

(Translation)

Notification of the Insurance Commission

Re: Rules, Procedures, and Conditions for Indemnity or Compensation under Insurance Contracts by Non-life Insurance Companies, B.E. 2559 (2016)

By virtue of section 37(11) and section 49 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. 10/2558 on 30 October 2015, the Insurance Commission hereby issues the following notification.

Clause 1 This notification is called the "Notification of the Insurance Commission Re: Rules, Procedures, and Conditions for Indemnity or Compensation under Insurance Contracts by Non-life Insurance Companies, B.E. 2559 (2016)."

Clause 2 This notification shall come into force upon expiration of 180 days from the date of its publication in the Government Gazette.

Clause 3 In this notification,

"Office" means the Office of Insurance Commission;

"company" means a company that is licensed to undertake the non-life insurance business under the non-life insurance law, and includes the branch of a foreign non-life insurance company that is licensed to undertake the non-life insurance business in the Kingdom under the non-life insurance law.

"head office" includes the branch office of a foreign non-life insurance company that is licensed to undertake the non-life insurance business in the Kingdom under this Act.

Clause 4 This notification is not applicable to companies that are licensed to undertake only the reinsurance business.

Clause 5 The company's board of directors has the duty and responsibility to ensure that the company complies with the rules, procedures, and conditions specified herein.

Clause 6 The company must prepare systems for managing indemnity or compensation under insurance contracts which are in readiness condition, at least as follows:

(1) there must be a unit for receiving reporting of incident, or a channel of contact between the company and the insureds, the beneficiaries, or the persons entitling to exercise claims under insurance policies, as the case may be;

(2) there must be a system to verify insurance underwriting data and data relating to claims for indemnity or compensation under insurance contracts, which is explicit and traceable;

(3) there must be a system to record data on the receipt of reporting of incident and issue serial numbers of notices of claim for indemnity or compensation under insurance contract, which connects data of the recorded entries with data on the estimation of compensation and data on the approval of indemnity or compensation under insurance contracts, including a system to record every change to the data;

(4) there must be supporting systems to support the systems for managing indemnity or compensation under insurance contracts, such as information technology system or computer system, and the company must show connectivity of the systems that are interrelated, for

example, the connectivity of the insurance underwriting data with the system for indemnity or compensation under insurance contracts and the system for receiving and making payments of the company;

(5) there must be a system to connect data between the head office and branches, to ensure that the data received by the branches and the data relating to indemnity or compensation under insurance contracts that are handled by the branches are correctly and completely recorded.

Clause 7 The company must designate a person who has the power and duty to consider and approve indemnity or compensation under insurance contracts, and a person who has the power and duty to approve payments based on the internal check and balance principle.

Clause 8 When the company receives reporting of incident or a claim for indemnity or compensation under an insurance contract, the company shall at least proceed as follows:

(1) The company must record data on the receipt of reporting of incident or the claims data, by having it linked to and recorded in the relevant claim register and the company's account within seven days from the date of receiving that data, issue a number for the examination of damage, and estimate the preliminary compensation, provided that:

(a) if there must be a survey, the company shall inform the relevant unit to assign its officer to conduct a survey at the place of incident or place appointed by the insured, and issue a document evidencing the receipt of reporting of incident, or a document evidencing the examination of damage, to the insured, the beneficiary, or the person entitling to exercise a claim under the insurance policy, as the case may be, as evidence for contacting the company or other relevant steps;

(b) if a survey is not necessary, the company shall notify the insured, the beneficiary, or the person entitling to exercise a claim under the insurance policy, as the case may be, of all necessary documents and evidence to support a claim, the channels for contacting the company, and the period for considering and making indemnity or compensation under the insurance contract.

Every change to the projected preliminary compensation, if any, must be recorded, and the cause of that change must be identifiable.

(2) There must be arranged the processes for considering damage, assessing damage, and conducting various tests to ensure that the valuation is accurate and reliable, as well as a communication for mutual understanding with the insured, the beneficiary, or the person entitling to exercise a claim under the insurance policy, as the case may be, in order to make the process of indemnity or compensation under the insurance contract acceptable and to reduce objections by concerned parties.

(3) The consideration and the indemnity or compensation under the insurance contract must be completed within the specified period, but not exceeding that specified in the insurance contract or under law, and the insured, the beneficiary, or the person entitling to exercise a claim under the insurance policy, as the case may be, must be notified of the result of consideration within the aforesaid period.

(4) The result of consideration and the approval of indemnity or compensation under the insurance contract must be recorded in the operation system or data system without delay.

(5) In the case that the company has agreed to make indemnity or compensation under the insurance contract according to (3), the company must initiate a process to reach the insured, the beneficiary, or the person entitling to exercise a claim under the insurance policy, as the case may be, in order for them to receive payment or compensation while the claim thereunder is not barred by prescription.

