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# The Legal 500 Country Comparative Guides

## Singapore

# INSURANCE & REINSURANCE

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This country-specific Q&A provides an overview of insurance & reinsurance laws and regulations applicable in Singapore.

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# SINGAPORE INSURANCE & REINSURANCE



## 1. How is the writing of insurance contracts regulated in your jurisdiction?

Singapore law primarily comprises statutory law as well as the common law.

The primary legislation governing the provision of insurance and reinsurance business is the Insurance Act 1966 (the "Insurance Act"). Generally, any person who writes insurance and/or reinsurance business must be licensed or authorised under the Insurance Act.

Apart from the Insurance Act, there are other legislation regulating specific types of insurance such as marine insurance and motor vehicles insurance. In addition, through the Application of English Law Act 1993, the provisions found in the following English statutes continue to have force of law in Singapore:

- Policies of Assurance Act 1867
- Third Parties (Rights against Insurers) Act 1930
- Marine Insurance Act 1906

The parent legislation is usually supplemented by subsidiary legislation as well as notices, directives, guidelines and codes that are issued by the relevant regulatory authority, all of which have the force of law with the exceptions of guidelines and codes. Although guidelines (which set out principles or "best practice standards" that govern the conduct of specified institutions or persons) and codes (which set out a system of rules governing the conduct of certain specified activities) do not have the force of law, they are expected to be complied with and non-compliance may have an impact on the Monetary Authority of Singapore's (the "MAS") overall risk assessment of that institution or person and/or may attract certain non-statutory sanctions such as a private reprimand or public censure.

The main body that regulates the provision of insurance and reinsurance business in Singapore is the MAS.

Apart from the MAS, the Life Insurance Association (the

"LIA") - the trade association of life insurers, and the General Insurance Association (the "GIA") - the trade association of general insurers also play an important role in the regulation of insurers and insurance intermediaries. These associations issue internal codes of conduct and guidelines to regulate the conduct of their members.

## 2. Are types of insurers regulated differently (i.e. life companies, reinsurers?)

Yes, different types of insurers are regulated differently.

Insurers can be licensed as direct insurers, reinsurers or captive insurers, and each type of insurer is subject to different regulatory requirements.

Direct life insurers are licensed to write life policies as well as long-term accident and health policies. Direct general insurers are licensed to write all insurance business other than life policies and long-term accident and health policies. Direct general insurers include specialist insurers that write marine mutual insurance business, trade credit and political risk insurance business as well as financial guarantee insurance business. Direct composite insurers are licensed to write both life and general insurance business.

Reinsurers are licensed to write life reinsurance business and/or general reinsurance business in Singapore. They are not permitted to write direct business and are only allowed to assume all or a part of the insurance or reinsurance risk written by another insurer. Reinsurers include special purpose reinsurance vehicles that enter into insurance securitisation for the purposes of fulfilling the obligations under the reinsurance contracts with the ceding insurers ("Special Purpose Reinsurance Vehicle").

Captive insurers are licensed to write insurance business which consists principally of risks of its related corporations.

There are also other schemes whereby insurers or reinsurers may be subject to different or lighter

regulation. These include the foreign insurer scheme, approved marine, aviation and transit (“MAT”) insurer scheme and the authorised reinsurer scheme. It is pursuant to the foreign insurer scheme that foreign insurers approved under the laws of another jurisdiction to carry out the business of insurance are able to conduct specified general insurance business in Singapore through locally-incorporated service companies. Under the approved MAT insurer scheme, foreign insurers in designated countries may apply for approval to provide direct MAT insurance in Singapore. Approved MAT insurers do not write insurance business (other than the collection or receipt of premiums in relation to MAT insurance business), do not have a physical presence in Singapore, and provide insurance services from overseas to persons in Singapore. Under the authorised reinsurer scheme, foreign reinsurers who do not have a physical presence in Singapore and provide insurance services from overseas to persons in Singapore may apply for authorisation to carry on life and/or general reinsurance business in Singapore.

### 3. Are insurance brokers and other types of market intermediary subject to regulation?

Yes, insurance intermediaries are primarily regulated under the Insurance Act and, in respect of life business, the Financial Advisers Act 2001 (the “Financial Advisers Act”).

Under the Insurance Act, an insurance agent is an agent for one or more insurers while an insurance broker is an agent for insureds or intending insureds. Insurance agents engaged in the sale of general life policies need to be registered with the GIA’s Agents’ Registration Board (“ARB”) through the principal insurers they intend to represent. Insurance brokers need to be registered with the MAS under the Insurance Act.

Insurance intermediaries who arrange for any contract of insurance in respect of life policies (other than a contract of reinsurance) need to be licensed as a financial adviser under the Financial Advisers Act.

### 4. Is authorisation or a licence required and if so how long does it take on average to obtain such permission? What are the key criteria for authorisation?

#### *Insurers*

Yes, a licence or authorisation is required depending on the type of insurance business undertaken (see response to Question 2 above).

An applicant applying for a licence as an insurer is encouraged to reach out to the MAS to discuss its plans before making a formal submission. Although MAS provides a general guidance that (other than applications for Special Purpose Reinsurance Vehicle where the processing time is shorter) it will typically take approximately 6 to 8 weeks to process applications after they have been completed and formally submitted, the actual processing time for each application could be longer. This will depend on the circumstances of each application and the completeness of the information submitted.

