

CONSULTATION PAPER

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# Draft Insurance (Amendment) Bill 2003

MAS

Monetary Authority of Singapore

## **BACKGROUND**

1 The Insurance Act (“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 our regulatory regime for insurance activities, keeping it conducive to the development of the industry, whilst providing an adequate level of protection to policyholders.

## **PROPOSED LEGISLATIVE AMENDMENTS TO THE IA**

2 As part of its on-going effort to improve its regulatory framework, the risk-based capital framework and the health insurance framework, which have previously undergone consultations, will be introduced in this round of amendments to the IA. To strengthen MAS’ supervision of reinsurance services delivered in Singapore, an authorisation framework to govern the cross-border supply of reinsurance will also be established. In addition, miscellaneous amendments are made for the administration of the Act.

## **RISK-BASED CAPITAL FRAMEWORK**

3 The existing statutory valuation and solvency framework sought to present a conservative picture of insurance companies’ financial strength through the use of prescribed valuation methods and bases. Greater volatility of assets, increased diversity of insurance risks, and keener competition from other financial institutions in this new environment has however resulted in the need for a more transparent and risk-focused framework that better reflects the true financial conditions of insurance companies.

4 MAS has therefore proposed the adoption of a risk-based capital framework, which has been formulated in close consultation with insurance practitioners and representatives from the actuarial and accounting professions.

5 The proposed framework is developed based on the following key principles, having regard to good practices in developed countries and some

emerging international standards. First, the framework should be risk-based, that is, it reflects relevant risks faced by the insurance business. Second, capital requirements should be consistent with the bases for valuing assets and liabilities so that capital will serve as an effective buffer to absorb fluctuations in asset and liability values. Third, capital requirements for insurers should, as far as possible, be consistent with those of other financial institutions so as to minimize capital arbitrage in an increasingly integrated financial landscape. Lastly, the framework should be transparent, not unduly complex and enable comparability across companies.

6 The new framework will serve to provide clear information on the financial strength of insurance companies and facilitate early and progressive intervention by MAS in supervising the financial soundness of insurance companies.

## **HEALTH INSURANCE REGULATORY FRAMEWORK**

7 There are currently no provisions in the IA specifically applicable to health insurance, although there are provisions under the current legislation for general insurance which apply to health insurance. These provisions are suitable for the regulation of short-term, yearly-renewable health insurance products. Recognizing the market's needs for long-term health insurance products which includes features that generates long term obligations for insurers, the legislation is being amended for the protection of policyholders to help ensure that insurers are better able to meet their health insurance financial obligations.

8 Health insurance products with non-cancellable and pre-funding features represent long-term financial commitments made by consumers. It is therefore important to provide adequate and clear information disclosure to consumers so that they may make informed decisions on the financial commitments that they are undertaking. In addition, persons employed in distribution channels should be competent and the advice provided on health insurance should be on a sound basis.

9 The amendments to IA define "accident and health benefits" and further differentiate such benefits into those that are long-term and short-term in nature. Long-term contracts shall be underwritten by life insurers only while short-term contracts may be underwritten by all insurers. Market conduct

requirements for the distribution of any policy that contains health insurance benefits will be subsequently set out in the Regulations. As such market conduct requirement applies also to health insurance benefits that are packaged with life insurance policies, efforts will be made to minimise potential overlaps with the provisions of the Financial Advisers Act.

## **AUTHORISATION FRAMEWORK FOR THE CROSS-BORDER SUPPLY OF REINSURANCE**

10 A service provider is said to have supplied the service to Singapore on a cross-border basis when the provision of services to Singapore is done without establishing a physical presence here. Cross-border supply of reinsurance services to Singapore is currently not prohibited.

11 The proposed authorisation framework will address the Authority's prudential concerns and enhance the effectiveness of the Authority's supervisory oversight over transactions between registered entities and unregistered reinsurers. Against an increasingly volatile operating environment and the lack of a global regulatory system for reinsurers, the enhanced supervisory regime is appropriate and timely.

12 The authorisation framework for cross-border supply of reinsurance, which sets the minimum requirements for cross-border reinsurers, will enable MAS to respond to prudential concerns. The regulatory requirements will take into account the lack of physical presence of such cross-border reinsurers in Singapore. The implication of cross-border transactions on the risk-based capital framework will be addressed subsequently through regulations. The effects are that insurers who choose to deal with cross-border reinsurers should be more vigilant and take into account relevant risks involved when designing and implementing their reinsurance protection programmes.

## **INSURANCE (AMENDMENT) BILL 2003**

13 The draft Insurance (Amendment) Bill 03 ("I(A) Bill 03") (attached at **Annex 1**) comprises the changes enabling the establishment of the three new regulatory frameworks aforesaid, with minor policy changes and technical modifications to clarify MAS' administration of the IA. MAS has also proposed

amendments to refine the language of the IA, and improve the consistency of requirements in the IA with those in other legislations administered by MAS. A summary of the proposed amendments contained in the draft I(A) Bill 03 is attached at **Annex 2**.

