



RESPONSE TO FEEDBACK RECEIVED – CONSULTATION ON LEGISLATIVE CHANGES RELATING TO REQUIREMENTS ON KEY EXECUTIVE PERSONS AND DIRECTORS FOR INSURERS

1 Introduction

1.1 In August 2012, the Monetary Authority of Singapore (“MAS”) issued a consultation paper setting out the proposed changes to provisions in the Insurance Act (“Act”) relating to the appointment of directors and key executive persons. The consultation paper also proposed to prescribe the roles and responsibilities of all key executives persons in a new set of regulations, to repeal the Insurance (Actuaries) Regulations 2004 (“Actuaries Regulations”), and to revise MAS Notice 106 to make it applicable to appointment of directors and all key executive persons.

1.2 The consultation closed on 14 September 2012. Various parties commented on the consultation paper and MAS would like to thank all respondents for their contributions. The list of respondents is in Appendix A.

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

2 Changes Requiring Act Amendments

Changes relating to Chairman, Director and Key Executive Person

MAS' Prior Approval for Appointment of Chairman, Director or Key Executive Person

2.1 Some respondents enquired if the requirements relating to the appointment, approval and removal of directors would apply to licensed insurers incorporated outside Singapore.

MAS' Response

2.2 MAS would like to clarify that the intention is for requirements relating to the appointment, approval and removal of chairman and directors under sections 31 and 31A of the Act to apply only to locally incorporated direct insurers and reinsurers.

Powers to Remove Chairman, Director or Key Executive Person

2.3 Several respondents sought clarification on the criteria and process for removing the chairman, director or key executive person from his appointment or employment. A respondent commented that employment decisions should be left to the insurer. Two respondents sought clarification on whether the removal of directors provision applies to licensed insurers incorporated outside Singapore.

MAS' Response

2.4 MAS remains of the view that it should be accorded with powers to remove the chairman, director or key executive person from employment altogether. As indicated in the consultation paper, there may be developments where the integrity, or fitness and propriety of an individual may subsequently make him unsuitable to remain in employment with a financial institution.

2.5 MAS notes respondents' possible concerns over MAS' powers to remove persons being too broad. In this regard, MAS has introduced another condition for exercising this power - that, it is necessary in the public interest or for the protection of policy owners of the licensed

insurer. This is set out in section 31(10)(b) of the Act and it is aligned with other MAS-administered Acts.

2.6 The process for removing the chairman, director or a key executive person is set out under section 31(12) to (15) of the Act, and it includes provisions for showing cause why a person should not be removed, and for appeal.

2.7 In the case of licensed insurers incorporated outside Singapore, the powers to remove persons applies to a key executive person, but not to a chairman or director.

Definition of Chief Executive (“CE”)

2.8 A respondent sought clarification on the responsibilities of the CE and also commented that it would be too onerous for the CE to be responsible for any non-insurance business that the insurer conducts as well.

MAS’ Response

2.9 The CE should be responsible for the management and conduct of the business of the insurer, whether it is insurance or non-insurance business as both have an impact on its financial position. The CE should also have responsibility for any branch or subsidiary of the insurer since respectively, a branch is the same legal entity as its head office, and a subsidiary can have a significant financial and reputational impact on its parent company. The same applies even if the insurer’s subsidiary is a financial institution licensed or registered by MAS.

Appointment of Deputy CE

2.10 Two respondents commented that it may not be equitable for the Deputy CE to have the same statutory responsibility as the CE and be jointly responsible with the CE for the conduct of the insurer when the Deputy CE would likely report to the CE. Several respondents sought clarification on the situations under which a Deputy CE needs to be appointed.

MAS' Response

2.11 The Deputy CE role is not a compulsory appointment. There is also a Deputy CE appointment under other MAS-administered Acts.

2.12 In the event that regulatory action is required, MAS will conduct a case-by-case assessment to determine whether to hold the CE, the Deputy CE or both responsible.

2.13 We had proposed to set out as guidelines that an insurer should appoint a Deputy CE if the CE will be unable to carry out his responsibility as a CE for an extended period of time. We did not proceed to do so as the list of scenarios is not exhaustive and the insurer should use its discretion to decide on the need to appoint a Deputy CE based on its circumstances.

Changes relating to Actuaries

Written Approval by the Board of Directors on the Appointment of Appointed Actuary (“AA”)

2.14 Two respondents sought clarification on whether the insurer’s board of directors needs to approve the AA appointment.

MAS’ Response

2.15 The proposal is to remove the requirement for an insurer to submit to MAS a written appointment of the AA from its board of directors. As indicated in the consultation paper, MAS continues to expect the insurer’s board of directors to review all proposed appointees for the appointment of directors and key executive persons, which includes the AA, and to assess that these candidates are fit and proper for the role. This has been set out as guidelines under MAS Notice 106.

Investigation Conducted by Certifying Actuary (“CA”) into Financial Condition of General Business

2.16 Two respondents enquired on the scope of the investigation required of the CA into the financial condition of general business of the insurer.