Generally, factors that the MAS takes into account in its assessment of an application for a licence as an insurer (other than for Special Purpose Reinsurance Vehicles where different considerations apply) include, amongst others, the:

- domestic and international rankings of the applicant by factors such as premiums and assets;
- past and present credit ratings by international rating agencies, including Standard and Poor’s, AM Best, Moody’s and Fitch;
- track record, financial soundness and reputation of the applicant, including the applicant’s compliance with its home regulations. (In assessing this criterion, MAS will consult the applicant’s home supervisory authority);
- fitness and propriety of the licensee, any director or key executive person, all of its substantial shareholders, and all persons having effective control of the licensee;
- presence of robust risk management systems and processes that are commensurate with the size and complexity of the business;
- presence of a well-developed business strategy and detailed plans that reflect the risk profile of the business; and
- (in the case of direct life insurers and direct general insurers) experience in product innovation, use of alternative business distribution channels and expertise in specialist and niche fields.

#### *Insurance Intermediaries*

Yes, insurance intermediaries need to be either licensed or registered (see response to Question 3 above).

In relation to applications made for a licence as a financial adviser or registration as an insurance broker, MAS provides general guidance that it expects to take not more than 4 months to review and process the

application. This timeline assumes that the business model is straightforward, the applicant meets the relevant admission criteria fully, and the application is complete and clear. For more complex cases, or cases where information is assessed to be incomplete or inaccurate, MAS will need a longer time to review the application.

Generally, factors that the MAS considers in its assessment of an application for a licence as a financial adviser or registration as an insurance broker include, amongst others, the:

- track record, management expertise and financial soundness;
- fitness and propriety of the applicant, its directors and chief executive officer, all its substantial shareholders and broking staff / representatives;
- ability to meet the prescribed minimum financial requirements and professional indemnity insurance requirements;
- strength of internal compliance systems; and
- business plans and projections.

A lighter touch regime applies to the registration of insurance agents with GIA's ARB.

## **5. Are there restrictions or controls over who owns or controls insurers (including restrictions on foreign ownership)?**

There are no restrictions on foreign ownership. However, the substantial shareholders of a licensed insurer and persons having control of a licensed insurer, a licensed financial adviser or a registered insurance broker must be "fit and proper" persons in accordance with the criteria set out by the MAS.

In addition, any change in control or change in substantial shareholders of a licensed insurer incorporated in Singapore is subject to MAS' prior approval. Any change in control of a licensed financial adviser and a registered insurance broker is also subject to MAS' prior approval. Furthermore, even after approval has been granted, the MAS retains the power to revoke any such approval. The MAS may require the person who has effective control or who is a substantial shareholder to take such steps as are necessary to cease to be in effective control or cease to be a substantial shareholder, or to comply with any other direction the MAS may make.

## **6. Is it possible to insure or reinsure risks**

## **in your jurisdiction without a licence or authorisation? (i.e. on a non-admitted basis)?**

No, it is generally not possible to carry on any class of insurance business in Singapore on a non-admitted basis.

## **7. Is a branch of an overseas insurer, insurance broker and/or other types of market intermediary in your jurisdiction subject to a similar regulatory framework as a locally incorporated entity?**

The regulatory framework is generally similar regardless of whether it concerns a branch or a locally incorporated entity but there are some differences. Generally, there is greater control and supervision over locally incorporated entities. For instance, only insurers incorporated in Singapore are subject to the following rules:

- restrictions in change in control or change in substantial shareholders (as described in the response to Question 5 above); and
- pre-approval requirements for its directors and the chairman of the board of directors.

Separately, we note that a registered insurance broker under the Insurance Act must be a locally incorporated company.

## **8. What penalty is available for those who operate in your jurisdiction without appropriate permission?**

Fines and/or imprisonment may be imposed upon offenders.

A person who contravenes the requirement of licensing or authorisation of insurers under the Insurance Act will be liable on conviction (a) in the case of an individual, to a fine not exceeding S\$125,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding S\$12,500 for every day or part of a day during which the offence continues after conviction; or (b) in any other case, to a fine not exceeding S\$250,000 and, in the case of a continuing offence, to a further fine not exceeding S\$25,000 for every day or part of a day during which the offence continues after conviction.

A person who contravenes the requirement of registration as an insurance broker under the Insurance Act, or the requirement of licensing as a financial adviser

under the Financial Advisers Act, will be liable on conviction to a fine not exceeding S\$75,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding S\$7,500 for every day or part of a day during which the offence continues after conviction.

### 9. How rigorous is the supervisory and enforcement environment? What are the key areas of its focus?

The managing director of the MAS has stated that the MAS is resolved to ensure that Singapore remains a clean and trusted financial centre. In that regard, it established, in 2016, a dedicated enforcement department to centralise MAS' enforcement functions and capabilities. The centralisation was done to enhance consistency and expertise in the enforcement functions across the various sectors regulated by the MAS, including banking, insurance and capital markets.

We set out some examples of enforcement actions/reprimands below.

In June 2021, the MAS reprimanded several insurance companies for breaches of requirements relating to risk management arrangements and the remuneration of supervisors. In particular, the MAS found numerous instances where remuneration was paid to supervisors in contravention of requirements under the Financial Advisers Act. These related to the Balanced Scorecard requirements for the sale of investment products, and the Spreading and Capping of Commissions requirements for the sale of regular premium life policies.

The MAS also issued personal reprimands to the consultant involved for accepting remuneration in breach of regulatory requirements and a director for his failure to discharge the duties of his office.

