

Guideline No: ID 1/09

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GUIDELINES ON IMPLEMENTATION OF INSURANCE FUND CONCEPT

1 These Guidelines apply to any insurer registered under section 8 of the Insurance Act (Cap. 142) (“the Act”), except captive insurers, marine mutual insurers and financial guarantee insurers.

Introduction

2 These Guidelines set out the specific operational safeguards that are necessary for the establishment of the insurance funds and the segregation of the assets of registered insurers in Singapore (“the fund concept”) as required under the Act. The adoption of these specific operational safeguards enhances transparency, and facilitates effective and consistent implementation of the fund concept.

3 To secure a minimum level of asset protection for insurance policyholders, the Act mandates that the assets of each class of insurance business of an insurer be segregated from the assets of other classes of insurance business and those of shareholders. To do this, insurers are required to set up a separate fund for each class of insurance business and ensure that all assets, receipts, liabilities and expenses are properly attributed to the relevant fund. In the event of liquidation, the assets of each insurance fund are to be used to meet that fund’s liabilities to policyholders before meeting the liabilities of the other insurance funds or the shareholders’ fund.

4 The intention of the fund concept is to ensure that assets of each insurance fund are maintained for the purpose of meeting policy liabilities of that particular fund.

5 These Guidelines provide general guidance and are not intended to be comprehensive nor replace or override any legislative provisions or written directions issued under the Act in respect of requirements to implement the fund concept. They should be read in conjunction with the provisions of the Act, the subsidiary legislation, as well as written directions, notices, circulars and other guidelines that the Authority may issue from time to time pursuant to the Act and subsidiary legislation.

6 These Guidelines take effect from 17 March 2009.

Definitions

7 For the purposes of these Guidelines:

"corporation" means any body corporate formed or incorporated or existing in Singapore or outside of Singapore, and includes any foreign company.

"foreign company" means -

- (a) any company, corporation, society or association or other body incorporated outside Singapore; or
- (b) an unincorporated society, association or other body which under the law of its place of origin may sue or be sued, or hold property in the name of the secretary or other officer of the body or association duly appointed for that purpose and which does not have its head office or principal place of business in Singapore.

"related party", in relation to an insurer, includes its head office, any of its branches, or any of its related corporations. Where a corporation -

- (a) is the holding company of another corporation;
- (b) is a subsidiary of another corporation; or
- (c) is a subsidiary of the holding company of another corporation,

that first-mentioned corporation and that other corporation shall be deemed to be related to each other.

In the case of a corporation which has a board of directors and a share capital, the definition of "subsidiary" and "holding company" shall be as set out at section 5 of the Companies Act (Cap 50).

In the case of any other corporation, a corporation shall be a "subsidiary" of another corporation if the latter corporation is in a position to determine or govern the financial and operating policies of the first-mentioned corporation; and a corporation shall be a "holding company" of another corporation if the first-mentioned corporation is in a position to determine or govern the financial and operating policies of the latter corporation.

8 The expressions used in these Guidelines shall, except where expressly defined in these Guidelines, have the same meanings as in the Act and subsidiary legislation made thereunder.

Relevance of the Guidelines

9 As the effectiveness of the fund concept is highly contingent upon the way it is implemented by individual insurers, it is important that insurers in Singapore adopt at least a minimum level of operational safeguards so that in the event of insolvency or winding-up, each insurance fund has the highest probability of securing its assets to meet its liabilities towards policyholders.

10 To facilitate effective and consistent implementation of this fund concept and for better transparency, the Authority has set out in these Guidelines the operational safeguards that insurers in Singapore should meet when implementing the fund concept. These operational safeguards, set out in the following paragraphs, aim to clearly demonstrate that the assets in the insurance funds are held for the benefit of policyholders, and to provide a level of certainty that such assets will be available to meet the insurer's liabilities towards its policyholders at all times.

Operational Safeguards

Keeping of separate accounting books

11 An insurer should keep proper records and be able to separately account for the assets and liabilities of its various insurance funds at all times. Such proper accounting is fundamental to the identification of the assets belonging to each insurance fund and the insurance policy liabilities in the fund that the assets are backing.

Maintenance of separate custodian account in the name of the insurer, to hold the assets of insurance funds

12 Assets of the insurance funds should be maintained in a separate custodian account in the name of the registered insurer in Singapore. In the case of an insurer which operates as a branch in Singapore ("Singapore branch"), assets recorded in the books of the Singapore branch should -

- (a) in the case where the assets are held by the Head Office's Custodian, at minimum be maintained in a sub-account of the Head Office's ("HO") custodian accounts, and these sub-accounts should be clearly identified as belonging to the Singapore branch; and
- (b) in other cases, be maintained in an account identified specifically as an account of the Singapore branch.

In all cases, there should be further delineation in the custody arrangement between the assets of each insurance fund, either through sub-accounts or otherwise

13 As assets such as fixed deposits, policy loans, accounts receivables, land and buildings and fixed assets are normally held directly by the insurer and not separately custodised by a third-party custodian, it is not necessary to subject them to this operational safeguard. However, such assets are still required to be held in the name of the respective insurance funds of the insurer, except for the case of assets which are held for separate insurance funds but cannot be practically sub-divided, such as property and other fixed assets.

Maintenance of separate bank accounts in the name of the respective insurance fund

14 Cash holding of each insurance fund should be maintained in a bank account in the name of the insurance fund. For Singapore branches, the bank account should also be identified specifically as an account of the Singapore branch. Any fixed deposit account should also be maintained separately in the name of the insurance fund.

15 In the case of uninvested cash holdings, such as premiums collected from policyholders before they are invested, such monies are allowed to be held in a common bank account of the insurer for the duration that they are uninvested. However, the Authority expects the insurer to subsequently transfer these funds into the appropriate bank accounts (if invested in cash or fixed deposits) or custodian sub-accounts (if invested in other assets) as soon as practicable. The insurer should have clear operational policies and procedures on the transfer of such amounts out of the common bank account, and these should include stating the maximum duration for such amounts to remain in the common bank account.

Appointment of a Singapore signatory for asset withdrawal from the bank account(s) and custodian account or sub-accounts set up for the Singapore insurer

16 Once the assets of the insurer are separately identified and maintained in separate bank account(s) and custodian account or sub-accounts, each insurer should appoint the Principal Officer, or a member of its senior management team in Singapore, as a required signatory for the withdrawal of any assets from the said bank account(s) and custodian account or sub-accounts.

17 To clarify, the signatory safeguard in paragraph 16 would not apply to payments or disbursements in the normal course of insurance business such as policyholder claims, commissions or staff salaries, and payments governed by service agreements, where necessary approvals for such payments or disbursements, up to a predefined limit, have been obtained from at least a member of the Senior Management team in Singapore and in accordance with the insurer's internal control procedures.

18 Examples for which the Singapore signatory safeguard would apply include payments or disbursements from the insurance funds above the predefined limits stated in paragraph 17, and transfers out of the insurance funds to related parties, arising from allocations from the participating fund or in respect of surplus arising from the funds pursuant to Section 17 of the Act.

19 Insurers should inform MAS if the Singapore signatory changes.

Sound internal processes to ensure proper allocation of all receipts and expenses

20 Insurers should have sound internal processes in place to ensure that all receipts and expenses of each insurance fund are properly attributable to the insurance funds.