14 Further consultations will be conducted on the details of the three new frameworks at a later date when the specific requirements are finalized.

MAS seeks your views on the proposed amendments to the Insurance Act.

## REQUEST FOR COMMENTS

15 MAS invites interested parties to forward their views and comments on the draft IA(A) Bill 03. Written comments may be submitted by 27 June 2003 to:

Insurance Supervision Department  
Monetary Authority of Singapore  
10 Shenton Way  
MAS Building  
Singapore 079117

Email: [ia\\_amdt@mas.gov.sg](mailto:ia_amdt@mas.gov.sg)  
Fax: (65) 6229-9694

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

## **Insurance (Amendment) Bill**

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**Bill No. /2003.**

*Read the first time on 2003.*

**DISCLAIMER:** This version of the Bill is in draft form and subject to change. It is also subject to review by the Attorney-General's Chambers.

## A BILL

*i n t i t u l e d*

An Act to amend the Insurance Act (Chapter 142 of the 2002 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

**Short title and commencement**

1. This Act may be cited as the Insurance (Amendment) Act 2003 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

**Amendment of section 1A**

2. Section 1A of the Insurance Act is amended —

(a) by deleting the words “related companies” in the definition of “captive insurer” and substituting the words “related corporations”;

(b) by inserting, immediately after the definition of “captive insurer”, the following definition:

““corporation” has the same meaning as in section 4(1) of the Companies Act (Cap. 50);”;

(c) by inserting, immediately after the definition of “exempt financial adviser”, the following definition:

““financial advisory service” has the same meaning as in section 2(1) of the Financial Advisers Act (Cap. 110);” and

(d) by inserting, immediately after the definition of “reinsurer”, the following definition:

““related corporation” has the same meaning as in section 4(1) of the Companies Act (Cap. 50)”.

### **Amendment of section 2**

3. Section 2(1) of the Insurance Act is amended —

(a) by deleting paragraph (a) of subsection (1) and substituting the following paragraph:

“(a) life business, which means all insurance business concerned with life policies, long-term accident and health policies, or both; and”;

(b) by deleting the words “include, but include only,” in subsection (5) and substituting the word “means”.

### **New section 2A**

4. The Insurance Act is amended by inserting, immediately after section 2, the following section:

#### **“Amendment of Schedule**

**2A.**—(1) The Minister may from time to time, by order published in the *Gazette*, amend the Schedule.

(2) The Minister may, in any order made under subsection (1), make such incidental, consequential or supplementary provisions as may be necessary or expedient.

(3) Any order made under subsection (1) shall be presented to Parliament as soon as possible after publication in the *Gazette*.”.

### **Amendment of section 3**

5. Section 3 of the Insurance Act is amended —

(a) by inserting, immediately after the word “registered” in the section heading, the words “or authorised”;

(b) by inserting, immediately after subsection (1), the following subsections:

“(1A) No insurer (other than a registered insurer) carrying on reinsurance business outside Singapore shall carry on the business of providing reinsurance, as principal and as an insurer, to persons in Singapore unless it is authorised by the Authority under section 8A to do so.



(1B) Any person registered by the Authority under this Act to carry on insurance business as an insurer in respect of life business may carry on general business relating to short-term accident and health policies while being so registered, and —

- (a) the person need not be registered as an insurer in respect of general business to carry on general business relating to short-term accident and health policies; and
  - (b) such general insurance business relating to short-term accident and health policies carried on by the person shall be treated as part of the person’s life business.”; and
- (c) by inserting, immediately after subsection (2), the following subsection:

“(2A) Any person who contravenes subsection (1A) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$75,000 and, in the case of a continuing offence, to a further fine of \$7,500 for every day during which the offence continues after conviction.”.

### **Repeal and re-enactment of section 4**

6. Section 4 of the Insurance Act is repealed and the following section substituted therefor:

#### **Holding out as registered insurer**

4.—(1) Where any person holds himself out, or purports to hold himself out, to be a registered insurer in respect of life business or general business, or both, when that person is not registered under this Act in respect of that business —

- (a) that person shall be guilty of an offence; and
- (b) where that person is a company or firm, every director, manager or officer of the company and every partner or officer of the firm shall, unless he proves that the holding out by the company or firm was made without his knowledge or consent, be guilty of an offence.

(2) Any person who is guilty of an offence under subsection (1) shall be liable on conviction to a fine not exceeding \$75,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$7,500 for every day during which the offence continues after conviction.”.