In addition, the MAS also issues prohibition orders against individuals when considered appropriate. In May 2021, the MAS issued a two-year prohibition order against a former insurance agent for making false and misleading statements to his client. The former insurance agent was prohibited from providing any financial advisory service, or from taking part in the management, acting as a director or becoming a substantial shareholder of any financial advisory firm under the Financial Advisers Act.

Apart from investigations, regulatory audits are also periodically conducted by the MAS.

The key areas of focus include:

- a. market abuse – including insider trading, false trading and corporate disclosure breaches;
- b. financial services misconduct – including mis-selling of financial products, breaches of business conduct rules and serious unfitness or impropriety; and
- c. anti-money laundering and countering the financing of terrorism-related control breaches.

The MAS indicated that some of the enforcement priorities of the MAS in 2020/2021 included:

- a. corporate disclosures – to pursue serious and complex cases of disclosure breaches, in collaboration with key enforcement partners;
- b. financial advisory conduct – to deepen capability to proactively detect financial advisory misconduct;
- c. anti-money laundering and countering the financing of terrorism compliance – to continue to focus on financial institutions which lack rigorous AML/CFT systems and processes;
- d. enhancing the enforcement toolkit – to update enforcement-related powers to better detect, investigate and take action against misconduct; and
- e. senior management accountability – to enhance focus on senior management accountability for breaches by their financial institutions or subordinates.

### 10. How is the solvency of insurers (and reinsurers where relevant) supervised?

The solvency of licensed insurers in Singapore is mainly governed by the requirements under the Insurance (Valuation and Capital) Regulations 2004 and MAS Notice 133 on Valuation and Capital Framework for insurers. These set out the requirements under the risk-based capital framework ("RBC 2") applicable to all licensed insurers, including the way in which assets and liabilities are to be valued. According to the RBC 2 framework, insurers are expected to meet, at all times, a fund solvency requirement and a capital adequacy requirement at two supervisory solvency intervention levels – the Prescribed Capital Requirements and the Minimum Capital Requirements.

Generally, the solvency of insurers (including reinsurers) are supervised through the periodic lodgement with the MAS of the various prescribed forms and returns by the relevant insurer.

The prescribed forms and returns required to be lodged

includes, amongst others, those relating to the financial position, profit and loss, changes in equity, fund solvency and capital adequacy requirements and various lines of business of the insurer (although we note that not all types of insurers are subject to the same requirements, and some may have lighter reporting requirements than others). The forms and returns are to be submitted on a quarterly and/or annual basis. There is also a requirement for various annual returns to be audited.

In addition, generally, insurers are required to submit annual reports and independent auditors' reports as well as various reports and certificates from their actuary annually.

Apart from the lodgement of the prescribed forms and returns, insurers are to perform their own risk and solvency assessment ("ORSA"). An insurer must perform its ORSA at least on an annual basis to assess the adequacy of its risk management and its current and projected future solvency positions. ORSA reports must be lodged with the MAS (in the case of a tier 1 insurer) annually or (in the case of other insurers) every third year, together with an extract of the minutes of the board of directors' meeting detailing the deliberations made by the board of directors on the ORSA report and the board of directors' approval of the ORSA report.

A licensed insurer (or reinsurer) must also immediately give written notice to the MAS upon certain trigger events, including when it becomes aware that the prescribed fund solvency requirement or the capital adequacy requirement is not satisfied or is not likely to be satisfied.

## 11. What are the minimum capital requirements?

Depending on the type of insurance licence, generally, the minimum paid-up ordinary share capital requirement ranges from at least S\$5 million (in the case of insurers who only carry a restricted line of business as prescribed) to S\$10 million (in the case of other insurers). For reinsurers, the minimum paid-up ordinary share capital is at least S\$25 million.

For insurance brokers, depending on the number of types of insurance broking business for which registration is sought, the minimum paid-up ordinary share capital ranges from S\$300,000 to S\$900,000. For financial advisers carrying on the business of arranging any contract of insurance in respect of life policies only (other than a contract of reinsurance), the minimum paid-up ordinary share capital requirement is currently S\$150,000 but the MAS has indicated that it expects all

new applicants to meet the enhanced minimum paid-up ordinary share capital requirement of S\$500,000.

## 12. Is there a policyholder protection scheme in your jurisdiction?

Yes. The Policy Owners' Protection Scheme ("PPF Scheme") protects policy owners of life and general insurance policies covered under the Scheme and issued by direct life and direct general insurers which are PPF Scheme members. The policy owners may be individuals or non-individuals, such as companies.

The PPF Scheme protects life insurance policies (including riders) issued by licensed life insurers which are PPF Scheme members. The Scheme covers policies issued in Singapore by a licensed life insurer to both residents and non-residents of Singapore. It does not cover policies issued by overseas branches of a licensed life insurer incorporated in Singapore. Examples of life insurance policies covered include individual and group term life policies, whole life policies, endowment policies, annuities and long-term accident and health policies. Coverage for life insurance policies are based on guaranteed benefits only, and is generally subject to caps (with certain exceptions). For example, for individual life and voluntary group life policies, there are aggregate caps applicable, namely S\$500,000 for the guaranteed sum assured and S\$100,000 for the guaranteed surrender value per life assured per insurer.

The PPF Scheme also protects all compulsory insurance policies under the Motor Vehicles (Third Party Risks and Compensation) Act 1960, Work Injury Compensation Act 2019 and short-term accident and health policies issued by PPF Scheme members. Furthermore, the PPF Scheme also covers policies of specified personal lines issued to individuals only by PPF Scheme members where the risks arise in Singapore or where the policy owner is resident in Singapore. The types of specified personal lines covered include personal motor insurance policies, personal travel insurance policies, personal property (structured and contents) insurance policies and foreign domestic maid insurance policies. Coverage for general insurance policies is generally not subject to any caps (except for the limits specified under the law for compulsory insurance policies and for own property damage motor claims under personal motor insurance policies and property damage claims under personal property (structure and contents) insurance policies).

