

保險業監理處

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In reply please quote this ref. **INS/LEG/3/8**

INS/LEG/4/1

2 February 2010

來函檔號 Your ref.

電話 Tel. 2867 2564

To: Chief Executives of insurers authorized to carry on general business

Dear Sirs,

Building Management Ordinance (Cap. 344) (“BMO”)

The amended section 28 of the BMO requiring an owners' corporation (“OC”) to procure and keep in force in relation to the common parts of the building and the property of the OC a third party risks insurance policy will come into effect on 1 January 2011 (“commencement date”). Details of the insurance requirement are set out in the Building Management (Third Party Risks Insurance) Regulation. I am writing to draw your attention to the impact of this requirement on insurers authorized under the Insurance Companies Ordinance (Cap. 41) (“ICO”).

Authorization Status of Insurers

Upon commencement of the requirement on 1 January 2011, third party risks insurance procured in compliance with amended section 28 of the BMO will constitute a new type of compulsory business (insurance business relating to liabilities or risks in respect of which persons are required by any Ordinance to be insured) which falls within Class 13 of General Business (General Liability) (“Class 13”) under the First Schedule to the ICO. Such changes may bring about certain implications as set out below on insurers authorized under the ICO.

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(A) Insurers whose Class 13 authorizations are restricted from carrying on compulsory business

Insurers who are authorized to carry on Class 13 direct business but restricted from writing compulsory business should review their position and approach our case officers for authorization if they intend to carry on the BMO required compulsory business. If they have been carrying on such business (which is not regarded as compulsory business before the commencement date) but have no intention to continue carrying on such business, they should stop writing such business after the commencement date and properly run off the relevant outstanding insurance liabilities. For good customer service, we recommend these insurers provide sufficient notice to the affected policy holders for any non-renewal / termination of policies and remind them to procure new insurance policies from insurers authorized to carry on such business.

(B) Insurers whose Class 13 authorizations are not subject to any restriction from carrying on compulsory business

These insurers may write the BMO required compulsory business after the commencement date. If these insurers have no intention to carry on the BMO required compulsory business and would like to have the related authorization withdrawn, they may contact our case officers for the necessary procedures.

(C) Insurers whose Class 13 authorizations are restricted from carrying on direct employees' compensation business only

Insurers who are already restricted from carrying on direct employees' compensation business, a type of compulsory business, should contact our case officers well before the commencement date to ascertain whether they can write the BMO required compulsory business. Otherwise, we will assume that they have no intention to carry on the BMO required compulsory business and will take the necessary procedures to withdraw related authorization.

(D) Captive insurers whose authorizations include Class 13

As captive insurers are subject to the restriction that they cannot carry on any compulsory business, they will be restricted from writing the BMO required compulsory business after the commencement date. Captive insurers who have been carrying on such business (which is not regarded as compulsory business before the commencement date) should stop writing such business after the commencement date and properly run off the relevant outstanding insurance liabilities. For good customer service, we recommend these insurers provide sufficient notice to the affected policy holders for any non-renewal / termination of policies and remind them to procure new insurance policies from insurers authorized to carry on such business.

(E) Insurers whose Class 13 authorizations are restricted to reinsurance business only

The authorization status of these insurers will not be affected by the commencement of the requirement as they are restricted from writing any direct business.

Register of Authorized Insurers

We maintain a Register of Authorized Insurers (“Register”) for public inspection. Upon the commencement of the amended section 28 of BMO, we will refine the restriction notes on compulsory business of relevant insurers (i.e. insurers mentioned in (A), (D) and (E) above) in respect of their Class 13 authorizations as recorded in the Register by including also the restriction on the writing of the BMO required compulsory business.

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Enquiries

Should you have any enquiries on the above, please feel free to contact our Ms Frances Tong at 2867 2564 or our Ms Fion Tam at 2867 2552. For existing insurers who wish to seek / withdraw authorization to carry on the BMO required compulsory business as mentioned above, please feel free to contact our case officers concerned.

Yours faithfully,

(Ms Annie Choi)
Commissioner of Insurance

c.c. Chairman, The Hong Kong Federation of Insurers