### **Amendment of section 5**

7. Section 5 of the Insurance Act is amended —

- (a) by deleting the words “, without the consent of the Authority” in subsection (1);
- (b) by inserting, immediately after subsection (1), the following subsection:

“(1A) No person, other than —

- (a) a registered insurance broker;
- (b) a person exempt from registration as an insurance broker under section 35ZN who has notified the Authority, in such manner as may be prescribed under section 64(1), of his commencement of insurance broking business;
- (c) a licensed financial adviser or an exempt financial adviser, which provides any financial advisory service in respect of life policies; or
- (d) an insurance agent operating under an agreement in writing pursuant to section 35M,

shall —

- (i) use the word “insurance” or any of its derivatives in any language, or any other word indicating that that person carries on business as an insurance intermediary in the name, description or title under which it carries on business in Singapore; or
- (ii) make any representation to such effect in any bill head, letter paper, notice, advertisement or in any other manner.”; and

- (c) by deleting the words “subsection (1)” in subsection (3) and substituting the words “subsections (1) and (1A).”.

### **New section 8A**

**8.** The Insurance Act is amended by inserting, immediately after section 8, the following section:

#### **“Authorisation by Authority**

**8A.—(1)** A person carrying on reinsurance business outside Singapore may apply to the Authority to be authorised for the purposes of this Act in such form and manner as the Authority may prescribe.

(2) The Authority may require an applicant to furnish it with such information or documents as it considers necessary in relation to the application.

(3) The Authority may authorise an applicant with or without conditions, or refuse to authorise the applicant.

(4) The Authority shall cause notice of any authorisation or change in the name of an insurer authorised under this section to be published in the *Gazette*.”.

### **Amendment of section 10**

**9.** Section 10 of the Insurance Act is amended —

(a) by inserting, immediately after the word “registration” in the section heading and in subsection (1), the words “or authorisation”; and

(b) by deleting the words “or section 8(2)” in subsection (2) and substituting the words “or section 8(2) or 8A(3)”.

### **New section 12A**

**10.** The Insurance Act is amended by inserting, immediately after section 12, the following section:

**“Withdrawal of authorisation**

**12A.**—(1) The Authority may by order, at the request of the insurer or on any of the grounds set out in subsection (2), withdraw the authorisation of any insurer.

(2) The grounds referred to in subsection (1) are —

- (a) that the insurer has not commenced business in Singapore within 12 months of being authorised;
- (b) that the insurer has ceased to carry on the business of providing reinsurance to persons in Singapore;
- (c) that it appears to the Authority that the insurer has failed to satisfy an obligation to which it is subject by virtue of this Act;
- (d) that the insurer proposes to make, or has made, whether in Singapore or elsewhere, any composition or arrangement with its creditors or has gone into liquidation or has been wound up or otherwise dissolved;
- (e) that there is a change of the person having control of the insurer and —
  - (i) the new person having control of the insurer is not a fit and proper person; or
  - (ii) the Authority is not satisfied as to the financial standing of the insurer after the change;
- (f) that the insurer is carrying on its business in a manner likely to be detrimental to the interests of its policy owners;
- (g) that the insurer is unable to meet its obligations, whether in Singapore or elsewhere;
- (h) that the insurer has contravened any of the provisions of this Act or any condition imposed or direction given by the Authority under this Act;
- (i) that any of the officers of the insurer holding a managerial or executive position has been convicted of any offence under this Act;

- (j) that the insurer has furnished false, misleading or inaccurate information, or has concealed or failed to disclose material facts, in its application for authorisation; or
- (k) that it is in the public interest to withdraw the authorisation.

(3) Before withdrawing the authorisation of an insurer under this section otherwise than at the request of the insurer, the Authority shall —

- (a) give the insurer notice in writing of its intention to do so; and
  - (b) in the notice referred to in paragraph (a), call upon the insurer to show cause within such time as may be specified in the notice why its authorisation should not be withdrawn.
- (4) If the insurer referred to in subsection (3) —
- (a) fails to show cause within the time specified in the notice under that subsection or within such extended period of time as the Authority may allow; or
  - (b) fails to show sufficient cause,

the Authority shall give notice in writing to the insurer of the date on which the withdrawal of authorisation is to take effect.

(5) Any insurer which is aggrieved by a decision of the Authority under subsection (1) to withdraw its authorisation as an insurer otherwise than at its request may, within 30 days of the decision of the Authority, appeal to the Minister in writing in accordance with Part IIIB.

(6) Notwithstanding the withdrawal of authorisation of an insurer under this section, so long as the insurer remains under any liability in respect of insurance policies belong to the class of insurance business to which the authorisation relates, the insurer shall take such action as it considers necessary or as may be required by the Authority to ensure that reasonable provision has been or will be made for that liability and that adequate arrangements exist or will exist for the payment of premiums and claims on those policies.

