

(Translation)

Notification of the Insurance Commission

Re: Allocation of Assets for Liabilities and Obligations under Insurance Contracts, and Deposit of Assets with a Financial Institution, B.E. 2551 (2008)

By virtue of section 27/4 paragraphs one, two and three, and section 23 of the Non-life Insurance Act, B.E. 2535 (1992), as amended by the Non-life Insurance Act (No. 2), B.E. 2551 (2008), together with the resolution of Insurance Commission Meeting No. 9/2551 on 24 September 2008, the Insurance Commission hereby issues the following notification.

Clause 1 This notification is called the "Notification of the Insurance Commission Re: Allocation of Assets for Liabilities and Obligations under Insurance Contracts, and Deposit of Assets with a Financial Institution, B.E. 2551 (2008)."

Clause 2 This notification shall come into force from 1 January 2009.

Clause 3 In this notification,

"company" means a non-life insurance company under the law on non-life insurance.

"Registrar" means the registrar under the law on non-life insurance.

"financial institution" means:

- (1) a commercial bank under the law on financial institution businesses;
- (2) a securities company under the law on securities and exchange;
- (3) a life insurance company under the law on life insurance;
- (4) a financial institution established under a specific law;
- (5) Thailand Securities Depository Co., Ltd.

The financial institutions under (1), (2), (3), and (4) must be approved to be a private fund custodian according to the rules, procedures, and conditions prescribed by the Securities and Exchange Commission.

"equity" includes share warrant, non-voting depository receipt (NVDR), or depository receipt (DR) on ordinary share under the law on securities and exchange, and other securities as announced by the Registrar.

"debenture" includes convertible debenture, debenture warrant, or depository receipt (DR) on debenture under the law on securities and exchange, or other securities as announced by the Registrar.

"investment unit" means investment unit, or warrant on investment unit under the law on securities and exchange.

"bill" means promissory note or bill of exchange.

"savings certificate " means the certificate for raising savings fund issued by a bank established under a specific law, and paying interest upon its maturity and offering a chance to win prizes periodically.

"reserves" means the reserves under the law on non-life insurance.

"liabilities and obligations" means outstanding claims, outstanding liabilities and obligations under insurance contracts that are not included in the reserves.

"backup assets" means assets invested in other businesses under the law on non-life insurance, and includes cash, current deposits, investment income receivables, and receivables from sale of securities that are allocated by the company for reserves, liabilities and obligations under insurance contracts, and includes the portion of assets that the company places with the Registrar under the law on non-life insurance.

"investment income receivables" means interest not yet due and payable from bonds, debentures, bills, bank deposits, and dividend receivables from equity and investment unit aging no more than 45 days from the payment declaration date.

"receivables from sale of securities" means income receivables from the sale of securities aging no more than five days from the selling date.

Clause 4 A company shall allocate backup assets in the amount not less than the aggregate sum of reserves, liabilities and obligations, and maintain them at all times until the next date of allocation and maintenance of backup assets is due.

Backup assets under the preceding paragraph may not be subject to creation of obligations, except in the following cases:

- 4.1 the trading or opening derivatives position with the approval of the Registrar;
- 4.2 the execution of a securities borrowing and lending transaction;
- 4.3 the execution of a securities repurchase transaction.

For transactions under 4.2 and 4.3, only the assets booked as the company's assets according to accounting standards shall be counted.

The allocation of backup assets under the first paragraph shall be based on the appraisal value of assets and liabilities according to the law on non-life insurance, and the amount as of the last business day of each month shall be used.

The company shall declare the names, types, and amounts of backup assets in the report on the company's financial status and operations that must be submitted to the Registrar on a monthly basis.

Clause 5 The company must deposit the following backup assets with a financial institution:

- 5.1 deposit passbooks, bank deposit receipts, or bank certificates of deposit,
- 5.2 Thai government bonds, Bank of Thailand bonds, or treasury bills;
- 5.3 bonds or debentures of organizations or state enterprises;
- 5.4 certificates of deposit issued by finance companies;
- 5.5 bills;
- 5.6 equity, debentures of a limited company, or investment units;
- 5.7 savings certificates;
- 5.8 backup assets in which the company is permitted to invest outside the Kingdom under the law on non-life insurance;

5.9 any other backup assets as prescribed by the Insurance Commission.

Backup assets under the first paragraph shall not include the assets that the company places with the Registrar under the law on non-life insurance, cash and bank savings or current deposits that the company retains for liquidity management of its business, provided that the total amount of these cash and bank deposits does not exceed 5 percent of total amount of the company's backup assets.

