



RESPONSE TO FEEDBACK RECEIVED – PUBLIC CONSULTATION ON THE PROPOSED AMENDMENTS TO THE INSURANCE ACT

1 Introduction

1.1 On 8 September 2010, the Monetary Authority of Singapore (“MAS”) issued a consultation paper on the proposed amendments to the Insurance Act (“IA”). The proposed amendments are part of MAS’ on-going effort to improve its regulatory framework.

1.2 The consultation period closed on 8 October 2010, and MAS would like to thank all respondents for their contributions. The list of respondents is in Appendix A.

1.3 MAS have considered the feedback received, and will incorporate them where it has agreed with the feedback. Comments that are of wider interest, together with MAS’ responses, are set out below.

2 Supervisory Cooperation and Exchange of Information Between MAS and Foreign Regulators

Provision of Supervisory Information to Home Regulators

2.1 Three respondents opined that MAS should retain section 40(4) of the IA and expand the section to include circumstances such as sharing of information obtained through inspection with the registered insurers’ home regulator.

2.2 Three respondents requested MAS to continue the current practice of notifying the insurer prior to sending a copy of the inspection report to its home regulator.

MAS' Response

2.3 MAS is not able to come up with an exhaustive list of circumstances under which MAS may disclose information obtained through inspections, especially in view of the dynamic developments in supervisory standards and regulatory requirements worldwide. The removal of section 40(4) would give MAS greater flexibility to respond to regulatory developments. Moreover, MAS is still bound by the law to disclose such information only for the purpose of performance of public duty.

2.4 MAS would like to clarify that after removing section 40(4) of the IA, MAS will continue to notify the insurer before sending a copy of the inspection report to its home regulator.

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

2.5 Six respondents commented that the local regulator of the overseas branches and subsidiaries may still require MAS to seek their approval before conducting inspection. They opined that MAS should continue to inform the insurers prior to the inspection.

MAS' Response

2.6 The proposed amendment seeks to formalise in the IA the power for MAS to inspect the overseas branches and subsidiaries of the locally-incorporated insurers. MAS will continue to seek the branch or subsidiary's local regulator's consent and inform the locally-incorporated insurer and its branch or subsidiary about the inspection.

Confidentiality Requirements on MAS Inspection Reports

2.7 Five respondents commented that the insurers may need to share the inspection report with certain related entities as well as external parties, such as consultant and actuary. They enquired on the circumstances under which sharing of inspection reports are permitted.

MAS' Response

2.8 The new provision in the IA will be clear on who are the parties that the insurer can disclose the inspection report to without having to seek the prior approval of MAS. We intend to include auditors, officers and the Board of the registered insurer, for example, where the disclosure is in connection with the performance of the duties of these persons in that registered insurer.

3 Ownership and Control of Insurers Incorporated in Singapore

Fit and Proper Criteria

3.1 Six respondents sought clarification on the fit and proper requirement for substantial shareholders and controllers of an insurer. One respondent also enquired on who will have the ultimate responsibility to establish that the substantial shareholders and controllers are fit and proper.

MAS' Response

3.2 MAS Guidelines on Fit and Proper FSG-G01, September 2007¹ set out the fit and proper criteria applicable to substantial shareholders and controllers of an insurer. MAS will broadly take into account the honesty, integrity and reputation; competence and capability; and financial soundness of a substantial shareholder or controller, in considering whether it or he is fit and proper. The onus is on each substantial shareholder or controller to establish that it or he is and continues to be fit and proper.

Explicit powers to remove existing substantial shareholders and controllers when they are no longer fit and proper

¹ Last revised on 26 November 2010

3.3 With respect to the removal of existing substantial shareholders and controllers when they are no longer fit and proper, a few respondents sought clarification on the operational process when a shareholder or controller is being removed.

MAS' Response

3.4 When a notice of removal is being exercised, MAS may issue a direction to require the substantial shareholder or controller to take necessary steps to ensure the transfer or disposal of the shares held by it or him. The removal may not be immediate depending on circumstances.

3.5 To clarify, MAS will provide specific provisions in the IA to allow substantial shareholders or controllers to make a written representation, within a specified period, to MAS if it or he is considered to be no longer fit and proper.

Requirement to seek MAS' approval for becoming substantial shareholder or controller

3.6 One respondent highlighted that a shareholder may become a substantial shareholder by accumulating a listed insurer's share through trading on the Exchange and is unaware of the requirement to seek MAS' approval.

MAS' Response

3.7 Information on the requirements under the IA is available in the public domain. The onus is on the shareholder to be aware of the requirements and to seek MAS' approval before it becomes a substantial shareholder or controller of a locally incorporated insurer. MAS would also like to clarify that the requirement to seek its approval for becoming substantial shareholder and controller will start to apply only after the amendments to the IA take effect.

MONETARY AUTHORITY OF SINGAPORE

11 February 2011

Appendix A

List of Respondents to the Public Consultation Paper on the Proposed Amendments to the Insurance Act

1. ACE Insurance Limited
2. Allianz SE Reinsurance Branch Asia Pacific
3. American Home Assurance Company, Singapore Branch
4. Christopher Chen Chao-hung
5. FM Global – Singapore Office
6. Liberty Insurance Pte Ltd
7. Life Insurance Association Singapore²
8. SHC Capital Limited
9. Singapore Re
10. Towers Watson
11. XL Insurance Co Ltd Singapore Branch

² The Life Insurance Association submitted comments on behalf of 5 insurers namely, American International Assurance Company Limited, Aviva Ltd, HSBC Insurance (Singapore) Pte Ltd, Tokio Marine Life Insurance Singapore Ltd and Zurich International Life Limited (S'pore Branch).