(7) In this section;

- (a) a person shall be regarded as having control of an authorised insurer if the person alone or acting together with any associate or associates would--
  - (i) acquire, or hold directly or indirectly, 50% or more of the issued share capital of the insurer; or
  - (ii) control, directly or indirectly 50% or more of the voting power of the insurer
- (b) a reference to voting power in an authorised insurer is a reference to the total number of votes that might be cast in the general meeting of the insurer; and
- (c) the following persons are associate of a person;
  - (i) the person's spouse or parent or remoter lineal ancestor, son, daughter or remoter issue, brother or sister of the person;
  - (ii) any partner of the person
  - (iii) any corporation of which the person is an officer;
  - (iv) where the person is a corporation, any officer of the corporation;
  - (v) any employee or employer of the person;
  - (vi) any officer of any corporation of which the person is an officer;
  - (vii) any employee of a natural person of whom the person is an employee;
  - (viii) any corporation whose directors are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the person or, where the person is a corporation, of the directors of the person;
  - (ix) any corporation in accordance with the directions, instructions or wishes of which, or of the directors of which, the person is accustomed or under an obligation, whether formal or informal, to act;

- (x) any corporation in which the person is in a position to control not less than 20% of the voting power in the corporation; and
- (xi) where the person is a corporation, a person who is in a position to control not less than 20% of the voting power in the corporation.”.

### **Amendment of section 13**

#### **11. Section 13 of the Insurance Act is amended —**

- (a) by inserting, immediately after the word “registration” in the section heading, the words “or withdrawal of authorisation”; and
- (b) by deleting subsection (1) and substituting the following subsection:

“(1) Where an order of cancellation under section 12 or an order of withdrawal under section 12A becomes effective —

- (a) the Authority shall publish a notice of the cancellation or withdrawal in the *Gazette*; and
- (b) the insurer shall, as from the date of cancellation or withdrawal —
  - (i) cease to carry on insurance business in Singapore of the class in respect of which its registration has been cancelled; or
  - (i) cease to provide reinsurance to Singapore in respect of which its authorisation has been withdrawn under this Act,

as the case may be, otherwise than by the collection or receipt of premiums on insurance policies belonging to that class or that reinsurance business effected before the date of cancellation of registration or withdrawal of authorisation, and section 3 shall not apply to the insurer in respect of the collection or receipt of those premiums.”.

## **Amendment of section 17**

### **12. Section 17 of the Insurance Act is amended —**

- (a) by inserting, immediately after subsection (1), the following subsection:

“(1A) A direct insurer registered to carry on life business shall, in addition to the insurance funds under subsection (1) and subject to such conditions as the Authority may impose, establish and maintain separate insurance funds —

(a) for its investment-linked policies; and

(b) for its non-investment-linked policies.”;

- (b) by deleting subsection (2) and substituting the following subsection:

“(2) Where a direct insurer registered to carry on life business maintains a separate insurance fund for its non-investment-linked policies and no part of the surplus of assets over liabilities from its non-participating policies is allocated by the insurer by way of bonus to its participating policies, the insurer shall, in addition to the funds maintained under subsection (1A) and subject to such conditions as the Authority may impose, establish and maintain in respect of its non-investment linked policies, a separate fund —

(a) for its participating policies; and

(b) for its non-participating policies.”;

- (c) by inserting, immediately after subsection (2), the following subsection:

“(2A) Notwithstanding subsection (1), any registered insurer carrying on general business pursuant to section 3(1B) is not required to establish and maintain a separate fund in respect of such general business, and the insurance funds established and maintained in respect of the insurer’s life business shall also be for such general business.”;

- (d) by deleting the words “subsections (1) and (2)” in subsection (3), and substituting the words “subsections (1), (1A) and (2)”;



(e) by deleting subsections (5) to (10) and substituting the following subsections:

“(5) For the purposes of subsection (4), the Authority may prescribe or specify in directions what constitutes —

- (a) receipts or income, or
- (b) liabilities and expenses,

of the insurer which are properly attributable to the business to which an insurance fund relates and the manner in which each item is to be determined or valued.

(6) In the case of an insurance fund which comprises wholly or partly of participating policies —

- (a) there shall be a surplus account, established and maintained in such manner as may be prescribed, as part of the insurance fund;
- (b) no part of the fund shall be allocated by way of bonus to those policies except —
  - (i) with the approval of the directors of the insurer, upon considering a written opinion from the actuary appointed under section 31 of the Act; and
  - (ii) where the making of such allocation does not contravene any restriction that may be prescribed or specified in directions for the purposes of this section;
- (c) no part of the fund shall be allocated to the surplus account except —
  - (i) with the approval of the directors of the insurer, upon considering a written opinion from the actuary appointed under section 31 of the Act;
  - (ii) where the making of such allocation does not contravene the fund solvency margin requirement under section 18;

- (iii) where the making of such allocation does not contravene any restriction that may be prescribed or specified in directions for the purposes of this section; and
- (iv) where the amount shall not exceed 1/9th of the amount allocated under paragraph (b).

