

# CONSULTATION PAPER

P016 - 2012

September 2012

## Proposed Revision to the Definition of "Singapore Policy" and "Trade Credit Insurer"

MAS

Monetary Authority of Singapore

## **PREFACE**

### Definition of Singapore Policy

The definition of a Singapore policy was last revised on 1 January 2011. MAS was of the view that it was not appropriate for the definition of a Singapore policy to depend on the address of the policy owner (in the case of a life policy or accident and health ("A&H") policy) and the tax residency of the insured (in the case of a direct general policy and a facultative general reinsurance policy). The definition of Singapore policy was thus amended for all life and general policies purchased by individuals to be based on the individual's residency status in Singapore.

2 In relation to life reinsurance and A&H reinsurance policies, MAS notes that the current definition of Singapore policy is appropriate for facultative policies but may not be so for treaty contracts. This is because a single treaty contract would include risks from more than one direct policy underwritten by the cedant. MAS proposes to revise the definition of Singapore policy so that it can be suitably applied to treaty life reinsurance contracts and treaty A&H reinsurance contracts.

3 In relation to facultative general reinsurance policies, MAS notes that there are cases where the policy classification (i.e. Singapore policy or Offshore policy) of the facultative policy does not follow that of the underlying direct general insurance policy being reinsured. This is because the policy classification also depends on whether the cedant is a person resident in Singapore or has a permanent establishment in Singapore. MAS proposes to revise the definition of Singapore policy so that the classification of the facultative policy will follow that of the underlying direct general insurance policy being reinsured.

4 MAS also notes that there are individuals, ordinarily resident in Singapore, who set up overseas trusts to purchase life insurance policies insuring themselves. Such policies are deemed as Offshore policies under the current definition. However, similar policies would have been deemed as Singapore policies if they are directly purchased by the insureds rather than through overseas trusts. As such, MAS proposes to align the classification of these life insurance policies where the policy owner is not an individual, with the classification of life insurance policies where the policy owner is an individual.

Definition of Trade Credit Insurer

5 In relation to trade credit insurance business, MAS also proposes to fine-tune the definition of trade credit insurer and trade credit insurance policies to accurately reflect the policy intent.

6 MAS invites interested parties to submit their views and comments on the proposals made in this paper. Electronic submission is encouraged. Please submit your written comments by 19 October 2012 to:

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

Fax: (65) 6229 9694

Email: [sg-policy\\_12@mas.gov.sg](mailto:sg-policy_12@mas.gov.sg)

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

## **1 TREATY LIFE REINSURANCE AND TREATY ACCIDENT AND HEALTH REINSURANCE**

1.1 Paragraph 2(5) of the First Schedule to the Insurance Act (Cap. 142) ("the Act") states that sub-paragraph (1)(a) shall apply to a policy of reinsurance:

(a) where the owner of the policy under which the liability reinsured ultimately arises is an individual, as if the references to the proposal date and to whether the policy owner or insured is ordinarily resident in Singapore are references to those of the policy under which the liability reinsured ultimately arises; and

(b) in any other case, as if the references to the date of issue of the policy and to the policy owner's address are references to those of the policy under which the liability reinsured ultimately arises.

1.2 It would be appropriate to apply paragraph 2(5) of the First Schedule to the Act, to a facultative life or facultative A&H reinsurance contract, to determine whether it is a Singapore policy. However, this may not be the case for a treaty life or treaty A&H reinsurance contract because a single treaty contract would comprise risks from more than one direct policy underwritten by the cedant.

1.3 In view of the above, MAS proposes to introduce a separate definition of Singapore policy for treaty life reinsurance and treaty A&H reinsurance. Under this proposed definition, a treaty life reinsurance contract or treaty A&H reinsurance contract will be a Singapore policy if more than 25% of the total gross premiums relate to Singapore policies under which the liability reinsured ultimately arises. This proposed definition is consistent with the existing definition of Singapore policy for treaty general reinsurance. The proposed new paragraph 2(1)(d) of the First Schedule to the Act is set out in the Annex.

