Tilleke & Gibbins

Draft OIC Notification Regarding Reinsurance Requirements for Non-life Insurance Companies

Athistha (Nop) Chitranukroh
nop.c@tilleke.com

UPDATE

On August 31, 2018, the Office of Insurance Commission passed the draft notification referred to in this article into law without substantial amendments, effective September 1, 2018. The key changes discussed below are now in force.

As part of a program of reform aimed at strengthening risk management in the Thai reinsurance industry, Thailand's Office of the Insurance Commission (OIC) recently released a draft notification which, when it comes into force, will ultimately replace the Notification of the OIC Re: Rules, Procedures, and Conditions on Reinsurance of Life and Non-life Insurance Company B.E. 2555 (2012).

The draft notification is substantially similar to the existing notification, with a few key changes detailed below.

- Insurance companies will be required to appoint a responsible person or working unit for reinsurance activities.
- The board of directors will be responsible for preparing and approving a reinsurance management framework (RMF) for the company, ensuring that there are adequate internal controls to enforce the company's compliance with the RMF, and ensuring that the company complies with that RMF (and other relevant requirements prescribed by the OIC) in practice.
- The RMF must be in writing and approved by the board of directors. The company must reassess the RMF on an annual basis.
- Overseas reinsurance placement must comply with the following.
    - *Facultative reinsurance*: overseas placement must be made with foreign insurance companies with a credit rating as provided in the table below, and in the proportion prescribed in the company's risk management framework.
    - *Treaty reinsurance*: overseas placement must be made in accordance with the prescribed proportions below.

Credit rating of the overseas reinsurer on the date of the reinsurance agreement				Proportion of every overseas reinsurance premium to the total overseas reinsurance premium
Standard & Poor's	**Moody's**	**A.M. Best**	**Fitch**	
AAA	Aaa	A++	AAA	No limit
AA+	Aa1	A+	AA+	
AA AA	Aa2 Aa3		AA AA-	
A+ A A	A1 A2 A3	A A-	A+ A A-	
Credit rating of the overseas reinsurer on the date of the reinsurance agreement				Proportion of every overseas reinsurance premium to the total overseas reinsurance premium
Standard & Poor's	**Moody's**	**A.M. Best**	**Fitch**	
BBB+ BBB BBB	Baa1 Baa2 Baa3	B++ B+	BBB+ BBB BBB-	Not exceeding 50%

- If the overseas reinsurer has two different credit ratings, the lower rating shall prevail.
- If the overseas reinsurer has more than two different credit ratings (i.e., three or more), the applicable rating shall be the average of the two highest credit ratings.

- Insurance companies are prohibited from entering into any financial reinsurance contracts, or finite reinsurance contracts, that:
  - contain recorded monetary items, premiums, and compensations, incurred between the company and the reinsurer, without actual payment or partial payment, including performance of other transactions irrelevant to reinsurance, which affect the disclosure of the financial standing and which lead to the distortion of the real financial standing of the company;
  - contain retrospective provisions for damage that has already been caused, and that any of the parties had prior knowledge of, and for which the reinsurance premium or the commission fee is calculated based on the time period in which the loss occurs and the total loss amount; or
  - do not transfer significant insurance risk, for instance where the protection of the reinsurance contract fails to cover the full damage caused, taking into consideration the amount of the compensation and the period of time in which the reinsurer must pay compensation to the company.

    The company must prove that its financial reinsurance agreement and its finite reinsurance agreement do not contain any of these characteristics by using a reputable testing methodology (e.g., 10/10 or expected reinsurance deficit).

- Insurance companies are required to procure risk management control on their reinsurance activities, covering the following items at a minimum:
  - Credit risk control
    - Selection of a reinsurance company; method for reducing credit risk;
    - monitoring of the program for the stability and suitability of its reinsurance companies;

    - receipt and payment of monies arising from reinsurance activities;
    - selection of a reinsurance broker; and
    - receipt and payment of monies from and to its reinsurance broker.
  - Concentration risk control
    - Concentration risk level per each reinsurer or reinsurers' group; and
    - cumulative risk level.
  - Operational risk control
    - Producing documentation relating to reinsurance (**reinsurance slip must be made before the effective date of the reinsurance agreement**);
    - producing the facultative reinsurance contract (if the company requires a facultative reinsurance placement, it must arrange the facultative reinsurance agreement **before** accepting the underlying risk); and
    - data management and reporting requirements for the reinsurance transaction and the reinsurance broking transaction.
  - Liquidity risk control
- All insurance companies must submit their RMF and reinsurance efficiency analysis report to the OIC within 90 days from each effective date of its treaty reinsurance period.
- The OIC may prescribe relevant guidelines in relation to the requirements under this notification.

The draft notification will soon be put to a public hearing, after which it is expected to be finalized and implemented later this year.

If you have any questions about this draft OIC notification, please contact Athistha (Nop) Chitranukroh at nop.c@tilleke.com or +662 056 5600.