(7) Notwithstanding subsection (6)(c), an insurer may make additional allocations to the surplus account of an insurance fund which comprises wholly or partly of participating policies for an amount and in a manner as prescribed or specified in directions by the Authority.

(8) An insurer may, where there is a surplus of assets over liabilities of an insurance fund, withdraw from the fund at any time, an amount not exceeding the surplus over any fund solvency requirement prescribed for that fund under section 18 if and only if:

- (a) there is no provision in any instrument or contract binding the insurer disallowing such a withdrawal; and
- (b) the insurer ascertains from any statement of accounts lodged with the Authority in accordance with this Act or by a revaluation of the assets and liabilities of that fund, that there is in fact such a surplus at the time of the withdrawal.

(9) On the making of any withdrawal in accordance with subsection (8), the surplus withdrawn from the fund shall, for the purposes of this section, be treated as reduced by the amount withdrawn.

(10) Notwithstanding subsection (8), in the case of an insurance fund which comprises wholly or partly of participating policies, withdrawal from the fund shall only be made from the surplus account.”; and

- (f) by deleting “(6),” in subsection (11)”.

### **Amendment of section 18**

**13.** Section 18 of the Insurance Act is amended —

- (a) by deleting the section heading and substituting the following section heading:

**“Fund solvency requirement and capital adequacy requirement”;**

- (b) by deleting subsection (1) and substituting the following subsection:

“(1) Every registered insurer shall satisfy —

- (a) such fund solvency requirements in respect of each insurance fund established by the insurer under this Act; and

- (b) such capital adequacy requirements,

as may be prescribed or specified in directions for the purposes of this section.”;

- (c) by deleting the words “margins of solvency ” in subsection (2)(a) and substituting the words “fund solvency requirements or capital adequacy requirements”; and

- (d) by deleting subsection (4) and substituting the following subsections:

“(4) The Authority may by notice in writing, if it considers appropriate in the particular circumstances of a registered insurer, having regard to the risks arising from the activities of the insurer and such other factors as the Authority considers relevant, direct that the registered insurer satisfy fund solvency requirements or capital adequacy requirements other than those that the insurer is required maintain under this section.

(5) Without prejudice to the generality of section 41, the failure of a registered insurer to comply with subsection (1) or (4) shall be sufficient to cause the Authority to be satisfied that the affairs of the insurer are being conducted in a manner likely to be detrimental to the public interest or the interest of

the policy owners and to issue such directions under section 41(1) as it may consider necessary.”.

#### **Amendment of section 21**

**14.** Section 21(5) of the Insurance Act is amended by deleting the words “margins of solvency” and substituting the words “capital adequacy requirements”.

#### **Amendment of section 24**

**15.** Section 24 of the Insurance Act is amended —

- (a) by inserting, immediately after the words “life policy” in the section heading, the words “and long-term accident and health policy”; and
- (b) by inserting, immediately after the words “life policy” wherever they appear in subsections (1), (3), (4) and (5), the words “or a long-term accident and health policy”.

#### **Amendment to section 35M**

**16.** Section 35M of the Insurance Act is amended by inserting, immediately after subsection (3), the following subsections:

“(3A) Subsection (1) shall not apply to —

- (a) a licensed financial adviser;
- (b) a person exempt from holding a financial adviser’s licence in respect of any financial advisory service under section 23(1)(a), (b), (d) and (e) of the Financial Adviser’s Act (Cap. 110);
- (c) a representative of a person referred to in paragraph (a) or (b);
- (d) a registered insurance broker; and
- (e) the broking staff of a registered insurance broker acting for and on behalf of the broker,

where they arrange, or hold themselves out as entitled to arrange, a contract of insurance in respect of life policies or accident and health policies, or both, as agent for a registered insurer.

(3B) Subsection (2) shall not apply to a registered insurer in relation to an insurance agent who is a person specified in subsection (3A).”.

#### **Amendment of section 35N**

**17.** Section 35N of the Insurance Act is amended —

- (a) by deleting the words “contracts of life insurance” in subsection (2)(a) and substituting the words “life policies, other than contracts for the reinsurance of liabilities under insurance policies”;
- (b) by inserting, immediately after the word “35T,” in subsection (3), the words “35TA,”; and
- (c) by inserting, immediately after the words “life policies” in subsection (3), the words “other than contracts for the reinsurance of liabilities under insurance policies.”.