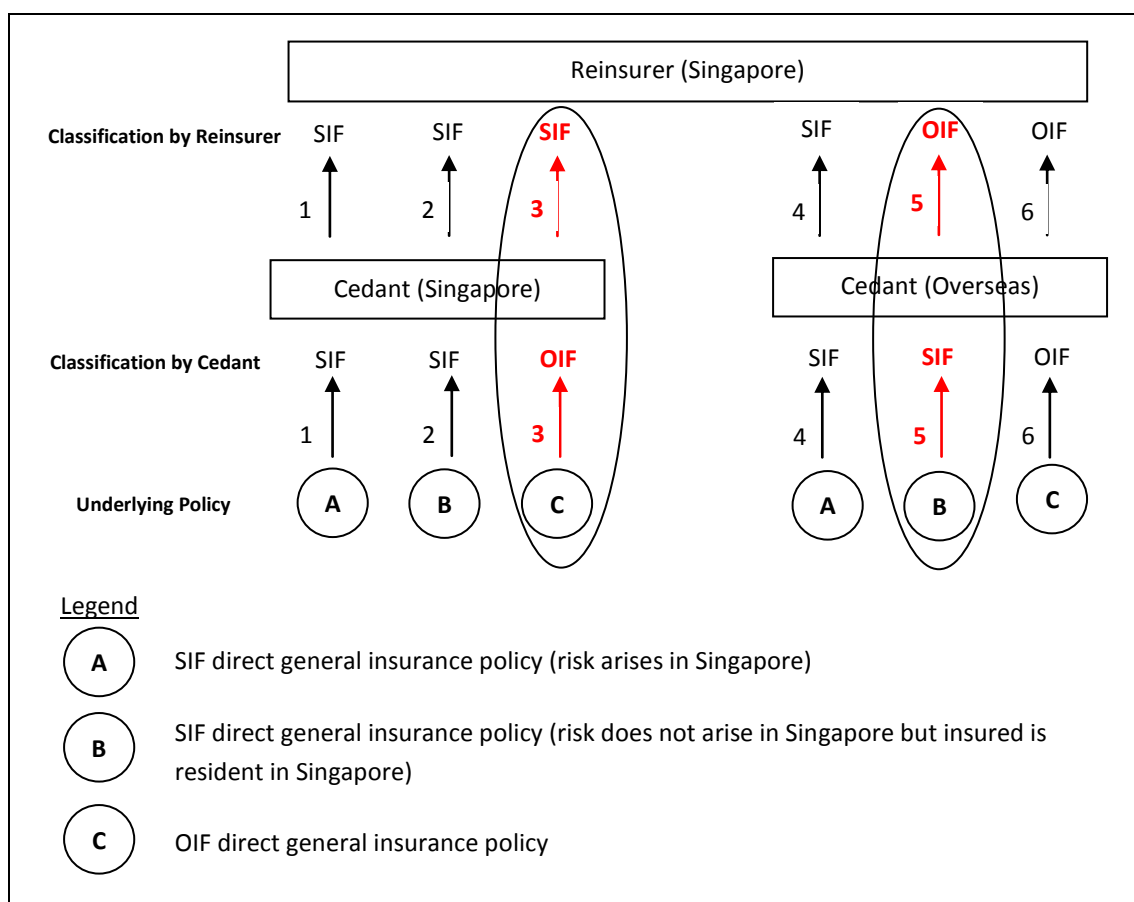
## **2 FACULTATIVE GENERAL REINSURANCE**

2.1 Paragraph 2(1)(b) of the First Schedule to the Act defines a Singapore policy, in relation to facultative general reinsurance, as any policy that falls within one or more of the following descriptions:

(a) the risk arises in Singapore; or

(b) the insured (i.e. cedant) is a person resident in Singapore or has a permanent establishment in Singapore.

2.2 It would be appropriate for the policy classification (i.e. Singapore policy or Offshore policy) of a facultative general reinsurance policy to follow that of the underlying direct general insurance policy being reinsured, given that both policies relate to the same risk. However, under the existing definition in paragraph 2(1)(b) of the First Schedule to the Act, this may not necessarily be the case given that the policy classification of the facultative general reinsurance policy depends on whether the cedant is a person resident in Singapore or has a permanent establishment in Singapore. Scenarios 3 and 5 of the diagram below illustrate that the policy classification of the facultative general reinsurance policy can be different from that of the underlying direct general insurance policy being reinsured.



2.3 In view of the above, MAS proposes to revise the definition of Singapore policy for facultative general reinsurance such that the policy classification of a facultative general reinsurance policy shall follow that of the underlying direct general insurance policy being reinsured, and not be

classified based on the residency of the cedant. The proposed new paragraph 2(6) of the First Schedule to the Act is set out in the Annex.

