

Notification of the Insurance Commission

Re: Criteria, Procedures, and Conditions for an Initial or Renewed Loss Adjuster License Application, as well as a Loss Surveying and Adjustment, B.E. 2562 (2019)

By virtue of Section 35/1 of the Non-life Insurance Act B.E. 2535 (1992), as amended by the Non-life Insurance Act (No. 2) B.E. 2551 (2008), Section 35/2, paragraph two, Section 35/3, Section 35/4, paragraph three, Section 35/5, paragraph four, and Section 35/6, paragraph one, of the Non-life Insurance Act B.E. 2535 (1992), as amended by the Non-life Insurance Act (No. 4) B.E. 2562 (2019), together with the resolution adopted at the Insurance Commission's Meeting No. 11/2019 on 25 October 2019, the Insurance Commission prescribes this Notification as follows:

Clause 1 This Notification shall be called the "Notification of the Insurance Commission Re: Criteria, Procedures, and Conditions for an Initial or Renewed Loss Adjuster License Application, as well as a Survey and Loss Adjustment, B.E. 2562 (2019)."

Clause 2 This Notification shall take effect from 21 November 2019 onwards.

Clause 3 The following notifications shall be repealed:

(1) Notification of the Insurance Commission Re: Criteria, Procedures, and Conditions for Loss Adjuster License Application, Granting, Registration and Renewal, as well as Surveying and Loss Adjustment Required to be Carried out by Loss Adjusters, B.E. 2552 (2009); and

(2) Notification of the Insurance Commission Re: Criteria, Procedures, and Conditions for Loss Adjuster License Application, Granting, Registration, and Renewal, as well as Surveying and Loss Adjustment Required to be Carried out by Loss Adjusters, (No. 2) B.E. 2554 (2011).

Clause 4 In this Notification,

"Loss Adjuster" means a juristic person that has been granted a loss adjuster license by the Registrar;

"Loss Adjuster Business" means a business operation that has the objective of conducting a survey and adjustment of loss to property, regardless of the wording used in the registration of its objectives;

"Company" means a public limited company that has been granted a license to operate a non-life insurance business, and shall include a foreign non-life insurance company's

branch that has been granted a license to engage in the non-life insurance business in the Kingdom of Thailand under the law on non-life insurance;

“Office” means the Office of the Insurance Commission.

Clause 5 The Office is empowered to prescribe guidelines in the interest of ensuring compliance with this Notification, and upon compliance with the guidelines, it is deemed that the Loss Adjuster has complied with the relevant provisions of this Notification.

Chapter 1

Juristic Persons Applying for Loss Adjuster Licenses

Clause 6 A juristic person intending to apply for a Loss Adjuster license must possess all of the following qualifications:

(1) Being a limited company under the Civil and Commercial Code or a public limited company under the law on public limited companies;

(2) Having its head office or branch office located in Thailand;

(3) Having an objective to carry out the Loss Adjuster Business;

(4) Maintaining a sound financial position, with payment for shares having been made by its shareholders or at least one million Baht paid-up capital, as the case may be.

(5) Having retained at least one surveyor and adjuster of loss possessing all of the following characteristics:

(a) Having knowledge, expertise, and experience in loss adjustment in any of the following areas:

1) Having completed education at a level not lower than a bachelor’s degree or equivalent, having experience in working as an adjuster of physical damage to property covered under the type of insurance policies set forth in Clause 16 for a consecutive period of five years at a minimum and having completed both training and knowledge testing organized by the Office, associations, or institutions certified by the Office.

2) Having completed education at a level not lower than a vocational certificate or equivalent, having experience in working as an adjuster of physical damage to property covered under the type of insurance policies set forth in Clause 16 for a consecutive

period of ten years at a minimum and having completed both training and knowledge testing organized by the Office, associations, or institutions certified by the Office.

3) Having experience in working as an adjuster of the physical damage to property covered under the type of insurance policies set forth in Clause 16 for a consecutive period of 15 years at a minimum and having completed both training and knowledge testing from the Office, associations, or institutions certified by the Office.