#### **Amendment of section 35P**

**18.** Section 35P of the Insurance Act is amended —

- (a) by inserting, immediately after the words “the person” in subsection (1), the words “all material information, including”;
- (b) by deleting the word “and” at the end of subsection (1)(b);
- (c) by deleting the word full-stop at the end of subsection (1)(c) and substituting the word “; and”, and by inserting immediately thereafter the following subsection:

“(d) such other information as the Authority may prescribe.”; and

- (d) by inserting, immediately after subsection (2), the following subsection:

“(2A) Any insurance intermediary who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 12 months or to both.”.

**New section 35TA**

**19.** The Insurance Act is amended by inserting, immediately after section 35T, the following section:

**“Business conduct of insurance intermediaries**

**35TA.** Without prejudice to the generality of section 64(1) and (2), the Authority may make regulations or issue directions for or with respect to —

- (a) the standards to be maintained by an insurance intermediary in the conduct of business under this Act;
- (b) the standards with respect to the qualifications, experience and training of an insurance intermediary and, where the insurance intermediary is a corporation or an association, of the officers, agents and employees of the insurance intermediary; and
- (c) the disciplinary control of insurance intermediaries and, where the insurance intermediary is a corporation or an association, of the officers, agents and employees of the insurance intermediary.”.

**Amendment to section 35ZD**

**20.** Section 35ZD of the Insurance Act is amended by deleting subsection (1) and substituting the following subsection:

“(1) Subject to subsection (2), every registered insurance broker which receives any money —

- (a) from or on behalf of an insured or intending insured for or on account of an insurer in connection with a contract of insurance or proposed contract of insurance; or
- (b) from or on behalf of an insurer for or on account of an insured or intending insured,

shall, for the purposes of this section, establish and maintain a separate account with a bank licensed under the Banking Act (Cap. 19).”.

### **Amendment to section 35ZM**

**21.** Section 35ZM of the Insurance Act is amended by deleting the words “, without the written approval of the Authority” in subsection (1).

### **Amendment to section 35ZN**

**22.** Section 35ZN of the Insurance Act is amended by inserting, immediately after subsection (2), the following subsection:

“(2A) For the avoidance of doubt, references in subsection (2) to specific sections in the Act that apply to the persons referred to in that subsection do not include references to any regulations made under those sections unless the Authority prescribes that such regulations so apply.”.

### **Amendment to section 47**

**23.** Section 47 of the Insurance Act is amended by deleting subsection (2) and substituting the following subsections:

“(2) Subsection (1) shall not apply to the transfer of any insurance business of —

- (a) a corporation incorporated or established outside Singapore, except in so far as it relates to Singapore policies or offshore policies; or
- (b) a registered reinsurer to another registered reinsurer carrying on the same class of insurance business.

(2A) Notwithstanding subsection (2)(b), the Authority may issue such directions, by notice in writing, to the first-mentioned registered reinsurer as it may consider necessary on the manner and form of the transfer of the whole or part of the insurance business of that registered reinsurer.”.

### **Amendment of section 49H**

**24.** Section 49H of the Insurance Act is amended by inserting, immediately after the word “years” in subsection (2), the words “and shall be eligible for reappointment”.

**New section 49IA**

25. The Insurance Act is amended by inserting, immediately after section 49I, the following section:

**“Appeal fees**

**49IA.** A person intending to make an appeal under the Act shall pay such fees as may be prescribed by the Minister.”.

**Repeal and re-enactment of section 49J**

26. Section 49J of the Insurance Act is repealed and the following section substituted therefor:

**“49J.—**(1) The Minister may make regulations for the purposes and provisions of the Part and for the due administration thereof.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations for or with respect to —

- (a) the appointment of members to, and procedures of, the Appeal Advisory Panel and Appeal Advisory Committees;
- (b) the form and manner in which an appeal to the Minister under the Act shall be made;
- (c) the remuneration of the members of the Appeal Advisory Panel and Appeal Advisory Committees; and
- (d) all matters and things which by this Part are required and permitted to be prescribed or which are necessary or expedient to give effect to the provisions of this Part.”.

**Amendment to section 50**

27. Section 50 of the Insurance Act is amended by deleting subsection (1) and substituting the following subsections:

“(1) Subject to subsection (1A), the Authority may appoint any person to exercise any of its powers or perform any of its functions or duties under this Act, either generally or in any particular case, except the power to make subsidiary legislation.



(1A) The Authority may, by regulations, appoint one or more of its officers or employees to exercise its power to grant exemptions in respect of particular provisions of this Act.”.

#### **Amendment to section 52**

**28.** Section 52 of the Insurance Act is amended by inserting, immediately after the words “provisions of this Act” in subsection (2), the words “or any direction.”.