### **3 DIRECT LIFE POLICY AND DIRECT ACCIDENT AND HEALTH POLICY**

3.1 Paragraph 2(1)(a) of the First Schedule to the Act defines a Singapore policy, in relation to a life policy or A&H policy, as any policy that falls within one of the following descriptions:

- (a) where the policy owner is an individual, the policy owner or insured is ordinarily resident in Singapore at the date of the proposal in respect of the policy ("proposal date"); or
- (b) where the policy owner is not an individual, the policy owner's address is or was an address in Singapore at the date of issue of the policy and at the date of the establishment of the insurer's register of Singapore policies (if the policy was issued before then).

Conversely, paragraph 2(3) of the First Schedule to the Act defines an Offshore policy as any policy other than a Singapore policy issued in the course of the insurer's business in Singapore.

3.2 MAS notes that individuals who are ordinarily resident in Singapore may set up overseas trusts to purchase life insurance policies insuring themselves. Such policies will be deemed as Offshore policies under the current definition in the Act given that the address of the policy owner (i.e. the overseas trust) is not in Singapore. As mentioned in the earlier consultation paper (P005 – 2008) dated 31 December 2008, the intent of defining "Singapore policies" and "Offshore policies" is to provide clarity so that domestic and offshore risks are classified accordingly. MAS proposes to align the classification of these life insurance policies where the policy owner is not an individual, with the classification of life insurance policies where the policy owner is an individual. That is, as long as the insured is ordinarily resident in Singapore, the policy should be classified as a Singapore policy.

3.3 In view of the above, MAS proposes to include in the definition of Singapore policy, a direct life policy or direct A&H policy where the policy owner is not an individual and that covers an insured who is ordinarily resident in Singapore at the date of the proposal in respect of the policy. The

proposed revised paragraph 2(1)(a) of the First Schedule to the Act is set out in the Annex.

3.4 A summary of the existing policy classification is presented below:

**Policy owner is an individual**

	Insured is <b>ordinarily resident in Singapore</b>	Insured is <b>not ordinarily resident in Singapore</b>
Policy owner is <b>ordinarily resident in Singapore</b>	Singapore policy	Singapore policy
Policy owner is <b>not ordinarily resident in Singapore</b>	Singapore policy	Offshore policy

**Policy owner is not an individual**

	Insured is <b>ordinarily resident in Singapore</b>	Insured is <b>not ordinarily resident in Singapore</b>
Policy owner has a <b>Singapore address</b>	Singapore policy	Singapore policy
Policy owner has an <b>overseas address</b>	Offshore policy	Offshore policy

The following table indicates the proposed change outlined in paragraph 3.3:

**Policy owner is not an individual**

	Insured is <b>ordinarily resident in Singapore</b>	Insured is <b>not ordinarily resident in Singapore</b>
Policy owner has a <b>Singapore address</b>	Singapore policy	Singapore policy
Policy owner has an <b>overseas address</b>	Singapore policy	Offshore policy

## **4 TRADE CREDIT INSURER AND TRADE CREDIT INSURANCE POLICIES**

4.1 Regulation 2(1) of the Insurance (Valuation and Capital) Regulations 2004 (“V&C Regulations”) defines trade credit insurer as an insurer registered under the Act which has liabilities in respect of trade credit insurance policies; and defines trade credit insurance policy to mean a policy that protects against the risk of non-payment of goods and services by buyers and importers.

4.2 In order to improve the clarity of the definition to accurately reflect MAS’ policy intent, MAS proposes to revise the definition of “trade credit insurer” and “trade credit insurance policies” to “credit insurer” and “credit insurance policies”.

4.3 The proposed definitions are:

- (a) “credit insurer” means an insurer registered under the Act which has liabilities in respect of credit insurance policies;
- (b) “credit insurance policy” means a policy that protects against the risks of loss of the insured, arising from the non-payment of goods and services, arising from the insolvency or from default (otherwise than through insolvency) of the insured’s debtor.

4.4 The revised definitions are also aligned to that of other international jurisdictions.

4.5 Consequently, the reference to “trade credit insurer” and “trade credit insurance policies” in Regulation 22A and Seventh Schedule of the V&C Regulations will be amended to “credit insurer” and “credit insurance policies”.