## 13. How are groups supervised if at all?

A new statute entitled the Financial Holding Companies Act (the "FHC Act") was passed in 2013 although it

remains uncommenced as at the date of submission of this article. The FHC Act allows the MAS to strengthen prudential oversight of a financial group in Singapore (including groups involving insurance entities) with the regulations aimed at mitigating intra-group contagion risk, preventing the multiple use of capital within the group, and limiting group concentration risk exposures. This also includes the requirement that large shareholders of such companies first be approved by the MAS with respect to their shareholdings.

#### **14. Do senior managers have to meet fit and proper requirements and/or be approved?**

Yes, generally, senior managers, including the directors and chief executive officer and key executive officers, are required to meet fit and proper requirements.

In addition, the following persons, amongst others, must be approved by the MAS after fulfilling fit and proper requirements:

- directors and the chairman of the board of directors of a licensed insurer which is established or incorporated in Singapore;
- key executive persons of a licensed insurer (including the chief executive, deputy chief executive, an appointed actuary and a certifying actuary); and
- chief executive officer or director of a registered insurance broker or a licensed financial adviser.

#### **15. To what extent might senior managers be held personally liable for regulatory breaches in your jurisdiction?**

In September 2020, the MAS issued the Guidelines on Individual Accountability and Conduct. One of the key objectives of the said Guidelines is to embed a strong culture of responsible and ethical behavior in financial institutions by requiring individual accountability on the part of senior managers and a supportive governance framework. Amongst others, it seeks to ensure that senior managers are held to account for matters under their purview.

In its FAQ issued to help financial institutions achieve the five outcomes set out in the said Guidelines, the MAS indicated that in determining whether and to what extent a senior manager might be accountable for misconduct committed by employees under their purview, factors such as the senior manager's consent or level of knowledge of or participation in the misconduct,

or whether the senior manager could reasonably be expected to have been aware or to have taken adequate steps to address the issue, should be taken into consideration. Financial institutions should conduct the necessary investigations and, depending on the facts and circumstances of the case, take the appropriate action against the senior manager, including referring the case to the MAS or other relevant authorities where necessary.

#### **16. Are there minimum presence requirements in order to undertake insurance activities in your jurisdiction (and obtain and maintain relevant licences and authorisations)?**

Generally, in order to obtain a licence from the MAS to carry on insurance business in Singapore, the applicant must either be a company incorporated in Singapore, a company incorporated outside Singapore which has an established place of business in Singapore, or a co-operative society (registered under the Co-operative Societies Act 1979).

There are, however, selected schemes where foreign insurers (including reinsurers) can provide insurance services from overseas to persons in Singapore without a physical presence in Singapore. These include the approved MAT insurer scheme and the authorised reinsurer scheme discussed above (see our response to Question 2 above).

#### **17. Are there restrictions on outsourcing services and/or operational resilience requirements relating to the business?**

Generally, financial institutions are expected to comply with the Guidelines on Outsourcing in relation to their outsourcing arrangements. In supervising an institution, the MAS will review the institution's implementation of the said Guidelines, the quality of its board and senior management oversight, governance, internal controls and risk management with regard to managing outsourcing risks.

Amongst other things, the MAS expects a framework to be drawn up by the insurer to evaluate the risks and materiality of all existing and prospective outsourcing arrangements. In addition, the senior management is also expected to establish appropriate governance structures and processes for sound and prudent risk management. This includes the establishment and testing of contingency plans, ensuring that there is independent review and audit for compliance with

outsourcing policies and procedures, and the timely communication of information pertaining to risks arising from its outsourcing arrangements to the board of the insurer.

In addition, business continuity management is an important contributing factor in MAS' overall supervisory assessment and the MAS will, in the course of its supervision of institutions, review the business continuity plan ("BCP") implemented, taking into consideration the extent to which the institution observed the guidelines, and its risk profile. Amongst others, financial institutions are expected to comply with the Guidelines on Business Continuity Management (the "BCP Guidelines") as part of the management of operational risk. The MAS expects financial institutions to implement an effective and sound business continuity management framework that minimises the impact from operational disruptions and enables them to fulfil their business obligations. The framework should be commensurate with the nature, scale, and complexity of the financial institution's business activities. MAS has indicated that the current BCP Guidelines are expected to be further revised to take into account the changes in the threat landscape and to incorporate, amongst others, key learnings from the COVID-19 pandemic.

With COVID-19, it is foreseeable that significant work-from-home, remote working and a hybrid mix of remote working and work-in-office arrangements will continue until the global pandemic is brought under control. In this regard, MAS and The Association of Banks in Singapore jointly issued a publication titled "Risk Management And Operational Resilience In A Remote Working Environment" in March 2021, to raise awareness of key remote working risks in the financial sector, share good practices adopted by financial institutions to mitigate key remote working risks and strongly encourage all financial institutions to adopt good practices on risk mitigation set out in the publication on a risk-proportionate basis according to their risk profiles and business activities.

### **18. Are there restrictions on the types of assets which insurers or reinsurers can invest in or capital requirements which may influence the type of investments held?**

A licensed insurer (including reinsurer) established or incorporated in Singapore is restricted from acquiring or holding, directly or indirectly, a major stake in any corporation without the prior approval of the MAS.