#### **Amendment of section 53**

**29.** Section 53 of the Insurance Act is amended by deleting subsection (2) and substituting with the following subsection:

“(2) Without prejudice to the generality of section 64(1) and (2), the Authority may prescribe or specify in directions the form or manner in which statistical information shall be furnished by Singapore insurers or insurance intermediaries to the Authority.

#### **Amendment of section 55**

**30.** Section 55 of the Insurance Act is amended —

- (a) by inserting, immediately after the words “this Act” in the 2nd line of subsection (2), the words “, any regulations made thereunder”;
- (b) by deleting the words “shall, in a case where no other punishment is provided for by this Act,” and substituting the words “shall be guilty of an offence and, where no penalty is expressly provided, shall”; and
- (c) by deleting subsection (7).

#### **Amendment of section 61**

**31.** Section 61 of the Insurance Act is amended by deleting the words “personal accident” in the section heading and in subsection (1) and substituting the words “accident and health”.

#### **Amendment of section 64**

**32.** Section 64 of the Insurance Act is amended —

- (a) by inserting, immediately after subsection (1), the following subsection:

“(1A) Without prejudice to the generality of subsection (1), regulations may be made for or with respect to the corporate governance of insurers, their related corporations or other corporations in which insurers acquire or hold a major stake, and such regulations may —

- (a) exclude the operation of the regulations in respect of any corporation or class of corporations, subject to such conditions as may be prescribed; and
  - (b) provide for the manner of computation of major stakes.”; and
- (b) by inserting, immediately after subsection (3), the following subsection:

“(4) In this section, “major stake” means —

- (a) any beneficial interest exceeding 10% in the share capital of a corporation;
- (b) control over more than 10% of the voting power in a company; or
- (c) any interest in a corporation, where the directors of the corporation are accustomed or under an obligation, whether formal or informal, to act in accordance with the insurer’s directions, instructions or wishes, or where the insurer is in a position to determine the policy of the corporation.”.

### **Amendment of Schedule**

**33.** The Schedule to the Insurance Act is amended —

- (a) by deleting the words “personal accident” in paragraph 2(1)(a) and substituting the words “accident and health”;
- (b) by deleting the words “personal accident” in paragraph 2(1)(b) and substituting the words “short-term accident and health”;
- (c) by inserting, immediately after paragraph 4 the following paragraphs:

“4A. “Accident and health policy” means a policy which provides accident and health benefits only.

4B. “Accident and health benefits” means benefits which are paid out —

- (a) in the event of an injury to, or a disability of, the insured as a result of accident or sickness;
- (b) in the event of the insured being found to have a condition or disease stated in the policy of the insured;
- (c) with respect to health services;
- (d) on the death, by accident or some other cause stated in the policy, of the insured; or
- (e) on the happening of a combination of any of the above,

but does not include benefits that are payable with respect to any loss arising out of a liability to pay compensation or damages.

4C. “Health services” means —

- (a) medical, surgical, diagnostic, nursing, dental, chiropody, chiropractic, eye therapy, occupational therapy, physiotherapy, speech therapy or other similar services or treatment;
- (b) services involving the supply, alteration, maintenance or repair of hearing aids, spectacles, contact lenses, artificial teeth, eyes or limbs (including parts of teeth or limbs) or other medical, surgical, prosthetic or dental aids, equipment or appliances;
- (c) the provision of drugs or medicinal preparations;
- (d) ambulance or paramedic services; or
- (e) professional services provided for the treatment or management of a person who is sick or disabled.

4D.—(1) “Long-term accident and health policy” means any accident and health policy that —

- (a) may, in accordance with the terms and conditions of the policy, be in force for more than 5 years if it is not terminated earlier by the policy owner; and
- (b) does not contain a term or condition which permits the insurer to terminate the policy unilaterally.

(2) A policy that satisfies sub-paragraph (1)(a) shall still be considered a long-term accident and health policy if the policy is of a duration of 5 years or less only because of the age of the insured at the time when it was entered into.

(3) Where the terms and conditions of a policy provide the insured an option of extending the duration of the policy, whether on the same terms

and conditions or otherwise, the duration of the policy shall be determined on the assumption that the insured will exercise the option.

4E. “Short-term accident and health policy” means any accident and health policy that is not a long-term accident and health policy.”;

(d) by deleting paragraphs 5 and 6 and substituting the following paragraphs:

“5.—(1) Subject to sub-paragraph (2), “life policy” means any policy which —

- (a) provides for the payment of policy moneys on the death of a person or on the happening of any contingency dependent on the termination or continuance of human life;
- (b) is subject to payment of premiums for a term dependent on the termination or continuance of human life;
- (c) provides for the payment of an annuity for a term dependent on the termination or continuance of human life; or
- (d) is a combination of any of the above.

