

Notification of the Office of the Insurance Commission

Re: Consideration of Allowances for Impairment of Reinsurance Assets Regarding the 2011 Flood, B.E. 2558 (2015)

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Due to the flood which occurred in 2011 that was severe and affected the property and the business operations of the insured persons widely, the damage for which non-life insurance was taken out was worth over Baht 400,000,000,0000, or 53.29 percent of the total asset value of the non-life insurance business and, as a result, companies are not fully repaid by reinsurance companies that accepted the transfer of risks from the companies, both domestically and internationally.

To ensure that the financial positions of companies affected by the flood in 2011 will be described in a consistent manner, the Office of the Insurance Commission hereby issues the following notification to specify rules, to be used in the consideration of allowances for impairment of reinsurance assets pursuant to clause 15 of the Notification of the Insurance Commission Re: Valuation of Assets and Liabilities of Non-life Insurance Companies and the resolution of the meeting of the Insurance Commission No. 6/2558 on 26 June 2015, for cases where companies deem they have explicit evidence that they have not received flood compensation amounts in whole or in part in accordance with the conditions of reinsurance contracts, and where the impact can be reliably measured in terms of money.

Clause 1        This notification is called the "Notification of the Office of the Insurance Commission Re: Consideration of Allowances for Impairment of Assets Arising from Reinsurance Regarding the 2011 Flood, B.E. 2558 (2015)."

Clause 2        This notification shall come into force on and from the date of issuance of the notification.

Clause 3            In this notification,

"company" means a company that is licensed to undertake the non-life insurance business under the non-life insurance law, and shall include 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.

"flood compensation" means compensation for loss or damage to the property or the consequential damage arising from the flood which occurred from 1 July 2011 to 31 December 2011;

"reinsurance assets" mean flood compensation which a company is entitled to receive from a reinsurance company under a reinsurance contract; and

"Office" means the Office of the Insurance Commission.

Clause 4            A company may impair its reinsurance assets in accordance with the rules specified in this notification.

Clause 5            A company shall make available a policy and measures for following up on flood compensation which it is entitled to receive from the reinsurance company under the written reinsurance contract and which have been approved by the company's board of directors, which cover reasons and necessity for the impairment of the reinsurance assets. The reinsurance company's ability to pay compensation, procedures and frequency of following up on flood compensation shall be taken into account.

The company shall be prepared for the Office's inspection of the policy and measures under the first paragraph upon the Office's request. Where the Office deems appropriate, the Office may ask the company to amend the aforementioned policy and measures.

Clause 6            The impairment of reinsurance assets must be any debts with the following nature.

(1)            The company executes a compromise agreement on flood compensation with a reinsurance company in writing and the company must have evidence showing the flood compensation amount under the reinsurance contract and the compromised flood compensation amount.

(2) The company exercises its judicial right or undertakes any act which can be deemed that the dispute has been referred to arbitration for consideration in Thailand, Malaysia or Singapore, with a definite amount of flood compensation.

(3) If the company exercises its judicial right or undertakes any act that may be deemed that the dispute has been referred to arbitration for consideration in Thailand, Malaysia or Singapore, with an indefinite amount of flood compensation, the company shall impair its reinsurance assets in the total amount that is equal to the obligations for which the company has exercised its judicial right or undertaken any act that may be deemed that the dispute has been referred to arbitration for consideration, in accordance with the rules below.

(a) For the flood compensation claimed by the company from each of the reinsurance companies that is no more than 400 million baht, the company must perform the following acts:

1) to reasonably recover and demand payment of debts as the case may be, with proof of the recovery, demand and non-payment; and

2) has filed a complaint against the reinsurance companies in a civil case and the court has issued an order that the complaint be accepted or has submitted an application for participation in debt payment in the case where a complaint has been filed by other creditors against the reinsurance companies in a civil case and the court has issued an order that the application be accepted; or

3) has filed a complaint against the reinsurance companies in a bankruptcy case and the court has issued an order that the complaint be accepted or has filed an application for payment of debts in the case where a complaint has been filed by other creditors against the reinsurance companies in a bankruptcy case and the court has issued an order that the application for payment of debts be accepted; or

4) has undertaken any act that may be deemed that the dispute has been referred to arbitration for consideration.