4) Having completed an educational or professional course on loss surveying and adjustment organized by any of the following institutions:

a) Having obtained a certificate of completion of training at the Fellow level organized by the Chartered Institute of Loss Adjusters (CILA), the Australasian Institute of Chartered Loss Adjusters (AICLA), or at other equivalent levels and institutions.

b) Having obtained a certificate affirming certain knowledge, expertise, and experience from other institutions recognized by the Office.

(b) Having none of the following negative records:

1) Being subject to a court order for asset confiscation under the law on prevention and suppression of misconduct, the law on prevention and suppression of misconduct money-laundering, and other laws of similar nature, where a period of five years from the date of the court order for such asset confiscation has not elapsed.

2) Being a designated person under the law on prevention and suppression of the financing of terrorism and the proliferation of weapons of mass destruction.

3) Having been subject to a punishment or a sentence under a final judgment on account of having committed an offense under Section 114/3, Section 114/4, Section 114/5 under the law on life insurance; Section 108/3, Section 108/4, Section 108/5 under the law on non-life insurance; and Section 347 under the Penal Code, except where an acquittal was granted at least five years prior to the date of submission of the juristic person's application for the license.

4) Having been subject to a punishment imposed by the Registrar, the Office, a regulatory authority, or any local or foreign competent agency on account of having committed an offense relating to insurance law or on account of having dishonestly committed a criminal offense against property, except where an acquittal was granted at least five years prior to the date of submission of the juristic person's application for the license.

5) Having been subject to punishment on account of having certified or provided a false report on loss surveying and adjustment or having dishonestly conducted a loss surveying and adjustment, except where an acquittal was granted at least five years prior to the date of submission of the juristic person's application for the license.

(c) Having a record of irresponsibility due to behaving or having behaved in a manner of malfeasance or attempted corruption, disintegrity, unjustification, irresponsibility, recklessness, exploitation, immorality, or unprofessionalism, that affects the creditability of one's functioning as a loss surveyor and adjuster, or being involved or having been involved or provided support to such behavior of any other person, unless it appears that the occurrence of such behavior took place at least five years prior to the date of submission of the juristic person's application for the license.

Clause 7 A juristic person intending to apply for a Loss Adjuster license must possess none of the following prohibited characteristics:

(1) Being subject to a suspension of its Loss Adjuster license.

(2) Having been subject to a revocation of its Loss Adjuster license, and a period from such revocation to the date of submission of the juristic person's application for the license is less than five years.

(3) Having either a direct or indirect interest in the Company's shareholdings or management in the following manners:

(a) Having its director, manager, officer, or employee designated as a person tasked with the responsibilities for its operation of loss surveying and adjusting; or

(b) Being a shareholder of the juristic person applicant for a Loss Adjuster license or being an owner of a company holding shares in the juristic person applicant.

(4) Having any negative records or history of irresponsibility as follows:

(a) negative records:

1) Being subject to a court order for asset confiscation under the law on prevention and suppression of misconduct, the law on prevention and suppression of misconduct money-laundering, and other laws of similar nature, where a period of five years from the date of the court order for such asset confiscation has not elapsed.

2) Being a designated person under the law on prevention and suppression of the financing of terrorism and the proliferation of weapons of mass destruction.

3) Having committed an offense relating to loss surveying and adjustment while not holding any Loss Adjuster license, except where an acquittal was granted at least five years prior to the date of submission of the application for the license.

4) Having been subject to a punishment or a sentence by a final judgment on account of having committed an offense under Section 114/3, Section 114/4, Section 114/5 under the law on life insurance; Section 108/3, Section 108/4, Section 108/5 under the law on non-life insurance; and Section 347 under the Penal Code, except where an acquittal was granted at least five years prior to the date of submission of the application for the license.