(2) A policy that provides for the payment of policy moneys on the death of a person is not a “life policy” if payment is only to be made in the event of —

- (a) death by accident; or
- (b) death resulting from specified sickness.

6. “Investment-linked policy” means a policy which provides benefits calculated by reference to units, the value of which is related to the market value of the underlying assets, and “non-investment-linked policy” means a policy that is not an investment-linked policy.

6A. “Participating policy” means a non-investment-linked policy conferring any right to share in the profits or surplus, or any part thereof, arising from the business of the insurer, and “non-participating policy” means a non-investment-linked policy not conferring any such right.”; and

(e) by deleting paragraph 8.

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## EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.

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**ANNEX 2****List of Amendments for the Insurance (Amendment) Bill 2003**

No.	Provision	Amendment
1.	Section 1A	To insert definitions of certain terms to be introduced in the Act by the Bill.
2.	Section 2	To redefine “life business” as business concerning with life policies and long-term accident and health policies.
3.	Section 2A (new)	To empower the Minister to amend the Schedule by order published in the Gazette.
4.	Section 3	<ul style="list-style-type: none"><li>- To provide that an insurer (other than a registered insurer) carrying out reinsurance business outside of Singapore may carry on the business of providing reinsurance to persons in Singapore if it is authorised by the Authority to do so.</li><li>- To allow a person registered as a life insurer to conduct short-term accident and health insurance business without having to be registered to carry on general business.</li></ul>
5.	Section 4	To repeals and re-enacts section 4 to make it an offence for any person to hold himself out to be a registered insurer.
6.	Section 5	To explicitly allow insurance intermediaries to use the word “insurance” to represent themselves as intermediaries where they have the proper authority to carry on such insurance business.
7.	Section 10, and new section 8A & 12A	To introduce the authorisation framework for reinsurers.
8.	Section 13	To specify the effect of a withdrawal of the authorisation of an insurer.

No.	Provision	Amendment
9.	Section 17	<ul style="list-style-type: none"> <li>- To clarify on the manner in which insurance funds are to be established and maintained.</li> <li>- To provide MAS the power to define what constitutes receipts, income, liabilities and expenses of insurance funds.</li> <li>- To create the “surplus account” mechanism in insurance funds that contain participating policies to keep track of any retained earnings derived from, and capital support provided to, the participating fund.</li> <li>- To require the board of directors to approve any bonus distribution from the participating fund, having regards to a written opinion from the appointed actuary.</li> <li>- To redraft the conditions relating to allocations made within insurance funds and withdrawal of monies from the funds.</li> </ul>
10.	Section 18	To make provision for a new risk-based capital framework.
11.	Section 21(5)	To apply the section to the new risk-based capital framework.
12.	Section 24	To include long-term accident and health policy within its ambit.
13.	Section 35M	To exclude certain categories of persons from the requirement to operate under a written agreement when acting as or holding himself out as, an insurance agent.
14.	Section 35N	To redefine the scope of the application of the relevant provision to financial advisers.
15.	Section 35P	To allow the Authority to prescribe such other information as must be disclosed by insurance intermediaries.
16.	Section 35TA (new)	To allow the Authority to make regulations or issue directions in relation to certain standards governing insurance intermediaries, and their officers, agents and employees.
17.	Section 35ZD	To make it clear that registered insurance brokers are only required to establish and maintain insurance broking premiums accounts if they handle clients' monies.

No.	Provision	Amendment
18.	Section 35ZM	To omit the power of the Authority to grant approval for the use of the words “insurance broking” by persons other than a registered insurance broker or an exempt insurance broker.
19.	Section 35ZN	To clarify that references in subsection (2) to specific sections of the Act do not include regulations made thereunder.
20.	Section 47	To exclude reinsurers from the requirements of complying with sections 47 to 49 and requires them to have different legal arrangements to transfer the insurance business.
21.	Section 49H	To clarify that a member of the Appeal Advisory Panel may be reappointed after the current term expires.
22.	Section 49IA (new) and section 49J	To amend provisions on the appeals process to allow MAS to impose fees on appellants and to pay remuneration to Panel members.
23.	Section 50	To allow the Authority to appoint one or more of its officers or employees to exercise its power to grant exemptions in respect of particular provision of the Act.
24.	Section 52	To empower the Authority to exempt persons from the requirement of complying with directions.
25.	Section 53	To provide for the collection of statistical information by way of directions.
26.	Section 55	To make it clear that it applies also to regulations made under the Act.
27.	Section 61	To include accident and health policies within its ambit.
28.	Section 64	To empower the Authority to make regulations in respect of corporate governance of insurers, their related corporations or other corporations in which insurers acquire or hold a major stake.
29.	The Schedule	To define certain terms used in relation to the new health insurance framework and the new risk based capital framework.



Monetary Authority of Singapore