

Notice No: MAS Notice 121
Issue Date: 19 December 2018

This Notice replaces MAS Notice 121 dated 8 May 2012.

CAPTIVE INSURANCE - WRITING OF IN-HOUSE AND NON IN-HOUSE RISKS

Introduction

1 This Notice is issued pursuant to section 64(2) of the Insurance Act (Cap. 142) (“the Act”). It shall be read in conjunction with the provisions of the Act, the Insurance (Valuation and Capital) Regulations 2004, the Insurance (General Provisions and Exemptions for Captive Insurers) Regulations 2018 and MAS Notice 130. This Notice applies to all captive insurers.

2 This Notice sets out the definitions of in-house and non in-house risks, and the treatment of non in-house risks.

Interpretation

3 For the purpose of this Notice:

- (a) “in-house risk” in relation to a captive insurer, means a risk of a related corporation of the captive insurer that may ultimately result in losses affecting only the related corporation (and no other party) if the related corporation had not insured the risk with the captive insurer, and includes any risk where the captive insurer is only responsible for insuring the related corporation’s share of the risk in an insured;
- (b) “holding company” has the same meaning as in section 5 of the Companies Act (Cap. 50); and
- (c) “parent corporation” means the immediate holding company of the captive insurer.

4 The expressions used in this Notice shall, except where defined in this Notice or where the context otherwise requires, have the same meanings as in the Act, the Insurance (Valuation and Capital) Regulations 2004, the Insurance (General Provisions and Exemptions for Captive Insurers) Regulations 2018 and MAS Notice 130.

Part I – Mandatory Requirements

Non In-House Risks

5 All risks other than in-house risks shall be treated as “non in-house risks”.

Treatment of Non In-House Risks

6 Subject to paragraph 7, a captive insurer must obtain the Authority’s prior approval to write non in-house risks.

7 Subject to paragraph 10, a captive insurer may write non in-house risks without the prior approval of the Authority if all of the following requirements are satisfied:

- (a) the captive insurer’s parent corporation has:
 - (i) at least 20% shareholding, directly or indirectly, in the insured; or
 - (ii) full risk management control in the insured, where the insured has explicitly agreed to give the captive insurer’s parent corporation such control in the form of a written contract between the parent corporation and the insured;
- (b) cumulative gross premiums written from non in-house risks for the current financial year of the captive insurer, constitutes no more than 20% of the captive insurer’s cumulative gross premiums written in the preceding financial year; and
- (c) the captive insurer obtains a letter of awareness which —
 - (i) is signed by a person duly authorised by the insured’s Board of Directors to make the declarations in the letter of awareness and to sign the letter of awareness (“authorised personnel”); and
 - (ii) states that the authorised personnel of the insured is aware of and approves the placement of insurance with the captive insurer.

8 Where a captive insurer writes non in-house risks in accordance with paragraph 7 of this Notice—

- (a) The captive insurer must submit to the Authority a copy of the contract mentioned in paragraph 7(a)(ii) immediately upon the Authority’s request, where the captive insurer relies on paragraph 7(a)(ii); and

- (b) The captive insurer must submit to the Authority the letter of awareness mentioned in paragraph 7(c) immediately upon the Authority's request.

9 For the purposes of paragraph 7(a)(i)—

- (a) where the captive insurer's parent corporation does not hold shares directly in the insured but holds shares in a corporation ("intermediary corporation") which holds shares in the insured, the captive insurer's parent corporation shall be deemed to have an indirect shareholding in the insured calculated as a product of—

- (i) the shareholding of the captive insurer's parent corporation in the intermediary corporation; and

- (ii) the shareholding of the intermediary corporation in the insured;¹ and

- (b) where the captive insurer's parent corporation does not hold shares directly in the insured but holds shares in a corporation ("first intermediary corporation") which holds shares in another corporation ("second intermediary corporation") which in turn holds shares in the insured, the captive insurer's parent corporation shall be deemed to have an indirect shareholding in the insured calculated as a product of—

- (i) the shareholding of the captive insurer's parent corporation in the first intermediary corporation;

- (ii) the shareholding of the first intermediary corporation in the second intermediary corporation; and

- (iii) the shareholding of the second intermediary corporation in the insured,

and this sub-paragraph shall apply with necessary modifications where there is a third or any further intermediary corporation.²

10 For the purposes of paragraph 7, a captive insurer does not need to satisfy paragraph 7(c) where—

- (a) non in-house risks are written as reinsurance; and

¹ For example, where a parent corporation owns 80% of Company A which in turn owns 20% of Company B, the parent corporation indirectly owns 16% of Company B (i.e. 80% of 20%).

