

CONSULTATION PAPER

P013 - 2010

September 2010

Proposed Amendments to the Insurance Act

MAS

Monetary Authority of Singapore

PREFACE

1 The Insurance Act (Cap 142) (“IA”) provides an integrated regulatory framework for persons engaging in insurance business and acting as insurance intermediaries in Singapore. As the landscape of the insurance market evolves and new supervisory and regulatory methods develop, MAS strives to continue maintaining the relevance of MAS’ regulatory regime for insurance activities, keeping it conducive to the development of the industry, whilst providing an adequate level of protection to policyholders.

2 As part of MAS’ on-going effort to improve its regulatory framework, MAS is proposing several amendments to the IA. We had put up some of the proposed changes in earlier rounds of consultation. This consultation covers a few other additional areas.

3 MAS invites interested parties to forward their views and comments on the proposals made in this consultation paper. Electronic submission is encouraged. Please submit your written comments by 8 October 2010 to:

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Monetary Authority of Singapore
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Singapore 079117

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4 Please note that all submissions received may be made public unless confidentiality is specifically requested for the whole or part of the submission.

1 CLASSIFICATION OF REINSURANCE OF LIABILITIES

1.1 In relation to the classification of the reinsurance of liabilities, section 2(2) of the IA states:

“For the purposes of this Act, the reinsurance of liabilities under insurance policies shall be treated as insurance business of the class and type to which the policies would have belonged if they had been issued by the reinsurer or authorised reinsurer.”

1.2 The policy intent of section 2(2) of the IA is for the registered reinsurer or authorised reinsurer to classify the reinsurance of liabilities according to the nature of the risk exposure assumed by the reinsurer, regardless of how the ceding insurer may have classified the policies. As an illustration, a life direct insurer A issues life policies with personal accident (“PA”) coverage and reinsures only the PA risks to reinsurer B on an annual renewal basis. Insurer A classifies the life policies with PA coverage under life business. On the other hand, reinsurer B may classify such PA risks as general insurance business and reflect it in the statutory returns as “Personal Accident” line of business for Singapore policies or “Casualty & Others” line of business for offshore policies accordingly.

1.3 With the intent of improving the clarity of this provision, MAS proposes to replace this section with the following:

“For the purposes of this Act, the reinsurance of liabilities under insurance policies shall be treated by the registered reinsurer or authorised reinsurer as insurance business of the class and type according to the nature of the risk exposure assumed by that registered reinsurer or authorised reinsurer.”

2 STATUTORY DEPOSIT REQUIREMENT

2.1 Under section 14 of the IA, registered insurers are required to maintain a statutory deposit of \$500,000 for each class of insurance business¹ that the insurer has been registered to carry on. The deposit in respect of any class of insurance business has to be retained until:

- a) The insurer ceases to be registered in respect of that class of business;

¹ The two classes of business defined in the IA are life business and general business.

- b) The deposit is required in the winding up of the affairs of the insurer; or
- c) MAS is satisfied that reasonable provision has been or will be made for any outstanding insurance liability even if the insurer's registration is cancelled.

2.2 The statutory deposit requirement was first established in the IA when it was enacted in 1963 but with a quantum of \$300,000. The deposit was intended to provide some security for policyholders if an insurer were to be wound up and to act as an additional buffer to defray costs and expenses of winding up, including remuneration of the liquidator and costs of any audit carried out.

2.3 With the review and impending establishment of the Policy Owner's Protection Fund ("PPF"), policyholders who are covered by PPF² would be accorded a sufficient level of protection and would render the statutory deposit unnecessary. In addition, insurers are required to maintain capital that commensurate with their risk profile under the Risk Based Capital framework. This is more effective than a fixed statutory deposit providing some security for policyholders.

2.4 MAS' proposed approach will also be aligned with current practices in the other jurisdictions, including Australia, Canada and United Kingdom. As such, MAS proposes to abolish the requirement for registered insurers to lodge statutory deposits of \$500,000 with MAS.

