

# CONSULTATION PAPER

P012 - 2010  
August 2010

# Group Insurance Policies

MAS

Monetary Authority of Singapore

## PREFACE

1 A group policy is generally understood as one in respect of which a single legal entity is named in the policy contract as the policy owner on behalf of the group members, who are named as the insureds. Group policies may be issued in respect of either life or general business. Currently, the Insurance Act (Cap. 142) ("IA") does not define what constitutes a group policy, although there are references to group policies in sections 35P and 35Q of the IA.

2 Some group policies currently available in the market are a significant departure from those contemplated when the sections 35P and 35Q of the IA was drafted i.e. policies purchased by employers to cover their employees, where there is clear insurable interest between the policy owner and the insureds. The current requirements governing group policies are insufficient to protect insureds against the risk of fraud by the group policy owner, especially if premiums are collected by the policy owner from the insureds and insureds do not receive adequate documentation from the insurer on the insurance coverage that has been purchased on their behalf.

3 MAS proposes to introduce legislative safeguards covering premium payment, claims payout and marketing to supplement the existing requirements imposed on group policy owners by the IA. The proposed safeguards aim to protect the insureds under a group policy where the group policy owner has no insurable interest in the subject matter of the policy (in this case, the insureds) by minimising opportunities for fraud on the part of the policy owner.

4 MAS invites interested parties to submit their views and comments on the recommendations set forth in this consultation paper. Electronic submission is encouraged. Written comments should be submitted to:

Insurance Department  
Monetary Authority of Singapore  
10 Shenton Way  
MAS Building  
Singapore 079117  
Fax: (65) 6229 9694  
Email: [grp\\_review10@mas.gov.sg](mailto:grp_review10@mas.gov.sg)

All comments and feedback should reach MAS by 31 August 2010.

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

## 1 BACKGROUND

1.1 As with an individual policy owner, a group policy owner is a party to the insurance contract under the law. The insured, on the other hand, is not, since the contract is between the group policy owner and the insurer. Thus, group policy owners can unilaterally make changes to policy conditions, etc. without consulting the insureds, notwithstanding that such changes could have a greater (adverse) impact on the insureds than the policy owner.

1.2 As a party to the insurance contract, group policy owners are not subject to the requirements imposed by MAS on insurance intermediaries (e.g. registration, training and competency), apart from what is expressly set out in section 35P of the IA<sup>1</sup>. While they could be marketing<sup>2</sup> policies to group members, effectively acting as insurance intermediaries, group policy owners may not be sufficiently qualified to do so as they are not subject to the training and competency requirements required of insurance intermediaries. The lack of requirements imposed on group policy owners also creates an unlevel playing field vis-à-vis registered/licensed insurance intermediaries.

1.3 Other than the requirements imposed by section 35Q<sup>3</sup>, insurers do not owe any responsibility to the insureds covered under a group policy as the insured is not a party to the insurance contract between the group policy owner and the insurer. Indeed, most of these agreements have excluded the application of the Contracts (Rights of Third Parties) Act (Cap. 53B). This means insureds largely have no direct recourse to the insurer actually underwriting the policy under which they are (supposed to be) protected. Only the policy owner is accountable to the insureds, and it is subject to less regulation than insurers.

1.4 As described above, the current regime governing policy owners and insurers in respect of group policies thus provides little protection for insureds against the risk of

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<sup>1</sup> Section 35P requires an insurance intermediary (including a group policy owner) who arranges a group policy to disclose to every person insured under that policy all material information e.g. name of insurer, amount of premium charged, policy conditions, intermediary's relationship with insurer.

<sup>2</sup> In this paper, "marketing" refers to the activities of soliciting and advising.

<sup>3</sup> Section 35Q states that payment of premiums by the insured to the policy owner of a group policy will be considered payment to the insurer (but not vice versa). This section also requires the group policy owner to pay the monies due under the policy to either the insured or a person entitled to receive such monies.

fraud by the group policy owner. This problem is exacerbated by the fact that some group policies currently available in the market are a significant departure from those contemplated when sections 35P and 35Q of the IA was drafted i.e. policies purchased by employers to cover their employees, where there is clear insurable interest between the policy owner and the insureds.

1.5 The increase in group policies where the policy owner has no insurable interest in the insureds has been driven mainly by savings in administrative and distribution costs e.g. insurers need to issue only one copy of the policy document and liaise with only one party. Such savings may translate to cheaper premiums, but at the cost of insureds' best interests. Given that the owners of such policies have no insurable interest in the insureds, there is less incentive for them to act in the interest of the insureds. This is particularly so when premiums are collected from the insureds by the policy owner, or claims are paid by the insurer to the policy owner (instead of to the insureds).