A licensed insurer (including reinsurer) incorporated

outside Singapore is restricted from acquiring, directly or indirectly, a major stake in any corporation using any of the assets of any insurance fund established and maintained by the licensed insurer under the Insurance Act or from holding, directly or indirectly, a major stake in any corporation as assets of any insurance fund established and maintained by the licensed insurer under the Insurance Act.

In addition, MAS Notice 125 sets out the principles that govern the oversight of investment activities of an insurer and the investments of its insurance funds, and in the case of an insurer that is incorporated or established in Singapore, the investments of both its insurance funds and its shareholders' funds. Under Notice 125, there are generally no express prohibitions against investments in any type of asset with the exception of derivatives. Insurers may only enter into or effect derivative transactions where it is done for the purposes of hedging or efficient portfolio management. It is further provided that insurers may not take uncovered positions in derivatives.

There are also clear principles in relation to the approach that insurers may adopt in their investment activities. For example, there is a general principle that insurers may only carry out investments when it is capable of assessing the nature, scale and complexity of the risks associated with those investments. The MAS also requires the insurer itself to set out limits for the allocation of assets by geographical area, markets, sectors, counterparties and currency. The MAS further provides that in establishing these limits, the insurer must ensure adequate diversification within a risk category and between different risk categories. In a consultation paper released on 19 February 2021, the MAS proposed to additionally require insurers to establish limits for the allocation of assets by type of asset and credit rating. As at the date of submission of this article, the outcome of the consultation paper has not been released.

Finally, capital adequacy requirements set out by the MAS through Notice 133 may indirectly influence the type of investments held by insurers. For example, for the purposes of calculating risk charges, the insurer may be investing in a security for which no method of computation has been prescribed. In such an event, the insurer is required to consult with the MAS. If the risk charge to be attached to such a security is very high, the insurer might not consider it to be optimal to invest in such a security from an economic point of view.

### **19. How are sales of insurance supervised**

**or controlled?**

There are various regulations and guidelines which control how sales of insurance are conducted. Amongst others, these are targeted at ensuring that:

- a. there is proper assessment of the customers' needs;
- b. relevant and proper disclosures are made;
- c. sales and advisory are conducted by persons who are fit and proper; competent and requisite training is given to such persons; and
- d. dealings with customers are fair.

Of particular mention is the Guidelines for Board and Senior Management on implementing fair dealing outcomes to customers. These Guidelines set out five fair dealing outcomes that apply to the selection, marketing and distribution of investment products (including life policies) and the provision of advice for these products. They also cover responsibilities for after-sales services and complaints handling. The five fair dealing outcomes are:

- a. customers have confidence that they deal with financial institutions where fair dealing is central to the corporate culture;
- b. financial institutions offer products and services that are suitable for their target customer segments;
- c. financial institutions have competent representatives who provide customers with quality advice and appropriate recommendations;
- d. customers receive clear, relevant and timely information to make informed financial decisions; and
- e. financial institutions handle customer complaints in an independent, effective and prompt manner.

In addition, under the Guidelines on Standards of Conduct for the Marketing and Distribution Activities conducted by financial institutions, the MAS requires various market conduct safeguards to be put in place. Such safeguards include requiring financial institutions to conduct call-backs or surveys for all customers prospected at retailers and public places before or within the free-look or cooling-off period to ensure that customers have understood their purchases closed at such locations. This relates to the sale of, amongst others, life insurance policies and accident and health policies. The MAS also requires financial institutions to conduct regular mystery shopping and site visits to monitor and ensure that the marketing, sales and

advisory practices of representatives at retailers and public places are conducted in line with their internal standards and procedures as well as the said Guidelines.

Furthermore, the MAS also requires the insurer to conduct regular audits on the provision of financial advisory service by the life insurer and its representatives. Relevant disciplinary actions are expected to be taken where appropriate. Similar requirements are imposed on financial advisers.

Apart from the MAS, the LIA and GIA also play an important role in the regulation of insurers and insurance intermediaries. These associations issue internal codes of conduct and guidelines to regulate the conduct of its members. For example, the General Insurance Association of Singapore and the Singapore Insurance Brokers' Association had jointly developed the Singapore General Insurance Code of Practice (the "Code") to ensure that the general insurance customer is treated fairly and receives a high standard of service. The Code sets out the minimum standards regulating the sales, advisory and service standards of general insurers, insurance intermediaries (including insurance brokers and insurance agents) and anyone acting for the general insurers.

## **20. To what extent is it possible to actively market the sale of insurance into your jurisdiction on a cross border basis and are there specific or additional rules pertaining to distance selling or online sales of insurance?**