5) Having been subject to a punishment imposed by the Registrar, the Office or a regulatory authority, or any local or foreign competent agency on account of having committed an offense relating to insurance law or on account of having dishonestly committed a criminal offense against property, except where an acquittal was granted at least five years prior to the date of submission of the application for the license.

6) Having been subject to punishment on account of having certified or provided a false report on loss surveying and adjustment, or having dishonestly conducted a loss surveying and adjustment, except where an acquittal was granted at least five years prior to the date of submission of the application for the license.

(b) Having any history of irresponsibility in the following manners, except where an acquittal was granted at least five years prior to the date of submission of the application for the license:

1) having failed to prepare a loss surveying and adjustment report within a specified period without reasonable excuses.

2) having failed to perform duties in accordance with professional guidelines and principles.

3) having accepted an engagement offered by a party opposing an originating employer with respect to the same loss event, except where consent has been given by both parties.

4) having accepted engagements offered by an insured and an insurer concurrently with respect to the same loss event.

5) having failed to prepare an impartial report on loss surveying and adjustment with a view to seek personal gains or undue enrichment.

Chapter 2

Application for a Loss Adjuster License

Clause 8 A juristic person possessing all of the qualifications and none of the prohibited characteristics pursuant to Chapter 1 and intending to apply for a Loss Adjuster license shall submit to the Registrar an application for a Loss Adjuster license in the application form together with the evidence as prescribed and notified by the Registrar, as well as the documents and evidence of its business operation preparedness and person(s) tasked with responsibilities for the operation of loss surveying and adjustment pursuant to Chapter 4 of this Notification.

Clause 9 When a juristic person intending to apply for a Loss Adjuster license has fully complied with Clause 8 and has fully paid for the relevant license issuance fee, the Registrar may consider issuing a Loss Adjuster license to that juristic person.

In a case where the juristic person is subject to an ongoing accusatorial or legal procedure conducted by the Registrar, the Office, or a regulatory authority or any local or foreign competent agency, on account of having committed an offense relating to insurance law, loss surveying and adjustment, or on account of having dishonestly committed a criminal offense against property, the Registrar may withhold any license granting process until the procedure being conducted by the Registrar, the Office, or the regulatory authority or the competent agency is completed.

Clause 10 A Loss Adjuster license shall be issued in accordance with the form prescribed by the Registrar and shall be valid for a period of five years from the issuance date.

Chapter 3

Application for a Renewal of Loss Adjuster License

Clause 11 A Loss Adjuster intending to apply for a license renewal must submit an application in the form as prescribed and notified by the Registrar within two months prior to the license's expiry date.

Clause 12 The Registrar may renew a Loss Adjuster license only upon the license renewal applicant's full compliance with the notifications or orders of the Commission or the Registrar.

In considering any license renewal, the provision of Chapter 2 shall apply *mutatis mutandis*.

Chapter 4

Business Operation Preparedness and the Persons Tasked with Responsibilities for the Operation of Loss Surveying and Adjustment

Clause 13 A Loss Adjuster must maintain its business operation preparedness through maintaining a work system suitable to its Loss Adjuster Business operation's size and characteristics, consisting of the following at a minimum:

(1) Having retained a suitable number of loss surveyors and adjusters who possess the required qualifications pursuant to Clause 6 (5) and refrain from working concurrently as any other Loss Adjuster's loss surveyors and adjusters;

(2) Having maintained a system for supervision, inspection, and selection of officers, employees, or any other persons to act as loss surveyors and adjusters, as well as systems for monitoring, inspecting, and control of the duty performance of those persons, who act on behalf of the juristic person being granted a Loss Adjuster license to ensure their compliance with this Notification.

(3) Having established a guideline for loss surveying and adjustment;

(4) Promoting knowledge enhancement for its personnel tasked with responsibilities for loss surveying and adjustment.

