



RESPONSE TO FEEDBACK RECEIVED – PUBLIC CONSULTATION ON THE INSURANCE (AMENDMENT) BILL

1 Introduction

1.1 On 21 September 2012, the Monetary Authority of Singapore (“MAS”) issued a consultation paper setting out the proposed legislative amendments to the Insurance Act (Cap. 142) (“Act”) that will give effect to proposed policy changes which were consulted between May 2009 and September 2012. The consultation paper also set out some other proposed changes not previously consulted on.

1.2 The consultation period closed on 22 October 2012, and MAS would like to thank all respondents for their contributions. The list of respondents is in Appendix A.

1.3 MAS have considered carefully the feedback received. Comments that are of wider interest, together with MAS’ responses, are set out below.

2 Enhance MAS' Powers to Meet Supervisory Objectives

Chairman, Director and Key Executive Person

2.1 Two respondents commented that the drafting of the proposed sections 31 and 31A of the Act was unclear. The drafting suggested that the provisions relating to the appointment, approval and removal of a chairman or director would also apply to foreign incorporated insurers.

2.2 Under the proposed section 31 of the Act, there is a provision stating that the appointment term of a chairman or director cannot exceed "such period as may be prescribed". Two respondents sought clarification on the duration of the appointment term of a chairman or director.

MAS' Response

2.3 The provisions relating to the appointment, approval and removal of a chairman or director under sections 31 and 31A of the Act are intended to apply only to locally incorporated insurers. The drafting of the Act has been revised to accurately reflect this intention.

2.4 Regarding the duration of the appointment term of a chairman or director, MAS is proposing for insurers to seek MAS' approval to re-appoint a chairman or director at least once every three years. Please refer to the consultation paper on "Draft Corporate Governance Regulations and Guidelines for Insurers" issued on 4 January 2013 and the response paper issued on 3 April 2013 for the details of this proposal.

Publishing of Individual Insurer's Returns

2.5 Two respondents commented that MAS' proposed powers to publish information may be too wide and were concerned that insurer's confidential information may be made public.

MAS' Response

2.6 MAS will give due consideration to information confidentiality and sensitivity when we recommend information to be published.

Disallowing Trust Nominations as Prescribed

2.7 With respect to the proposal to provide for MAS to prescribe the types of insurance policies where trust nominations are disallowed, a respondent asked how it affects existing nominations under such insurance policies.

MAS' Response

2.8 The new requirements will not apply retrospectively. Thus, existing nominations under such policies will not be affected.

Acquisition and Holding of Major Stakes in Corporations

2.9 A respondent sought clarification on how the requirement applies to a foreign incorporated insurer, in particular, whether it applies to its head office and the other branches of the head office.

2.10 Another respondent commented that the requirement should not apply to investments relating to a participating fund and to the unitised portion of an investment-linked fund as these investments are made on behalf of policy owners and are meant to optimise returns for policy owners.

MAS' Response

2.11 With respect to a foreign incorporated insurer, the requirements under section 30B of the Act only applies to the assets of the insurance funds under the Singapore branch office.

2.12 MAS will, via regulations, exclude investments relating to a participating fund and to the unitised portion of an investment-linked fund from the requirements under section 30B of the Act.

3 Improve Clarity of MAS' Existing Policy Intent

Definition of "Reinsurer"

3.1 Two respondents commented that the proposed definition of "reinsurer" may restrict the business and activity of reinsurers. For instance, it will be unclear whether a reinsurer can participate in insurance pools, offer micro-insurance where the counterparty may be a government body, and reinsure pension funds against longevity risks where the counterparty could be a government agency or a company administering private pension funds.

MAS' Response

3.2 MAS has taken into account the feedback received and will retain the existing definition.

Definition of "Insurance Business in Singapore"

3.3 A respondent sought clarification on the types of business and activities which would be excluded under the proposed definition of "insurance business in Singapore".

3.4 Two other respondents asked whether an underwriter based in the Singapore office will be prohibited from making underwriting decisions for a risk where the proposal was received by an overseas office and that will be booked in the overseas office.

3.5 Another respondent enquired whether introducers would be caught under the proposed definition of "insurance intermediary".

MAS' Response

3.6 MAS would like to clarify that auxiliary services that facilitate the activities described under the proposed definition of "insurance business in Singapore" would be excluded. An example would be payment system services whereby the policy owner makes use of the service to pay premiums directly to the insurer.

3.7 An underwriter based in the Singapore office is not prohibited from making underwriting decisions for a risk where the proposal was received by an overseas office and that will be booked in the overseas office. For avoidance of doubt, section 6 of the Act on prohibition relating to insurance business would apply.

3.8 An introducer will be deemed an insurance intermediary as long as he performs any of the activities carried out by an insurance intermediary per the definition.

Restrictions on Co-branding

3.9 Four respondents were concerned that insurers would be prohibited from using their global corporate brand or logo.

3.10 Two respondents misunderstood that licensed insurers need to seek MAS' approval for all co-branding arrangements.

MAS' Response

3.11 The co-branding restriction does not apply to a situation where a licensed insurer's brand or logo is the same as its global corporate brand or logo. Where a licensed insurer's brand or logo is different from its global corporate brand or logo, the licensed insurer shall not use its global corporate brand or logo in the course of its business in Singapore except with MAS' prior written consent.