The solicitation of any insurance business from residents of Singapore on a cross border basis is generally prohibited unless the insurer is licensed in Singapore. To "solicit" for insurance business means, whether in Singapore or elsewhere, offering to, inviting, or issuing any advertisement containing any offer or invitation to, the public or any section of the public in Singapore to enter into a contract of insurance. There are generally two classes of foreign insurers which are not Singapore-licensed insurers but are able to conduct insurance business in Singapore. Firstly, the foreign entity may engage in such solicitation if it successfully applies to the MAS to become an "authorised reinsurer". Authorised reinsurers do not have a physical presence in Singapore. They provide reinsurance of liabilities under insurance policies to persons in Singapore, and can be authorised as general reinsurers and/or life reinsurers. Secondly, the foreign entity may solicit for insurance business from the residents of Singapore if it is a foreign insurer carrying on insurance business in Singapore under a foreign insurer scheme. Such foreign insurers

are approved under the law of another country or territory to carry on insurance business in that country or territory and they carry on business in Singapore under a foreign insurer scheme established under Part 2A of the Insurance Act. Insurance regulations also clarify as to when the activities of foreign insurers may attract regulatory oversight in Singapore. For example, foreign insurers will not be deemed to be undertaking insurance business in Singapore from overseas where advertisements issued by or on behalf of such a non-licensed foreign insurer are not made to or directed at persons in Singapore, do not contain any information especially relevant to persons in Singapore, are not referred to in, or directly accessible from, any source which is calculated to draw the attention of persons in Singapore, and contain a prominent disclaimer to the effect that the advertisement is directed at persons outside Singapore or that the advertisement shall not be acted on by persons in Singapore.

The online sale of insurance is permissible for direct life insurers registered in Singapore. Such insurers may offer all types of life policies on the online direct channel with no advice provided. However, to safeguard the interest of consumers, the MAS has published guidelines (Guideline FAA-G15) relating to disclosure and other matters dealing with online distribution in this context.

### **21. Are consumer policies subject to restrictions, including any pricing restrictions? If so briefly describe the range of protections offered to consumer policyholders**

Yes, there are several ways through which consumer policyholders are protected. For example, consumers are protected by the mandatory “free look” requirement applicable to life policies and accident and health policies with a duration of at least a year. When issuing such products, licensed insurers must provide for a “free look” period of at least 14 days within which policy owners may terminate the policy without penalty. The aim of this “free look” period is to provide policy owners with the opportunity to thoroughly consider the terms and conditions of insurance policies they have taken on. In addition, the MAS also prescribes various mandatory requirements and best practice standards on the disclosure of information and provision of advice to policy owners for accident and health policies and life policies that provide accident and health benefits. The MAS also prescribes certain market conduct standards for direct life insurers including but not limited to disclosure requirements and the sales process. It should also be noted that direct life insurers must obtain written approval from the MAS before they may offer any

product with any feature that does not appear in any product in the insurer’s then-existing business portfolio.

There are no pricing caps per se but subject to certain exceptions, an insurer must obtain written approval from the MAS before offering any product with any feature that does not appear in any product in the insurer’s then-existing business portfolio, and the MAS takes into account the pricing of the product in its assessment. Certain payout features are also prohibited. More generally, the MAS expects the development and pricing of insurance products to be subject to the insurer’s prudent management oversight and adequate controls. The insurer is expected to put in place policies and procedures in respect of the development of and pricing of insurance products, which must be approved by the board of directors of the insurer.

### **22. Are the courts adept at handling complex commercial claims?**

Yes, the judiciary in Singapore has a reputation for having world-class efficiency, competence and integrity. Complex commercial claims are regularly handled by the courts in Singapore and specialised courts, such as the Singapore International Commercial Court (the “SICC”) have been set up in response to the increasing prominence of the jurisdiction as a prime destination for commercial dispute resolution.

In Singapore, all trials are before a judge (or in the lower courts, a magistrate). Civil proceedings may either be initiated in the State Courts or the General Division of the High Court. The State Courts consist of the District Court and the Magistrate’s Court and their pecuniary jurisdiction is generally limited to claims of up to S\$250,000 and S\$60,000 respectively. The General Division of the High Court is generally for claims beyond the jurisdiction of the State Courts (although the General Division of the High Court is a court of unlimited jurisdiction and may hear any claim, irrespective of the amount or value involved). Appeals from the State Courts are heard in the General Division of the High Court and appeals from the General Division of the High Court are generally heard in the Appellate Division of the High Court.

Aside from the foregoing, litigants also have the option of having their disputes adjudicated by a panel of experienced local and foreign judges at the SICC. The SICC is a specialist division of the General Division of the High Court and was established to deal with transnational commercial disputes. However, given that disputes referred to the SICC have to be international and commercial in nature, the SICC has not been a

popular forum for insurance disputes.

### **23. Is alternative dispute resolution well established in your jurisdictions?**

Apart from initiating court proceedings against the insurer, there are several alternative channels of dispute resolution available to parties disputing coverage under an insurance contract. Firstly, parties can approach the Financial Industry Disputes Resolution Centre Ltd (the "FIDReC"). FIDReC is an independent institution which aims to provide consumers (i.e. individuals or sole-proprietors) with a one-stop avenue for resolving disputes with financial institutions (including insurers) and can hear claims of up to S\$100,000 per claim for all claims.

Secondly, arbitration clauses in commercial insurance and reinsurance contracts are generally enforceable under Singapore law. Enforcement of local arbitral awards, whether in a domestic or international arbitration, requires the leave of the court. The application for leave to enforce the award must be made within six years after the making of the award. Given Singapore's pro-arbitration attitude, parties are usually able to enforce arbitral awards with ease and the Singapore courts may only refuse enforcement or set aside the award on very limited grounds.

Enforcement of local arbitral awards outside Singapore can also be done with ease given that Singapore is a party to the 1958 New York Convention. Further, as party to the 1958 New York Convention, foreign arbitral awards made in a Convention country is generally enforceable in the Singapore courts.

Finally, parties can also opt for mediation as an alternative to initiating court proceedings. This option is available to parties of consumer contracts and reinsurance contracts alike. Whilst it is not mandatory for parties to make any attempts to resolve claims by mediation or any other means of dispute resolution, there may be cost consequences at the conclusion of the trial if parties have not fully explored such alternative dispute resolution methods.

