomination.)

3.5 For revocation alone, only Form 5 should be used. If an assignment, encumbrance or will has been made, however, policy owners have the choice to submit either (i) Form 6 or (ii) a cover letter and certified true copy of the assignment, encumbrance or will to their insurers. The Regulations have been amended to clarify this point.

4 Effective date of nomination

4.1 Some respondents commented that the different dates referred to in the Forms (e.g. date of making of nomination, date of witnessing, date of signing of revocation) were confusing. They also enquired whether the dates in all sections of a properly-completed Form have to match.

MAS' Response

4.2 Given that a nomination or revocation takes effect only from the date the relevant Form is lodged with the insurer concerned, we agree that it is unnecessary to have different references to each of the dates in the Forms. As such, the Regulations have been amended so that all references in the Forms to a date refer to only one date.

4.3 As the dates referred to in all sections of a Form pertain to the making or revoking of nominations, in respect of which witnessing is required, it is important for the dates in all sections of a properly-completed Form to match. Otherwise, the purpose of witnessing would be defeated and the nomination would be deemed invalid.

5 Payout on the basis of a will

5.1 Some respondents sought clarification on when insurers should make payout on the basis of a will that fulfils the requirements set out in Regulation 5(3) (i.e. specifying particulars of the policy and the name and share of each beneficiary).

MAS' Response

5.2 The nomination framework is not intended to form a new basis for payouts involving wills. Hence, insurers should make payment according to their current practice in such cases, including waiting for the production of probate or letters of administration if appropriate.

6 Muslim policy owners

6.1 The Administration of Muslim Law Act (Cap. 3) ("AMLA") states that revocable nominations made by Muslim policy owners will be subject to *syariah* (Muslim law). As such, some respondents suggested that the AMLA provisions should be highlighted in the Forms to alert Muslim policy owners to this issue.

MAS' Response

6.2 It is not necessary to highlight the AMLA provisions in the Forms as they are already clearly stated in the Act.

7 Type and number of trustees

7.1 Some respondents enquired whether it would be possible for different trustees to be appointed in respect of different beneficiaries under a trust nomination.

7.2 Other respondents suggested that the Forms should highlight that the Trustees Act (Cap. 337) limits the number of trustees who can be appointed to four.

7.3 Some respondents also suggested that provision be made in the Forms for policy owners to name corporate trustees.

MAS' Response

7.4 To avoid confusion regarding a trustee's fiduciary duty to the beneficiaries, trustees must be appointed in respect of the policy as a whole. Therefore, it is not possible for different trustees to be appointed in respect of different beneficiaries.

7.5 The aim of the nomination framework is to provide policy owners with a clear, simple and economical way to disburse of the proceeds from their insurance policies. It is unlikely that policy owners in general would need to appoint more than four trustees. In any case, the Trustees Act states that, if more than four trustees are appointed, only the first four trustees will be recognised but the trust will not be defeated. Moreover, each relevant Form contains fields for the appointment of only two trustees. For these reasons, it is not necessary to state in the Forms that the Trustees Act limits the number of trustees who can be appointed to four.

7.6 Similarly, it is unlikely that policy owners in general would engage corporate trustees. Hence, it is not necessary to make provision in the Forms for the appointment of corporate trustees.

8 Age of witnesses

8.1 Some respondents asked why the minimum age for witnesses is not aligned to that for policy owners and trustees.

MAS' Response

8.2 The minimum age for witnesses is 21 years, whereas that for policy owners and trustees is only 18 years. The minimum age for policy owners and trustees is aligned to the age of contractual majority prescribed by the Civil Law Act (Cap. 43) because owning an insurance policy and becoming the trustee of policy proceeds are analogous to entering into contracts. The age requirement for witnessing, on the other hand, is aligned to that found in the Central Provident Fund Board's ("CPF Board") nomination forms as well as in advance medical directives promulgated by the Ministry of Health ("MOH").

9 Validity of nominations upon policy renewal

9.1 Some respondents sought clarification on whether a nomination would continue if the policy in question had expired and was subsequently renewed.

MAS' Response

9.2 The validity of a nomination upon policy renewal would depend on whether the renewed policy is deemed a new contract by law. If so, the nomination would cease as the particular policy in respect of which it had been made would no longer be in-force. Conversely, if the renewed policy is deemed a continuation of the existing policy, the nomination attaching to it would likewise continue to remain valid.

10 Nominations made outside Singapore

10.1 Some respondents wanted to know whether nominations can be made outside Singapore, and if so, whether any additional restrictions would be imposed on the making of such nominations.

MAS' Response

10.2 The nomination framework does not impose any prohibition or additional restrictions on the making of nominations outside of Singapore. However, only policies issued by a Singapore-registered insurer and governed by Singapore law would be eligible for nomination under the framework.

MONETARY AUTHORITY OF SINGAPORE
18 September 2009