² Where a parent corporation owns 80% of Company A which in turn owns 80% of Company B which in turn owns 80% of Company C which in turn owns 80% of Company D, the parent corporation indirectly owns 41% of Company D (i.e. 80% of 80% of 80% of 80%).

- (b) there is no separate agreement between the original insured and the original insurer that limits the liability of the original insurer to the original insured, in view of the reinsurance arrangement between the original insurer and the captive insurer.

Submission of Statement of Gross Premiums Written

11 Every captive insurer shall submit to the Authority, a statement of gross premiums on all of the following non in-house risks—

- (a) non in-house risks approved by the Authority under paragraph 6 of this Notice;
- (b) non in-house risks allowed under paragraph 7 of this Notice,

in the format as prescribed in Appendix A within 3 months from the close of each financial year of the captive insurer, and a captive insurer shall submit such a statement even if nil non in-house risks are written.

Effective Date and Transitional Provisions

12 This Notice shall come into effect on 1 January 2019.

13 Notwithstanding paragraph 12 and Notice No. MAS Notice 121 (Cancellation) 2018, a captive insurer need not comply with paragraph 11 of this Notice, and paragraph 9 of cancelled MAS Notice 121 (Captive Insurance – Writing of In-House And Non In-House Risks) dated 8 May 2012 (the “cancelled Notice”), continues to apply to a captive insurer in respect of the statement under the cancelled Notice to be lodged with the Authority for the financial year beginning on any day between 1 January 2018 and 31 December 2018 (both dates inclusive).

Part II – Guidelines

Customer and employee benefit³ insurance risks

14 With regard to customer and employee benefit policies written on a direct insurance or reinsurance basis, a captive insurer should refer to the definition of “in-house risk” set out in paragraph 3 to determine if such policies would be classified as in-house risks.

15 Where the captive’s related corporation is contractually or statutorily obligated to offer such benefits to its customers or employees, regardless of whether insurance is in place, the captive insurer may consider these risks as in-house risks. This means that the related corporation is

³ Examples of customer and employee benefit insurance are insurance on product warranties and insurance on employee health care respectively.

principally responsible for the claims payment to its customers or employees, regardless of the captive insurer's ability to make claims payment to the related corporation.

Computation of gross premiums for a newly incorporated captive insurer

16 For a newly incorporated captive insurer, the 20% computation in paragraph 7(b) shall be based on the business projection for the first business year provided to the Authority in the application for licence. Where the captive insurer's first year of business projection was not presented on a 12 month basis, the gross premiums shall be adjusted appropriately (by pro-rating or extrapolating) to reflect cumulative gross premiums written on a 12 month basis.

NAME OF CAPTIVE INSURER _____

STATEMENT OF PREMIUMS IN RESPECT OF NON IN-HOUSE RISKS INSURED, AS ALLOWED UNDER PARAGRAPH 7 OF NOTICE 121 OR AS APPROVED BY THE AUTHORITY, FOR THE FINANCIAL YEAR OF THE CAPTIVE INSURER ENDED _____

Name of Insured Company	Parent Corporation's Shareholding in Company (%)	Gross Premiums (\$\$'000)	Gross Premiums as a Percentage of Total Gross Premiums Written in the Preceding Financial Year (%)	Direct/ Reinsurance	Classification of Business Line as Prescribed in Form G1	Description of Risks Underwritten
<u>Allowed under paragraph 7 of Notice 121</u> <u>Approved by the Authority</u> Approved in Year ____:						
	Total					

Name & Signature of Chief Executive: _____

Date: _____