

Notice No: MAS 121
Issue Date: 8 May 2012

This Notice replaces Circular No. FSG 1/98 issued to captive insurers.

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 and the Insurance (General Provisions and Exemptions for Captive Insurers) Regulations 2004. 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) “holding company” has the same meaning as in section 5 of the Companies Act (Cap. 50);
 - (b) “parent corporation” means the immediate holding company of the captive insurer;
and
 - (c) “third-party” in relation to an entity means any party which is not a related corporation of the entity.
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 and in the Insurance (General Provisions and Exemptions for Captive Insurers) Regulations 2004.

Part I – Mandatory Requirements

In-House Risks and Non In-House Risks

5. In-house risks, in relation to a captive insurer, means any risk of a related corporation of the captive insurer which may ultimately result in losses affecting only the related corporation, and no other party, if the related corporation had not insured the risks with the captive insurer. Scaled interest risks, where the captive insurer is only responsible for insuring the related corporation's share of the risk¹ in an insured, are also considered in-house risks.

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

Treatment of Non In-House Risks

7. A captive insurer may write non in-house risks without the prior approval of the Authority subject to the following conditions:

- (a) the captive insurer's parent corporation shall have at least 20% shareholding, directly or indirectly², or full risk management control³ in the insured;
- (b) cumulative gross premiums written from non in-house risks for the current financial year of the captive insurer, shall constitute no more than 20% of the captive insurer's cumulative gross premiums written in the preceding financial year; and
- (c) the captive insurer shall obtain a letter awareness⁴ which shall state that the authorised personnel of the insured is aware of and approves the placement of insurance with the captive insurer.

¹ For example, if Company A owns 25% of Company B, and the captive insurer of Company A wishes to insure Company B's property as an in-house risk, it can only insure 25% of Company B's property risks, such that in an event of a default in payment by Company A's captive, only Company A's 25% share of Company B's property will be affected.

² Where a parent corporation owns 80% of Company A which then owns 20% of Company B, the parent corporation will have indirect ownership of Company B amounting to 16% (i.e. 80% of 20%).

³ The captive insurer shall ensure that full risk management control is explicitly agreed upon in the form of a contract between the parent corporation and the insured. The captive insurer shall submit a copy of this contract to the Authority upon request.

⁴ The captive insurer shall ensure that the person signing the letter is authorized by the insured's Board of Directors. The letter of awareness shall be presented to the Authority upon request.

8. Condition 7(c) applies to all non in-house risks written on a direct insurance basis. The condition is waived for risks written as reinsurance. However if there is a separate arrangement between the original insured and the original insurer that limits the liability of the original insurer to the original insured in view of a reinsurance arrangement with the captive insurer, condition (c) shall apply.

Submission of Statement of Gross Premiums Written

9. Every captive insurer shall submit to the Authority, a statement of gross premiums on non in-house risks allowed under this Notice, in the format as prescribed in Appendix A within 3 months from the close of each financial year⁵ of the captive insurer.

Part II – Guidelines

Customer and employee benefit⁶ insurance risks

10. With regards to customer and employee benefit policies written on a direct insurance or reinsurance basis, a captive insurer should apply the principles set out in paragraph 5 to determine if such policies would be classified as in-house risks.

11. Where the captive's related corporation is contractually or statutorily obligated to offer such benefits 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 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

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

⁵ This also applies for nil non in-house risks written.

⁶ Examples of customer and employee benefit insurance are insurance on product warranties or insurance on employee health care.

Effective Date and Transitional Provisions

13. This Notice shall take effect on 8 May 2012.

NAME OF CAPTIVE INSURER _____

STATEMENT OF PREMIUMS IN RESPECT OF NON IN-HOUSE RISKS INSURED, AS ALLOWED UNDER NOTICE 121 AND 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 (S\$'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 6	Description of Risks Underwritten
<u>Allowed under Notice 121</u> (a) Parent company (b) Joint Venture (c) Associated companies (d) Others <u>Approved by the Authority</u> Approved in Year ____: (a) Parent company (b) Joint Venture (c) Associated companies (d) Others						
	Total					

Name & Signature of Principal Officer: _____

Date: _____