To deposit backup assets under 5.8 with a financial institution, an overseas custody agent of the financial institution must be duly capable of undertaking business as a custodian according to the law of the country where the company invests, or the law of the country where the custody agent is located.

Clause 6 In a custodian contract with a financial institution to take custody of backup assets under clause 5, the company must verify that the backup assets are free and clear of obligations, except the portion of which obligations are permitted under clause 4 paragraph two, and must allow the financial institution solely to execute any act that constitutes a creation, change, transfer, preservation, or termination of the company's rights to the backup assets according to the company's order. In addition, the company must notify the financial institution of any act concerning the backup assets that is executed by the company, or by any person other than the financial institution engaged by the company.

The contract with a financial institution must specify that the financial institution must do and omit to do the acts as follows:

6.1 The financial institution must prepare a report on the status of the backup assets deposited with it as at the end of the last business day of each month, using the appraisal value according to the law on non-life insurance, or the par values or market values of the assets as accepted by the Registrar. The report must be submitted to the Registrar within five business days from the day following the last day of each month, and must contain at least the following details:

6.1.1 names, types, and amounts of the assets deposited and withdrawn;

6.1.2 outstanding balance on the last business day of each month;

6.1.3 obligations related to the assets.

6.2 The financial institution must answer the Registrar's enquiries regarding the report under 6.1, and must allow the Registrar to examine an account of the company's assets that are deposited with the financial institution.

6.3 The financial institution must keep data and documents relating to the custody of the company's assets for at least two years from the day following the date of preparing the data and documents, for examination by, or submission to, the Registrar upon request in writing.

6.4 The financial institution may not contract any person to be its agent to custody the backup assets, except for the backup assets under 5.8 or the deposit with Thailand Securities Depository Co., Ltd.

Clause 7 The backup assets other than those specified in clause 5 may be kept by the company itself, or deposited with a financial institution. If the company keeps the backup assets by itself, the company must comply with the following rules and procedures:

7.1 The company must prepare its operation system to keep the backup assets by itself at least as follows:

7.1.1 there must be personnel to be responsible for keeping the backup assets, who must have knowledge, competence, and experience suitable for the nature of tasks they are responsible for;

7.1.2 there must be a system to separate the backup assets kept by the company from other assets of the company, including a maintenance system, a keeping system, as well as an internal control system to prevent fraudulent use of these backup assets;

7.1.3 there must be a system to prevent damage to the backup assets kept by the company, as well as relevant information, documents and evidence, including a system to control the receipt and disbursement of these backup assets;

7.1.4 there must be a system to examine and count the backup assets kept by the company to ensure correctness and completeness;

7.1.5 there must be an accounting system to show the items and amounts, and transaction record of the backup assets kept by the company in the monthly report on the company's financial status and operations that must be submitted to the Registrar. This account must contain at least the following details:

- 1) names, types and amounts, of the assets deposited and withdrawn;
- 2) outstanding balance on the last business day of each month;

7.1.6 there must be a system to protect and enforce the rights and benefits arising from the backup assets kept by the company;

7.1.7 there must be any other systems evidencing the company's readiness to keep the backup assets by itself as prescribed by the Registrar.

7.2 The company must notify the Registrar in writing about the operation system under 7.1 within 30 days from the date this notification comes into force. In the case of a change to an operation system that may affect the keeping of back f the Registrar does not make an objection in writing within 15 days from the date of receiving the notice, the company can implement the change to an operation system. In a case that it is necessary to change an operation system on an urgent basis, the company may implement the change first without awaiting the result of consideration. If the Registrar considers that it deems necessary to change, the Registrar shall notify the company thereof within 15 days from the date of receiving the notice from the company.

Clause 8 Backup assets which the company allocates for its reserves under the Notification of the Ministry of Commerce Re: Allocation of Unearned Premium Reserves and Loss Reserves of Non-life Insurance Companies, announced on 30 September 2005, shall be subject to the following allocation percentages and periods:

From 1 January 2009, the company shall allocate backup assets not less than 80 percent of the amount of backup assets that must be allocated under clause 4.

From 1 January 2010, the company shall allocate backup assets not less than 90 percent of the amount of backup assets that must be allocated under clause 4.

From 1 January 2011, the company shall allocate backup assets not less than 100 percent of the amount of backup assets that must be allocated under clause 4.

Clause 9 The company shall deposit backup assets with a financial institution under clause 5 from 1 April 2009.

Clause 10 Contribution receivables and claim advance receivables under the law on protection for motor vehicle accident victims shall be used for backup asset allocation of Road Accident Victims Protection Co., Ltd. *mutatis mutandis*.

Notified on 9 December 2008.

Suparat Kawatkul

Permanent Secretary, Ministry of Finance

Chairman of the Insurance Commission