3.12 The co-branding restriction only prohibits a licensed insurer from co-branding with an insurer that is not licensed by MAS, but does not prohibit a licensed insurer from co-branding with persons such as banks or insurance agents, who do not carry on the business of assuming risk or undertaking liability under insurance policies.

Transfer of Business

3.13 One respondent sought clarification on whether a voluntary novation from a licensed insurer to an unlicensed insurer or an overseas branch of a licensed insurer would require MAS' approval. The respondent also asked whether there was a change in policy intent to include non-life insurance policies.

MAS' Response

3.14 MAS' intention has always been for licensed insurers to seek MAS' approval for transfers of insurance policies belonging to the insurance funds in Singapore, regardless of the transferee. This is for safeguarding policy owners' interests. Licensed insurers are not permitted under the Act to transfer the business written in the insurance funds in Singapore to an unlicensed insurer or an overseas branch of a licensed insurer. The amendment to section 49FB of the Act in 2011 already reflected this position, and it is not restricted to life insurance policies.

Definition of "Relevant Policy" in relation to Nomination of Beneficiaries

3.15 MAS proposed to revise the definition of "relevant policy" by revising one of the criteria from "is effected by the policy owner on his own life" to "is effected on the life of the policy owner". A respondent commented that the proposed wordings might not accurately reflect the policy intent as the word "effected" would describe an act taken at policy inception by the original policy owner.

3.16 Two respondents sought clarification on the rights of a policy owner to nominate beneficiaries, in instances where the policy owner has assigned his insurance policy as a loan collateral to a financial institution.

MAS' Response

3.17 We would like to clarify that MAS' policy intent is for a policy owner to be able to make a nomination even if the policy was not effected by himself, as long as the policy insures his own life. MAS has taken into account the feedback received and has revised the wordings of section 49K(d) of the Act to "insures the life of the policy owner".

3.18 We would also like to clarify that where a "relevant policy" has been assigned, which can be to a financial institution for loan collateralisation purposes, any existing nomination (which can only be a revocable nomination since an insurance policy under a trust nomination cannot be assigned by a policy owner), is automatically revoked as per section 49M(7) of the Act. Upon release of the "relevant policy" from collateralisation by the financial institution, the policy owner has the right to make a new nomination. Where the policy owner had made a nomination prior to assignment of his "relevant policy", the policy owner must make a new nomination upon release of the policy. If the policy owner dies before he makes a new nomination, the policy will be treated as any other insurance policy without a nomination and the payment of such proceeds will be as per section 61 of the Act. MAS would also like to highlight that a policy assigned to a financial institution is not a relevant policy and thus no nomination can be made for such a policy.

4 Align with Other MAS-Administered Acts

Cancellation of Licence

4.1 Section 12 of the Act sets out the grounds for which MAS may cancel the licence of an insurer. MAS proposed to add to section 12 of the Act the ground covering a change of person having control of the insurer and the new person is not fit and proper or MAS is not satisfied as to the financial standing of the insurer after the change. Two respondents commented that this additional ground is unnecessary since it is already a requirement to seek MAS' prior approval to obtain effective control of a licensed insurer.

MAS' Response

4.2 The requirement under sections 27 to 29 of the Act to seek MAS' prior approval to obtain effective control or become a substantial shareholder of a licensed insurer applies only to a licensed insurer which is locally incorporated and does not apply to a foreign incorporated licensed insurer. Therefore, the proposed additional ground in section 12 of the Act would empower MAS to cancel the licence of a foreign incorporated insurer operating a branch office in Singapore.

Annual Approval of External Auditors

4.3 Two respondents were of the view that the proposed requirement for insurers to seek MAS' approval annually for the appointment of external auditors is not necessary mainly because it is burdensome to do so. Also, in certain cases, the external auditor is appointed by the insurance group for a period which may be longer than a year, and will not be in line with the proposed frequency of approval required by MAS.

MAS' Response

4.4 Although the insurer may incur additional administrative costs, MAS believes that the annual approval is necessary to ensure that the external auditor has adequate resources and competence to continue to undertake and fulfill its duties and responsibilities. MAS is of the view that the insurer should seek MAS' approval on an annual basis, and not less frequently, given that the financial audit is performed every year.

MONETARY AUTHORITY OF SINGAPORE

17 JUNE 2013

Appendix A

List of Respondents to the Public Consultation Paper on the Insurance (Amendment) Bill

1. ACE Insurance Ltd
2. American Express International Inc
3. Asia Capital Reinsurance Group Pte Ltd
4. Life Insurance Association, Singapore (“LIA”)*
5. MSIG Insurance (Singapore) Pte Ltd
6. Pacific Life Re Ltd, Singapore Branch
7. Swiss Reinsurance Company Ltd, Singapore Branch
8. The Standard Club Asia Ltd

Two other respondents requested confidentiality.

*Respondents who provided feedback via LIA are:

- i. AIA Singapore Pte Ltd
- ii. Aviva Ltd
- iii. Friends Provident International Ltd (Singapore Branch)
- iv. Manulife (Singapore) Pte Ltd
- v. NTUC Income Insurance Co-operative Ltd
- vi. Prudential Assurance Company (Pte) Ltd
- vii. Swiss Life (Singapore) Pte Ltd