MAS’ Response

2.17 For the moment, the annual stress-testing exercise currently conducted by the CA for direct insurers conducting general business would be adequate.

3 Introduction of Key Executive Persons Regulations

Expanded Roles and Responsibilities for AA and CA

3.1 Some respondents commented that the AA and CA should not be responsible for computing the insurer's protected liabilities for the purposes of the Policy Owners' Protection Scheme, and for verifying whether an insurer's reinsurance arrangements involve significant insurance risk transfer.

3.2 With regard to the financial condition investigation, some respondents sought clarification on whether it would apply to reinsurers.

3.3 As for the requirements for the AA and CA (i) to submit the reports and documents relating to the financial condition investigation to the insurer's board of directors, and (ii) to prepare a report to the CE and the board of directors on any matter which has come to his attention in the course of carrying out his duties, some respondents asked how the requirements would apply to a licensed insurer incorporated outside Singapore.

3.4 Several respondents sought clarification on the requirement for the AA and CA to assist the insurer on other matters apart from actuarial matters.

MAS' Response

3.5 The AA and CA's involvement in the computation of the insurer's protected liabilities for the purposes of the Policy Owners' Protection Scheme can be valuable. For bundled products, the AA and CA's can help to ensure that the stripping of liabilities for different types of policies is done correctly. The levy for run-off business is computed based on protected liabilities and not gross written premiums.

3.6 The AA and CA are required to verify significant insurance risk transfer in an insurer's reinsurance arrangements because it forms part of their responsibility of valuing the policy liabilities of the insurer. Whilst, it may be obvious that significant insurance risk transfer exists even in the absence of any quantitative testing in some contracts, in other cases, the

extent of insurance risk transfer has to be verified by appropriate tests to assess the streams of cash flows for various scenarios.

3.7 The extent of application of the financial condition investigation for different types of licensed insurers has been prescribed in regulation 11 of the Actuaries Regulations. While both direct insurers and reinsurers are required to have their policy liabilities valued by the AA or CA, currently, only direct insurers are required to have a financial soundness assessed by the AA or CAA

3.8 The AA or CA is required to (i) submit to the insurer's board of directors the reports and documents relating to the financial condition investigation, and (ii) prepare a report to the chief executive and the board of directors on any matter which has come to his attention in the course of carrying out his duties. For the purposes of these requirements, the board of directors in the case of a licensed insurer incorporated outside Singapore means all members of the senior management, collectively, of the insurer's head office with oversight responsibilities for the insurer's Singapore operations.

3.9 Regarding the requirement for the AA or CA to assist the insurer on other matters apart from actuarial matters, the details have been prescribed in regulation 9 of the Actuaries Regulations.

Reporting Line for AA and CA

3.10 Several respondents commented that it may not be practical for the AA and CA to have a direct reporting line to the insurer's board of directors, and some respondents asked about the applicability to licensed insurers incorporated outside Singapore.

MAS' Response

3.11 MAS has taken into account the feedback received and removed the proposed requirement for the AA and CA to have a direct reporting line to the insurer's board of directors. Nonetheless, MAS retains the proposed requirement for the insurer to ensure that the AA and CA have free and unfettered access to the board of directors. For the purposes of these requirements, the board of directors in the case of a licensed insurer incorporated outside Singapore means all members of the senior

management, collectively, of the insurer's head office with oversight responsibilities for the insurer's Singapore operations. MAS will be reviewing the current direct reporting lines of the AA and CA.

Notification of Other Actuarial Engagements by AA and CA

3.12 MAS had proposed to require the AA or CA to notify the insurer when he was contracted to perform similar duties with another insurer, within one month of such additional appointment, and to require the insurer to notify MAS about it within a month of being notified by the AA or CA. We had also proposed for the insurer's board of directors to provide a written explanation to MAS on whether the change would result in a compromise of the quality of work of the AA or CA, or result in potential conflict of interest.

3.13 Several respondents felt that it was impractical for the board of directors to assess the quality of the AA's or CA's work or whether he was able to dedicate sufficient resources to the insurer. In addition, requiring an evaluation each time the AA or CA takes on an additional engagement, would be overly demanding on the time and resources of the board of directors.

3.14 Some respondents commented that the insurer's CE or senior management would be in a better position to make the assessment, while some other respondents commented that the AA and CA should be personally accountable for this.

3.15 Several respondents enquired if the requirement extends to a situation where the licensed insurer's AA or CA is contracted to perform similar duties with other entities within same group or with a branch of the licensed insurer.

MAS' Response

3.16 MAS has taken into account the feedback received and revised the proposal such that the AA and CA is only required to notify the insurer annually of all their actuarial engagements as at 31st December of each calendar year, and the insurer is only required to notify MAS annually of the same by 31st March of each calendar year.

3.17 MAS retains the proposal of requiring the insurer's board of directors to make the necessary assessment. The board of directors is not precluded from getting its senior management to provide it with the preliminary assessment and recommendations. The board of directors can formalise a policy or guidelines with respect to what it is comfortable with in terms of the AA or CA taking on multiple engagements, and the senior management can be guided by such policies or guidelines when making the assessment and recommendation for the board of directors' approval.