**ANNEX**

Proposed Paragraph 2 of the First Schedule to the Insurance Act (Cap. 142)

**Disclaimer: The proposed wordings below are in draft form and subject to change. They are also subject to review by the Attorney-General's Chambers.**

2.—(1) Subject to this paragraph and section 16(3) and (4) of the Act, "Singapore policy", in relation to any insurer, means a policy issued in the course of the insurer's business in Singapore and falling within one of the following descriptions:

- (a) in relation to a life policy or accident and health policy (not being a reinsurance policy) —
  - (i) where the policy owner is an individual, the policy owner or insured is ordinarily resident in Singapore at the date of the proposal in respect of the policy (referred to in this paragraph as the proposal date);
  - (ii) where the policy owner is not an individual —
    - (A) the policy owner's address is or was an address in Singapore at the date of issue of the policy and at the date of the establishment of the insurer's register of Singapore policies (if the policy was issued before then); or
    - (B) the policy covers an insured who is ordinarily resident in Singapore at the proposal date;
- (b) in relation to direct general insurance (other than short-term accident and health policies), a policy where the risk arises in Singapore or —
  - (i) where the insured is an individual, the insured is ordinarily resident in Singapore; or
  - (ii) where the insured is not an individual, the insured is a person resident in Singapore or has a permanent establishment in Singapore;
- (c) in relation to treaty general reinsurance (other than short-term accident and health policies), a policy where more than 25% of the total risks in terms of gross premiums arises in Singapore; and

- (d) in relation to treaty life reinsurance or treaty accident and health reinsurance, a policy where more than 25% of the policies under which the risk or risks reinsured ultimately arises in terms of gross premiums are policies referred to in sub-paragraph (a).

(2) Notwithstanding sub-paragraph (1)(b), a policy where —

- (a) the insured is an individual and the insured is ordinarily resident in Singapore; or
- (b) the insured is not an individual and the insured is a person resident in Singapore or has a permanent establishment in Singapore,

shall not be regarded as a Singapore policy if it is in respect of cargo transported from a place outside Singapore to a place outside Singapore, whether or not the cargo is in transit in Singapore.

(3) "Offshore policy", in relation to any insurer, means any policy, other than a Singapore policy, issued in the course of the insurer's business in Singapore.

(4) For the purposes of this paragraph —

- (a) an individual shall be treated as ordinarily resident in Singapore if the individual —
  - (i) is a citizen of Singapore, unless he has resided outside Singapore continuously for 5 or more years preceding the proposal date of the policy and is not currently residing in Singapore;
  - (ii) is a permanent resident, unless he has resided in Singapore for less than a total of 183 days in the 12 months preceding the proposal date of the policy;
  - (iii) has a work pass or permit required under the Employment of Foreign Manpower Act (Cap. 91A), unless he has resided in Singapore for less than a total of 183 days in the 12 months preceding the proposal date of the policy; or
  - (iv) has a pass or permit required under the Immigration Act (Cap. 133) that has a duration longer than 90 days and has resided in Singapore continuously for at least 90 days in the 12 months preceding the proposal date of the policy;

- (b) "policy owner's address" means the address for the time being known to the insurer as the address (or normal address) for communicating with the policy owner about the policy;
  - (c) "resident in Singapore" and "permanent establishment" have the same meanings as in the Income Tax Act (Cap. 134);
  - (d) "permanent resident" means any individual who is not subject to any restriction as to his period of residence in Singapore imposed under the provisions of any written law relating to immigration for the time being in force;
  - (e) where an individual is present in Singapore for any part of a day, his presence on that day shall be counted as one day.
- (5) Sub-paragraph (1)(a) shall apply to a life or accident and health policy of facultative reinsurance —
- (a) where the owner of the policy under which the liability reinsured ultimately arises is an individual, as if the references to the proposal date and to whether the policy owner or insured is ordinarily resident in Singapore are references to those of the policy under which the liability reinsured ultimately arises; and
  - (b) in any other case, as if the references to the date of issue and proposal date of the policy, the policy owner's address and to whether the insured is ordinarily resident in Singapore are references to those of the policy under which the liability reinsured ultimately arises.
- (6) Sub-paragraph (1)(b) shall apply to a policy of facultative general reinsurance as if the references to the insured are references to the person or persons insured by the policy under which the liability reinsured ultimately arises.



Monetary Authority of Singapore