Clause 14 A Loss Adjuster shall appoint or designate a person tasked with the responsibilities for its operation of loss surveying and adjustment. Such person must be an authorized signatory to bind the Loss Adjuster, be a loss surveyor and adjuster having the knowledge or work experience pursuant to Clause 6 (5) (a), not be a person concurrently tasked with responsibilities for any other Loss Adjuster's operation of loss surveying and adjustment; and not possess any negative records or a history of irresponsibility as follows:

(1) Negative records:

(a) Being subject to a court order for asset confiscation under the law on prevention and suppression of misconduct, the law on prevention and suppression of misconduct money-laundering, and other laws of similar nature, where a period of five years from the date of the court order for such asset confiscation has not elapsed;

(b) Being a designated person under the law on prevention and suppression of the financing of terrorism and the proliferation of the weapons of mass destruction;

(c) having been a person tasked with responsibilities for the loss surveying and adjustment operation of a juristic person not granted with a Loss Adjuster license, or having conducted loss surveying and adjustment on behalf of a juristic person not granted with a Loss Adjuster license;

(d) Having been subject to a punishment or a sentence by a final judgment on account of having committed an offense under Section 114/3, Section 114/4, Section 114/5 under the law on life insurance; Section 108/3, Section 108/4, Section 108/5 under the law on non-life insurance; and Section 347 under the Penal Code, except where an acquittal was granted at least five years prior to the date of such appointment or designation.

(e) Having been subject to a punishment imposed by the Registrar, the Office or a regulatory authority, or any local or foreign competent agency, on account of having committed an offense relating to insurance law or on account of having dishonestly committed a criminal offense against property, except where an acquittal was granted at least five years prior to the date of such appointment or designation.

(f) Having been subject to a punishment on account of having certified or provided a false report on loss surveying and adjustment, or having dishonestly conducted a loss surveying and adjustment, except where an acquittal was granted at least five years prior to the date of submission of such appointment or designation.

(2) History of irresponsibility:

(a) having failed to pursue supervision and inspection to ensure that the performance of a loss surveyor and adjuster is in compliance with the applicable law, and such failure has led to damage sustained by an insured or the Company;

(b) having designated a loss surveyor and adjuster who lacks the required knowledge and expertise to perform a loss surveying and adjustment;

(c) being or having been a person tasked with the responsibilities for its operation of loss surveying and adjustment on behalf of a Loss Adjuster while being subject to a

revocation of its Loss Adjuster license, and as of the date of such appointment or designation a period of five years has not elapsed, except where the person was not involved in an incident leading to such revocation; or

(d) behaving or having behaved in a manner of malfeasance or attempted corruption, disintegrity, unjustification, irresponsibility, recklessness, exploitation, immorality, or unprofessionalism that affects the creditability of one's functioning as a loss surveyor and adjuster, or being involved or having been involved or provided support to such behavior of any other person, except where such behavior is not of a serious nature or it appears that the occurrence of such behavior took place at least five years prior to the date of such appointment or designation.

Clause 15 The Loss Adjuster must notify the Registrar of any change of the information pursuant to Clause 13 and Clause 14 within 30 business days of the date of such change.

Chapter 5

Criteria, Procedures, and Conditions for Loss Surveying and Adjustment

Clause 16 Upon any occurrence of loss or damage, whether partial or total, arising from any peril covered by an insurance policy for physical damage to the insured property, regardless of the sum insured, a Company's loss surveying and adjustment shall be carried out by a Loss Adjuster in accordance with the criteria, procedures, and conditions prescribed in this Chapter.

The insurance policies that provide coverage on physical damage to property under paragraph one include:

- (1) All risks insurance on property;
- (2) Fire insurance;
- (3) Engineering insurance;
- (4) Inland transit insurance;
- (5) Marine and transportation insurance;
- (6) Aviation insurance.

The insurances listed in paragraph two shall not include insurance covering portable valuables and motor vehicles.

In a case where a value of loss or damage as described in paragraph one in an amount not exceeding one million Baht and a Company and an insured could reach an agreement, the Company may carry out a loss surveying and adjustment without taking any action pursuant to paragraph one.