² The life insurance PPF scheme will cover 100% of all life policies' guaranteed benefits and accident & health ("A&H") policies. With the exception of annuities, disability income, long-term care and medical expense insurance policies, all other protected policies will be subject to an absolute cap of \$500,000 for sum assured and \$100,000 for surrender value. The commuted value of the guaranteed benefits payable under the annuities (for death, surrender or annuity payments) will be subject to a separate cap of \$100,000. On the other hand, the general insurance PPF scheme will cover 100% of amount of liabilities arising from Singapore policies of the lines of business listed below::

- (a) Motor third party liability injury insurance;
- (b) Work Injury Compensation Act (Cap 354) liability insurance
- (c) Personal motor insurance;
- (d) Individual and group A&H insurance;
- (e) Personal property (structure and contents) insurance;
- (f) Foreign domestic maid insurance; and
- (g) Personal travel insurance

3 SUPERVISORY COOPERATION AND EXCHANGE OF INFORMATION BETWEEN MAS AND FOREIGN REGULATORS

3.1 The International Association of Insurance Supervisors' ("IAIS") Insurance Core Principle 17 on group-wide supervision emphasises the importance of enhancing supervision of cross-border entities and promotes supervisory cooperation among insurance regulators. As such, MAS will be amending the IA to formalise its powers to engage in supervisory cooperation and exchange of information with foreign regulators. The proposed amendments will be aligned with the existing approach and legal powers in respect of MAS' supervision of other financial sectors.

Provision of Supervisory Information to Home Regulators

3.2 Under section 40(1) of the IA, MAS may inspect the books of a registered insurer. Further, section 40(4) of the IA stipulates the circumstances under which MAS may disclose information obtained through these inspections. Presently, this does not explicitly include sharing of MAS' inspection report with the registered insurer's home regulator for example. However in practice, MAS would notify the registered insurer prior to sending a copy of the inspection report to its home regulator, and there have been no objections expressed to this thus far.

3.3 MAS proposes to remove section 40(4) to give MAS greater flexibility to share information obtained through inspections. With the removal of section 40(4), MAS will rely on the common law positions where disclosures of confidential information can be made if they are for the purpose of the performance of public duty or enabling such performance.

Inspection by MAS of Overseas Branches and Subsidiaries of Locally-Incorporated Insurers

3.4 At present, there is no provision in the IA with respect to MAS' conducting inspections on the overseas branches and subsidiaries of locally-incorporated insurers. In cases where MAS had inspected such branches/subsidiaries, MAS had written to the branch/subsidiary's local regulator for their consent, and informed the locally-incorporated insurer as well as the branch/subsidiary.

3.5 The IA will be amended to give MAS the explicit powers to inspect the branches and subsidiaries of locally-incorporated insurers.

Confidentiality Requirements on MAS Inspection Reports

3.6 Currently, MAS has incorporated a confidentiality clause in all its inspection reports to disallow the recipients to disclose the inspection reports to any other person except the auditor approved under section 36 of the IA. However, there are no provisions in the IA relating to this confidentiality requirement.

3.7 MAS will impose confidentiality requirements on the recipients of MAS' inspection reports in the IA.

Inspection by Foreign Home Regulators

3.8 Foreign home regulators usually seek MAS' permission before conducting an inspection on a registered insurer in Singapore. However, there is currently no provision in the IA requiring foreign home regulators to do so.

3.9 MAS will amend the IA to provide for explicit powers to require foreign home regulators to seek MAS' prior written approval to conduct inspections on registered insurers in Singapore, and to allow MAS to impose conditions on the foreign home regulators in relation to such inspections.