### **24. Is there a statutory transfer mechanism available for sales or transfers of books of (re)insurance? If so briefly describe the process.**

Part 3AA, Division 1 of the Insurance Act provides for a voluntary transfer of insurance business without the consent of policy owners. Such transfers can only be

done through a court-approved scheme, after approval for the transfer has been obtained from the MAS. A transferor must be a licensed insurer and a transferee must be either a licensed insurer or a company or co-operative society which has applied or will be applying for a licence to carry on the relevant class of business.

The process is usually started with the transferor and transferee entering into an agreement setting out the timeline and commercial terms of the transfer. This will involve the conduct of due diligence over the assets and liabilities of the business to be transferred. In addition, parties should simultaneously engage the MAS in discussions about the proposed timeline and scheme. The involvement of the MAS at an early stage is crucial to achieving an efficient and successful transfer. After the approval of the MAS has been obtained, the parties must then fulfil notification requirements by publishing an intention to make the application for transfer in the Gazette as well as in at least two MAS-approved newspapers. Transferors must also keep a copy of the scheme at its office to be open to inspection by all members and policy owners of the transferor who are affected by the scheme. Once the notification requirements have been fulfilled, the parties may then apply to court for the scheme of transfer to be approved. In assessing the scheme of transfer, the MAS and the court will mainly consider whether the proposed transfer prejudices policy owners. The court may either approve the scheme, reject the scheme, or approve the scheme subject to modifications agreed to by both the transferor and transferee.

In addition to the voluntary transfer of insurance business, it should also be noted that it is possible for the MAS to compulsorily transfer the business of an insurer pursuant to Section 57 of the Monetary Authority of Singapore Act 1970. In determining whether to exercise such powers, the MAS will consider, amongst other things, the interests of policy owners and the stability of the financial system in Singapore.

### **25. What are the primary challenges to new market entrants? Are regulators supportive (or not) of new market entrants?**

One area where the protection gap within Asia remains large is that related to natural disasters. For example, Asia has accounted for about half of the global economic losses from natural disasters since 1990. Yet in 2019, insured losses for catastrophes accounted for only 9% of economic loss in Asia as compared to 24% globally. The large protection gap in Asia is partly due to the lack of quality data and robust risk models to quantify exposure

to natural catastrophes, infectious diseases and other emerging risks.

In addition, insurers face the challenge of the significant financing gap for large-scale systemic risk. This is due to highly correlated exposures across countries and industries, which would trigger claims from a large number of policyholders simultaneously. The ability of insurers to pool and diversify these exposures, while providing broad coverage at lower costs, is limited.

A further challenge for insurers (both new market entrants as well as existing market participants) is the shift towards digitalisation. This is further elaborated upon in Question 26 below.

## 26. To what extent is the market being challenged by digital innovation?

While the insurance industry is traditionally a paper-based and face-to-face industry, COVID-19 has accelerated the process of digitalisation. Companies now have to digitalise their work processes and adapt to working remotely especially since clients are now going online to purchase new insurance and file their claims. An example of an insurer which is taking advantage of the wave of digital transformation is Singapore Life – a homegrown life insurer. Singapore Life is a fully digital insurer that is able to underwrite, issue policies and process claims online.

Digital innovation presents rich potential to the insurance industry. For example, harnessing data from the end-to-end digitalisation of supply chains, satellite imagery and social media will provide a more granular appreciation of economic and risk exposure. In addition, accurate and timely data feed and blockchain technology, can allow risk events to be tracked in real time. As a result, claim payouts can in fact be triggered automatically if pre-defined conditions – such as a flight delay or flooding – are triggered. Furthermore, the application of AI and big data will lead to more robust risk models and can also be applied ex-ante to mitigate risk and strengthen resilience. These advancements have opened up many new possibilities for insurers, across the full value chain.

The Singapore government has laid out its vision to be a Smart Nation with heavy adoption of digital and smart technology. With that backdrop kept in mind, we might expect that the insurance industry, together with other financial institutions, will be increasingly digitalised in the near future.

## 27. How is the digitization of insurance sales and/or claims handling treated in your jurisdiction, for example is the regulator in support (are there concessions to rules being made) or are there additional requirements that need to be met?

Generally, the MAS encourages experimentation with solutions that utilise technology in an innovative way to deliver financial products or services.

Amongst others, it has developed a regulatory sandbox approach where it is believed that a safe and conducive space is created to experiment with fintech solutions, and where the consequences of failure can be contained. In practice, this means that an Insurtech start-up which is a successful applicant under the sandbox regime can commence business within well-defined parameters in terms of market access and duration even when it does not fully comply with all the regular licensing requirements.

Another example of the MAS' support for the adoption of technology is the Digital Acceleration Grant. From 1 October 2021 to 31 December 2021, Singapore-based Life Insurance and General Insurance agencies with less than 200 appointed representatives and employees, who met the relevant criteria, were eligible to apply for the Digital Acceleration Grant. The grant was intended to support life insurance and general insurance agencies in adopting digital solutions by funding certain qualifying solutions which contributed to improvements in productivity, efficiency, risk management, operational resilience, or customer service.