Clause 17 In a case where it is necessary to appoint a Loss Adjuster pursuant to Clause 16, a Company must notify an insured immediately so that the insured and the Company may mutually select a Loss Adjuster within 14 days from the date of the insured's receipt of such notice, and the Company shall bear the costs of such loss adjustment.

In a case where the parties to an insurance policy are unable to mutually agree on the selection of a Loss Adjuster pursuant to paragraph one, each party shall select its own Loss Adjuster to carry out a loss surveying and adjustment, and bear the costs so incurred in its loss surveying and adjustment.

Clause 18 In a case where more than one loss surveyor and adjuster are engaged, the Loss Adjuster must task its officer or employee with the supervision of the duty performance of such loss surveyors and adjusters.

Clause 19 A Loss Adjuster must obtain relevant documents necessary for loss adjustment from the insured within fifteen business days from the date of appointment as the Loss Adjuster. If the documents provided by the insured are found incomplete, defective, or suspicious, the Loss Adjuster is eligible to request additional documents for the purpose of clarifying or demonstrating the source of such loss or such suspicion as deemed reasonable for the case.

The Loss Adjuster must prepare a document or letter presenting their opinion on the review of claims containing the details prescribed by the Registrar for submission to the Company and the insured within 30 business days of the receipt of the documents relevant to and necessary for the loss adjustment.

If pertaining to a certain loss, a deadline as set forth in paragraph two is unachievable on account of justifiable and necessary causes, and the Loss Adjuster has submitted a request for an extension of the deadline to the Registrar before the end of such deadline, the Registrar may grant an approval for an extension of such deadline as deemed appropriate, but an extension per each request shall not exceed 30 business days.

In a case where a failure to meet the deadline as set forth in paragraph two is not attributable to the Loss Adjuster's or the Company's fault, the Registrar may grant an extension of such deadline as deemed appropriate upon being so requested.

In preparing a document or letter presenting their opinion on the review of claims pursuant to paragraph two, the Loss Adjuster must ensure that the said document or letter is certified through signatures affixed by the person who is tasked with the responsibilities for the operation of the loss surveying and adjustment pursuant to Clause 14 and by the supervisor as called for under Clause 18.

In this regard, all loss surveyors and adjusters must affix their signatures on the said document or letter presenting their opinion on the review of claims with respect to the part of their involvement.

Clause 20 A Loss Adjuster license's subsequent expiration, suspension, or revocation shall not affect the validity of the document or letter presenting their opinion on the review of claims pursuant to Clause 19, which was previously submitted by the Loss Adjuster to the Company or the insured.

Clause 21 A individual holding a Loss Adjuster license granted in accordance with the Non-life Insurance Act B.E. 2535 (1992), as amended by the Non-life Insurance Act (No. 2) B.E. 2551 (2008), with an expiry date later than the effective date of this Notification, shall remain eligible to act as a Loss Adjuster until such expiry date, but shall not exceed one year from the effective date of the Non-life Insurance Act (No. 4) B.E. 2562 (2019). In this regard, the provisions of Chapter 5 shall apply *mutatis mutandis*.

Clause 22 On the effective date of this Notification, any juristic person having employed an individual Loss Adjuster under the Non-life Insurance Act B.E. 2535 (1992), as amended by the Non-life Insurance Act (No. 2) B.E. 2551 (2008) shall be deemed a juristic person having employed a loss surveyor and adjuster as required under Clause 6 (5) (a) *mutatis mutandis*. In this regard, such juristic person must complete its employment of a loss surveyor and adjuster as required under Clause 6 (5) (a) by 21 November 2020.

If after the period specified in paragraph one, the Loss Adjuster fails to employ at least one loss surveyor and adjuster with the knowledge, expertise, and experience in loss adjustment as required in Clause 6 (5) (a), such failure shall be regarded as the Loss Adjuster's lack of the required qualification from that time onwards.

[Translation]

Notified on this 20th day of November B.E. 2563 (2019).

Prasong Poontaneat

Permanent Secretary, Ministry of Finance

Chairman of the Insurance Commission