In the case that the company makes indemnity or compensation under the insurance contract by a check, and the insured, the beneficiary, or the person entitling to exercise a claim under the insurance policy, as the case may be, fail to collect payment thereunder from the bank until the lapse of the collection period hereunder, such payment shall be deemed to be an outstanding compensation payment under the insurance contract, and the company must pursue the process in order for that person to receive payment or compensation according to the first paragraph.

(6) In the case that the company refuses to make indemnity or compensation under the insurance contract, or the amount thereof cannot be agreed upon, the company shall notify the insured, the beneficiary, or the person entitling to exercise a claim under the insurance policy, as the case may be, thereof in writing, stating the facts and reasons for that refusal, together with the points of law or conditions under the insurance policy, or clarifying the reasons why the company cannot make indemnity or compensation according to the claimed amount. The notice shall also specify the channel and method for contacting the company in the case that the insured, the beneficiary, or the person entitling to exercise a claim under the insurance policy has any question about the result of consideration and the indemnity and compensation under the insurance contract.

Clause 9 In the case that the company engages a third person to provide services relating to the operation under this notification, the company must have an engagement agreement with essential terms that must include the details concerning the wage rate and operating expense, the details of the expenses supporting the operation, and the period of the operation relating to the provision of services to the company. The company must exercise oversight and control in order for that person to perform duties according to the agreement, and to make testimony, provide opinions, or submit relevant documents and evidence to the Registrar or officer upon the request of the Registrar or officer.

The provisions under the first paragraph shall not apply to outsourcing the services with the permission of the Registrar or officer under section 35 of the Non-life Insurance Act, B.E. 2535 (1992), as amended by the Non-life Insurance Act (No. 2), B.E. 2551 (2008).

Clause 10 The company must set up a complaint unit within the company, in order to consider complaints that the insureds, the beneficiaries, or the persons entitling to exercise claims under insurance policies, as the case may be, wish the company to consider and handle, subject to the following rules:

(1) The executive who has the power to make final decisions on complaints shall be the person in charge of controlling the handling and consideration of indemnity or compensation under insurance contracts.

(2) In the case of complaints that are complicated or involve a large amount of damages, the final decisions shall be made by a committee consisting of the executive who has the power to make final decisions on complaints, the responsible person, the unit in charge of considering the compensation, the underwriting unit, the legal unit, and the compliance unit.

The company may otherwise specify the composition of the committee under the first paragraph, with the approval of its board of directors.

(3) The complaint unit shall complete consideration of a complaint within the period specified by the company, but no more than 30 days from the date of receiving that complaint or additional documents (if any).

(4) In the case that the company agrees to make indemnity or compensation under the insurance contract, the company shall complete it in the prescribed.

(5) In the case that the complaint unit confirms an opinion of the officer under clause 8(6), it shall notify the complainant thereof in writing, stating the reasons for refusal, together

with the points of law or conditions under the insurance policy, or clarifying the reasons why the compensation cannot be made to the complainant according to the claimed amount.

(6) The company shall keep information relating to its action for reporting to the Office upon request.

Clause 11 The company must be ready in terms of sufficient and quality personnel, and must prepare manuals for the systems under clause 6, manual of the operation under clause 8, and manual of the operation of the complaint unit under clause 10, including work manuals for relevant employees at all levels. These manuals must be in writing, up-to-date, and consistent with the company's business conduct guideline, and must be available for inspection by an officer upon request. The Office may instruct the company to amend these manuals, including the systems and relevant operation process, as appropriate.

Clause 12 The company must disclose the procedures and process of a claim for indemnity or compensation under an insurance contract in respect of each type of insurance on its website, for information of the public, stating all the documents and evidence that the insured, the beneficiary, or the person entitling to exercise a claim under the insurance policy, as the case may be, must produce in filing a claim for indemnity or compensation under an insurance contract and the channel for contacting the company, including the period for considering and making indemnity or compensation under an insurance contract. The company shall also submit the details relating to the procedures and processes, all the documents and evidence, the channel for contacting the company, and the period for considering and making indemnity or compensation under an insurance contract to the Office according to the method specified by the Office within 30 days from the effective date of this Notification, and the date of any material change to these details. Notwithstanding the foregoing, if there are justifiable grounds, the company may seek extension of this period of time, but no more than 60 days. The Office may order that the company amend the aforesaid details, as appropriate.

Clause 13 In the case that the company has an amount of compensation payments under insurance contracts which are barred by prescription under law, the company shall remit it to the non-life insurance fund according to the rules specified by the fund.

Notified on 29 January 2016.

Somchai Satchapong
Permanent Secretary for Finance
Chairman
The Insurance Commission