(b) For the flood compensation claimed by the company from each of the reinsurance companies that is more than 400 million baht, the company must perform the following acts:

1) to reasonably recover and demand payment of debts as the case may be, with proof of the recovery and demand and non-payment; and

2) has filed a complaint against the reinsurance companies in a civil case or has submitted an application for participation in payment of debts in the case where a complaint has been filed by other creditors against the reinsurance companies in a civil case and the court has issued a decree or an order but the reinsurance companies have no property to pay debts; or

3) has filed a complaint against the reinsurance companies in a bankruptcy case or has filed an application for payment of debts in the case where a complaint has been filed by other creditors against the reinsurance companies in a bankruptcy case, and in that case a composition is made with the reinsurance companies and the court approved the composition or it was ruled that the reinsurance companies are declared by a court decision as bankrupt persons and the first division of their property has been made; or

4) has undertaken any act that may be deemed that the dispute has been referred to arbitration for consideration, and in that particular case, an award was issued under which the reinsurance companies pay flood compensation but the reinsurance companies have no property to pay debts.

(4) The company claims flood compensation from reinsurance companies, the amount of which is no more than ten million baht, and the company is unable to compromise on the flood compensation with the reinsurance companies and is able to prove that if litigation is undertaken against the reinsurance companies, the costs to be paid are not worth the aforementioned flood compensation.

(5) The reinsurance companies dissolved their business and are unable to pay flood compensation.

Clause 7 If the company is paid flood compensation by the reinsurance companies after its impairment of reinsurance assets under clauses 4, 5 and 6, the company shall recognize the entire amount of flood compensation in the accounting year in which it is paid flood compensation.

Clause 8 The company shall prepare a report on consideration of impairment of reinsurance assets in the form attached hereto and submit it to the Office together with the financial statements which the company must prepare pursuant to section 47 (2).

Clause 9 Any company impairing its reinsurance assets in accordance with the rules specified in clause 6 (1), (2), (3) or (5), clause 7 and clause 8 prior to the effective date of this notification, shall be deemed to have complied with this notification.

Notified on 6 August 2015.

Pravej Ongartsittigul

Secretary-General

Insurance Commission



**Instructions for filling out the Form for Reporting Information on Impairment of Reinsurance Assets Regarding the 2011 Flood**

**1. Name/Country of the reinsurance company** Fill in the name/country in accordance with the database of reinsurance companies of the Office of OIC

**2. Reinsurance contract**

- Sub-item "**Contract no.**" Specify the number of the reinsurance contract as recorded by the company in its data system (if any)

- Sub-item "**Contract name**" Specify the name of the reinsurance contract as recorded by the company in its data system

- Sub-item "**Contract type**" Specify whether it is a treaty reinsurance contract (TTY) or a facultative reinsurance contract

**3. Flood compensation**

- Sub-item "**Amount claimed under the contract**" Specify the flood compensation amounts claimed by the company from its reinsurance in accordance with its right by specifying each of the reinsurance companies and each reinsurance contract

- Sub-item "**Amount received**" Specify the flood compensation amounts received by the company from its reinsurance by specifying each of the reinsurance companies and each reinsurance contract

- Sub-item "**Accrued amount before impairment**" Specify the flood compensation amounts accrued by the company from reinsurance before impairment of reinsurance assets is made

- Sub-item "**Impaired amount**" Specify the flood compensation amounts where the company has made the impairment of reinsurance assets

In the event that the company did not entirely impair its reinsurance assets in the book at the same time, the amount impaired each time shall be shown.

- Sub-item "**Month/year of impairment**" Specify the month and the year in which the company impaired its reinsurance assets at each time

- Sub-item "**Supporting/reference evidence**" Specify the documents or evidence used by the company to support the consideration of impairment and to provide assistance if inspection is required. For example, documents of the recovery and demand or documents of claims for compensation from reinsurance, documents of receipt of compensation from reinsurance, resolutions of the board of directors meetings, compromise agreement, complaints, notice of arbitration, the court's order to accept the complaint, documents showing court proceedings costs compared with the flood compensation, or evidence of dissolution of the reinsurance companies, as the case may be, in accordance with the debts used in the impairment of reinsurance assets.

**4. Impaired assets subsequently received**

- Sub-item "**Received amount**" In the event that the company has received payment of flood compensation from the reinsurance companies after it has impaired the reinsurance assets, the amounts received shall be shown.

- Sub-item "**Year of receipt**" Specify the year in which the company received the flood compensation from the impaired reinsurance assets

If the company receives the flood compensation more than once, then the total of all amounts of flood compensation received in that year shall be shown as one amount.