4 OWNERSHIP AND CONTROL OF INSURERS INCORPORATED IN SINGAPORE

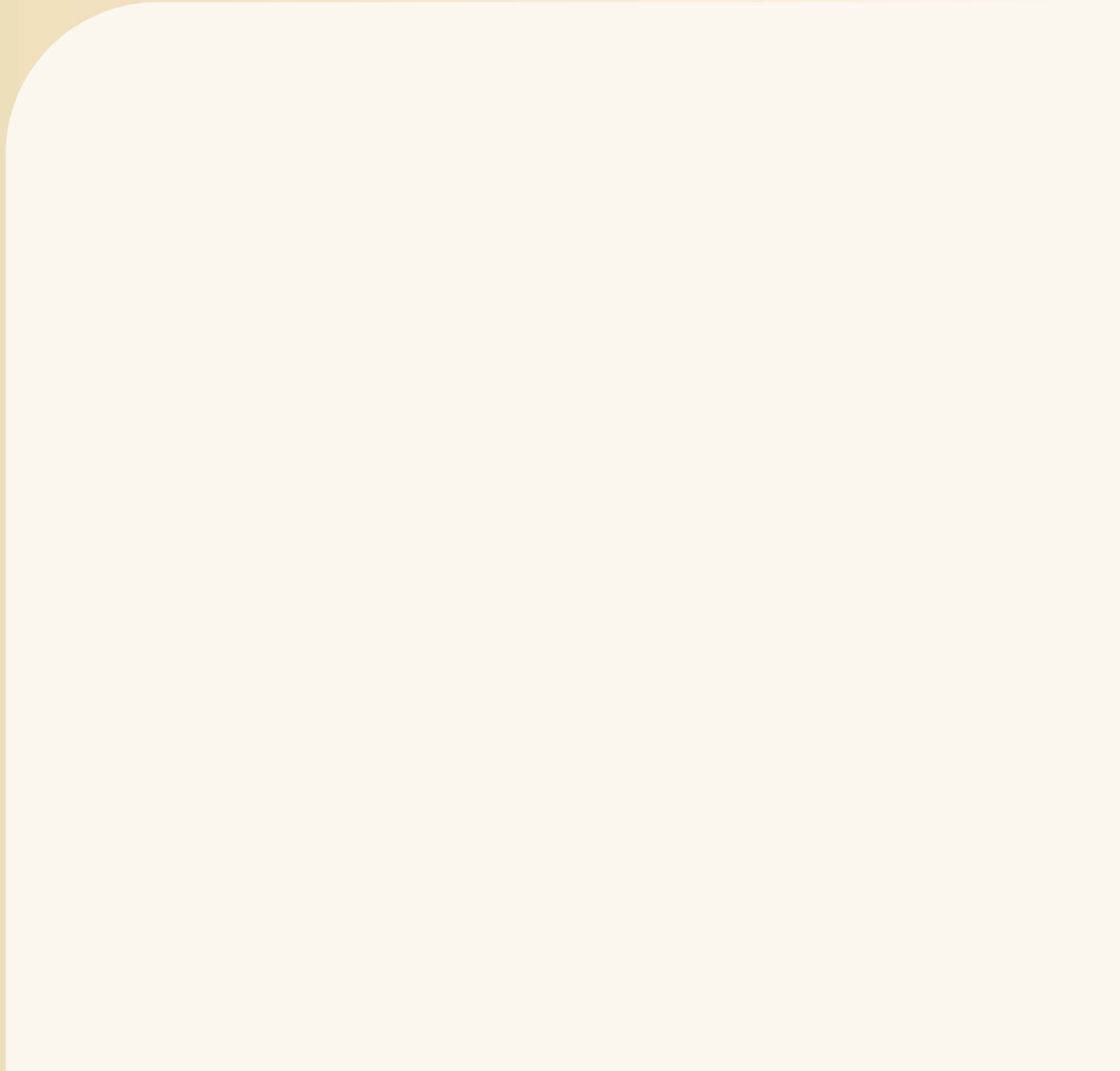
4.1 Sections 27 to 30 of the IA relate to the ownership and control of insurers incorporated in Singapore. Several misalignments in these provisions become apparent when they are compared to the IAIS Insurance Core Principles relating to sound regulations of ownership and control of insurers. The misalignments include the lack of requirements for substantial shareholders and controllers of an insurer to be fit and proper, and the lack of explicit powers to remove existing substantial shareholders and controllers when they are no longer fit and proper.

4.2 There is also a lack of explicit powers to attach conditions to approvals of substantial shareholding and control. In addition, the IA only refers to entering into

agreements or arrangements that would result in substantial shareholding and control. As such, it is unable to address cases where persons become substantial shareholders and controllers passively (e.g. as a result of a shares buy-back exercise).

4.3 To address the above, MAS proposes to amend the IA:

- a) To impose requirements for substantial shareholders and controllers of an insurer to be fit and proper;
- b) To give MAS the explicit powers to remove existing substantial shareholders and controllers when they are no longer fit and proper;
- c) To give MAS the explicit powers to attach conditions to approvals of substantial shareholding and control; and
- d) To also require approvals to be sought for becoming substantial shareholders or controllers of an insurer, instead of only for entering into agreements or arrangements that would result in substantial shareholding and control.



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