While the MAS is generally supportive of technology and innovation, financial institutions must be able to demonstrate the presence of sufficient measures to mitigate any risks relating to money laundering, terrorism financing and proliferation financing. In February 2022, the MAS released a circular on the use of non-face-to-face customer due diligence measures by financial institutions (including insurers). The circular set out industry good practices observed by the MAS and additional supervisory guidance on the use of non-face-to-face customer due diligence measures to help mitigate impersonation and fraud risks. In particular, the MAS highlighted that it expects financial institutions to put in place effective mitigating controls to address heightened impersonation and fraud risks where customers are onboarded remotely. In addition, the MAS also stressed that financial institutions cannot solely rely on external quality assurance standards of technology service providers to ascertain the robustness of a

technology solution. Instead, financial institutions must understand the functionalities offered by the solution and assess its suitability for the non-face-to-face customer due diligence process.

## **28. To what extent is insurers' use of customer data subject to rules or regulation?**

Customer data is protected by both the common law and statute. Under the common law, insurers, insurance agents and insurance brokers are all subject to the general duty to ensure that the confidential information of their clients is not used or disclosed without authorisation. A failure to abide by this duty could attract an action in breach of confidence.

In addition, the Personal Data Protection Act 2012 ("PDPA") provides extensive regulation relating to the collection, use and disclosure of personal data. Generally, organisations (including insurers) are expected to obtain the informed consent of their customers before they may collect, use or disclose personal data.

## **29. To what extent are there additional restrictions or requirements on sharing customer data overseas/on a cross-border basis?**

Part 3 of the Personal Data Protection Regulations 2021 sets out the requirements on transferring data outside Singapore. In particular, the transferor must "take appropriate steps to ascertain whether, and to ensure that, the recipient of the personal data is bound by legally enforceable obligations (in accordance with regulation 11) to provide to the transferred personal data a standard of protection that is at least comparable to the protection under the [PDPA]".

## **30. To what extent are insurers subject to ESG regulation or oversight? Are there regulations/requirements specific to insurers? If so, briefly describe the range measures imposed.**

The MAS has taken active steps to promote sustainable financing in the Singapore financial sector, including engaging financial institutions to consider environmental, social and governance ("ESG") criteria in their decision making processes.

All insurers are subject to the Guidelines on

Environmental Risk Management for Insurers (the "ERM Guidelines"). The ERM Guidelines set out MAS' expectations on environmental risk management for all insurers in Singapore and cover governance and strategy, risk management and disclosure of environmental risk information. The Guidelines apply to insurers' underwriting and investment activities, and other activities that expose insurers to material environmental risk. Amongst others, the Board and senior management of the insurer is expected to maintain effective oversight of the bank's environmental risk management and disclosure, including the policies and processes to assess, monitor and report such risk, and oversee the integration of the insurer's environmental risk exposures into the insurer's enterprise risk management framework.

In particular, insurers are required under MAS Notice 126 (Enterprise Risk Management) to have in place an enterprise risk management framework which provides for the identification and quantification of relevant and material risks, including environmental risk. This entails developing capabilities in scenario analysis and stress testing consistent with MAS Notice 126 to assess the impact of material environmental risk on its risk profile and business strategies, and explore its resilience to financial losses under a range of outcomes. This includes identifying and simulating short-term and long-term environmental scenarios plausible and relevant to the insurer, while factoring in the interlinkages between environmental risk and other risks. Insurers are expected to maintain proper documentation of the key features of the scenario analysis and stress testing. In addition, they should use the results of its scenario analysis and stress testing when reviewing their environmental risk management policies and practices.

Insurers are also required to, among others:

- identify material environmental risk (particularly for sectors with higher environmental risk) and assess the potential impact on the insurer;
- apply risk criteria to identify sectors with higher environmental risk and develop sector-specific policies for higher-risk sectors that clearly articulate the insurer's expectations towards an existing or prospective customer, and where possible, take into account internationally recognised sustainability standards and certification schemes, as well as the customer's strategy to manage its environmental risk;
- take a consistent approach to environmental risk and issues across different functions (e.g. underwriting and investment functions),

where possible;

- actively manage and monitor its environmental risk exposures. The insurer should monitor customers on an ongoing basis for any adverse environment-related activity, or potential non-compliance with the insurer's policies and based on its risk assessment, engage customers that poses higher environmental risk to encourage customers to improve its environmental risk profile and transition towards sustainable business practices over time;
- provide all relevant information on its material environmental risk exposures to its board of directors and senior management to monitor progress against the insurer's risk appetite and business strategies, and support decision making on environmental risk management;
- clearly allocate responsibilities for management of environmental risk in accordance with the three lines of defence model where business line staff, the risk management function as well as the internal audit function all have their respective roles to play; and
- equip its staff with adequate expertise to assess, manage and monitor environmental

risk in a rigorous, timely and efficient manner.

### 31. Over the next five years what type of business do you see taking a market lead?

Firstly, the MAS has stated that Singapore aims to be a global capital for Asian risk transfer by 2025, offering a wide spectrum of risk financing solutions that goes beyond traditional insurance and reinsurance, to alternative risk financing solutions such as insurance linked securities ("ILS"). ILS, such as catastrophe bonds, are innovative instruments that securitise and transfer peak risks such as catastrophe risks to the capital markets. Catastrophe bonds provide multi-year capacity and pricing certainty, are more secure due to their fully collateralised nature and ability to be rated. They are a good alternative to traditional reinsurance for risks that are hard to model and they are capital-efficient.

Secondly, given the Singapore government's goal of making Singapore a Smart Nation with heavy adoption of digital and smart technology, we also expect to see a growth in the quantity of start-ups offering digital services in the insurance space, which in turn will lead to increased M&A activity further down the road between traditional insurance players and the new start-ups, as the traditional players seek to digitise their platforms.

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