## 2 PROPOSAL

2.1 MAS, therefore, proposes to introduce legislative safeguards to supplement the existing requirements imposed on group policy owners by sections 35P and 35Q of the IA. The proposed safeguards will apply only in respect of group policies where the policy owner has no insurable interest in the insureds.

2.2 In the case of group policies where the policy owner has insurable interest in the insureds (e.g. the insureds are employees of the policy owner and the policy is meant to indemnify the latter against losses arising from the former being unable to work), MAS is of the view that additional safeguards would not be necessary as the interests of the group policy owner and the insureds would be aligned. Such policies must meet the following criteria:

- The relationship between the policy owner and insureds is that of employer and employees<sup>4</sup>; and

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<sup>4</sup> Conversely, policies that extend coverage to employees' family members (e.g. spouse, children, parents) would not be considered to fulfill this criterion.

- The policy owner will be disadvantaged (i.e. suffer a loss) if the insured event occurs.

2.3 Existing group policies will not be exempted from complying with the proposed safeguards. Instead, insurers will be given a grace period to meet the additional requirements.

### **3 PREMIUM PAYMENT**

3.1 Section 35Q(2) of the IA provides that payment to the group policy owner by the insured will constitute payment to the insurer. In other words, for the purposes of this section, the policy owner is effectively deemed an agent of the insurer. This is similar to the approach taken in respect of insurance intermediaries in section 35O(2)<sup>5</sup>.

3.2 MAS proposes to impose, in addition to section 35Q, the following requirements on the insurer issuing the group policy:

- i. Certificate of Insurance provided by insurer to state premium amount, benefits provided, key exclusions/restrictions and amount of coverage. Insureds to also be given the right to request for additional policy documents from the insurer; and
- ii. Certificate of Insurance (and other policy documents, if requested by insured) to be sent directly by the insurer to the insured. Letters acknowledging changes in policy status (e.g. change in amount of coverage or if a policy loan has been taken out) or terms and conditions, pre-cancellation warning letters, etc. should also be handled in the same way.

3.3 The aim of these requirements is to ensure that the insured is kept informed and updated of the status of his policy so as to minimise the risk of the group policy owner not purchasing from the insurer the amount of coverage for which it has received premiums

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<sup>5</sup> Payment by an insured (or intending insured) to an insurance intermediary of moneys due to an insurer in respect of a contract of insurance constitutes a discharge of any liability of the insured, to the extent of the amount of the payment. Conversely, payment by an insurer to an insurance intermediary of moneys due to an insured in respect of a contract of insurance shall not discharge the insurer of any liability in respect of those moneys.

from the insured. They complement MAS' consumer education efforts to encourage insureds to pay premiums by cheque made out in the name of the insurer, whenever possible.

## **4 CLAIMS PAYOUT**

4.1 Currently, in respect of policies where the insured is liable to pay a premium, section 35Q(3) allows insurers to obtain good discharge by paying to either the insured or any person "entitled through him" to receive such payments.

4.2 MAS proposes to tighten this section by requiring claims to be paid only to the rightful beneficiaries (usually the insured or his dependants). There should not be an option to pay to any other person, even with the beneficiary's written consent. This is because, in the case of group policies where the policy owner has no insurable interest in the insureds, the group policy owner could have an incentive to mislead the rightful beneficiary into giving such consent.

## **5 MARKETING**

5.1 At present, section 35P lists the information group policy owners are required to disclose to insureds when arranging such policies (i.e. name of insurer, relationship between policy owner and insurer, policy conditions and premiums charged by the insurer). However, it falls short of the training and competency requirements imposed on insurance intermediaries under Notice MAS 211 and Notice MAS 502 (in respect of general insurance) and Notice MAS No. FAA-N07 (in respect of life insurance).

5.2 MAS proposes to require group policy owners who market (their own) group policies to fulfill the same training and competency requirements as other insurance intermediaries. Insurers will not be allowed to accept business from group policy owners who do not meet these requirements.

5.3 At the same time, given that they are not actually in the business of marketing insurance products in general, it is not necessary to subject group policy owners to the other requirements imposed on insurance intermediaries e.g. registration with the Agents' Registration Board and written agreement with insurer (in respect of general insurance agents), licensing by MAS and the accompanying market conduct and business

standards rules (in respect of brokers and life insurance agents). Therefore, if a group policy owner markets any insurance policy other than that in respect of which it is named as the policy owner, it will be considered an insurance intermediary and subject to the full suite of requirements.

## **6 CONCLUSION**

6.1 MAS proposes to impose additional safeguards in respect of group policies where the policy owner has no insurable interest in the insureds over and above those currently provided for in sections 35P and 35Q of the IA. These safeguards relate to disclosure of insurance details directly to the insured, premium payment, claims payout and marketing. They are meant to protect the insureds under the group policy by minimising the opportunities for fraud on the policy owner's part.





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