3.18 MAS has also revised the proposal so that the assessment by the board of directors is at least annually instead of every time the AA or CA accepts a new actuarial engagement. In addition, the board of directors' written explanation will only be required if it assessed that the AA or CA's additional engagements would result in a compromise of the quality of his work or potential conflict of interest.

3.19 These requirements apply even when the licensed insurer's AA or CA is contracted to perform similar duties with other entities within the same group or with a branch of the licensed insurer.

4 Revision of MAS Notice 106

Additional Roles by Director or Key Executive Person

4.1 MAS had proposed to require the insurer's board of directors to provide a written explanation to MAS if:

- (i) A proposed director or key executive person was or would be holding an additional role of an executive officer; or
- (ii) There was an intention for an approved director or key executive person to take on an additional role as an executive officer, or to change his reporting line.

4.2 There was feedback that the proposed requirement for a board of directors' explanation seemed to be discouraging all dual appointments including a person holding both CE and director appointments, which is common place.

4.3 MAS had also proposed that, when there was an intention for an approved director or key executive person to take on an executive officer position, or when there is a change in the reporting structure, insurers should notify MAS at least one month before the change. Some respondents commented that it may not always be possible to meet this notification timeframe, especially if the decisions were made at short notice at the insurer's parent company or head office level.

MAS' Response

4.4 MAS' intention is not to prohibit all dual appointments, but for insurers to be aware of any potential conflict of interests that might arise and put in place the necessary mitigating measures.

4.5 MAS has taken into account the feedback received and revised the proposal such that the insurer's board of directors is required to provide a written explanation for the dual appointment to MAS only if it has assessed that it would give rise to potential conflict of interest or hamper the person from discharging his statutory duties. In making the assessment, the board of directors should also take into account the person's appointment or positions in other corporations.

4.6 Regarding the notification timeframe when there is an intention for an approved director or key executive person to take on dual appointments, or when there is a change in the reporting structure, MAS has taken into account the feedback received and revised it to “at least one month before the proposed arrangement, or such shorter period that the Authority may specify in writing”.

Fit and Proper Policy

4.7 A respondent asked how the proposed guidelines on fit and proper policy would apply with respect to an insurer incorporated outside Singapore.

MAS’ Response

4.8 For an insurer incorporated outside Singapore, the guidelines on fit and proper policy apply to key executive person appointments but not to director appointments.

Criteria for Assessing Appointment of Directors and Key Executive Persons

4.9 MAS had proposed to set out as guidelines in MAS Notice 106 the criteria which would be taken into account by MAS when assessing the appointment of directors and key executive persons.

MAS’ Response

4.10 MAS will instead be prescribing the criteria under Insurance (Key Executive Persons) Regulations in future.

5 Other Matters

Treatment for Captive Insurers

5.1 Some respondents enquired if captive insurers would continue to be exempted from the need to seek MAS' prior approval for director appointments. They also sought clarifications on whether captive insurers carrying on general business continued to be exempted from the requirement to conduct an actuarial investigation into their policy liabilities.

5.2 There were also respondents who suggested to exempt captive insurers from some of the new requirements proposed under the consultation paper.

MAS' Response

5.3 Captive insurers continue to be exempted from the requirement to seek MAS' prior approval for director appointments, and captive insurers carrying on general business continue to be exempted from the requirement to conduct an actuarial investigation into their policy liabilities.

5.4 Given that captive insurers write primarily in-house risk, MAS will not subject captive insurers to proposals 9, 14, 18 and 19 of the consultation paper. MAS will also not subject an AA of a captive insurer carrying on life business to the expanded roles of an AA set out in proposal 12 of the consultation paper.

Administrative Matters

5.5 MAS had proposed to prescribe the roles and responsibilities of all key executive persons in a new set of regulations and repeal the Actuaries Regulations. MAS has instead first updated the Actuaries Regulations. MAS will introduce a new Insurance (Key Executive Persons) Regulations before 2014 and thereafter repeal the Actuaries Regulations.

MONETARY AUTHORITY OF SINGAPORE

21 May 2013

Appendix A

List of Respondents to the Consultation Paper on Legislative Changes relating to Requirements on Key Executive Persons and Directors of Insurers

1. Asia Capital Reinsurance Group Pte Ltd
2. Axis Specialty Limited (Singapore Branch)
3. General Insurance Association of Singapore
4. Liberty Mutual Insurance Europe Limited
5. Life Insurance Association Singapore
6. Marsh Management Services Singapore Pt Ltd
7. Pacific Life Re Limited Singapore Branch
8. Royal & Sun Alliance Insurance plc, S'pore Branch
9. Singapore Actuarial Society
10. The Standard Club Asia Ltd
11. United Overseas Insurance Limited
12. XL Insurance Company Ltd Singapore Branch
13. XL Re Ltd

Two other respondents requested confidentiality.