

INSURANCE ACT
(CHAPTER 142, SECTIONS 7(2), 53 AND 66)

INSURANCE (FINANCIAL GUARANTEE INSURANCE)
REGULATIONS

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation
 2. Definitions
 3. Licensing by Authority
 4. Minimum capital and rating requirements
 5. Single and aggregate risk limits
 6. Contingency reserves
 7. Currency adjustment
 8. [Deleted]
 - 8A. Requirements and returns as to fund solvency and capital adequacy
 9. [Deleted]
 10. [Deleted]
 11. [Deleted]
- The Schedule — [Repealed]
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[6th February 1997]

Citation

1. These Regulations may be cited as the Insurance (Financial Guarantee Insurance) Regulations.

Definitions

2. In these Regulations, unless the context otherwise requires —
“average annual debt service” means the amount determined in accordance with the formula

$$\frac{A \times B}{C},$$

where A is the amount of guaranteed unpaid principal and interest on an obligation;

B is the number of such insured obligations (assuming each obligation represents US\$1,000 par value); and

C is the amount equal to “B” multiplied by the number of years of the term of such insured obligations;

[S 360/1999 wef 01/09/1999]

“capital on call” means capital commitments backed by proper agreements to effect the call on capital on demand;

[Deleted by S 838/2018 wef 01/01/2019]

“eligible collateral” means —

- (a) cash, letters of credit issued by eligible banks, guarantees issued by eligible companies, recourse to eligible banks or eligible companies, reinsurance agreements with eligible insurance companies;
- (b) the scheduled cash flow from obligations issued by government units; and
- (c) the market value (as determined by reference to market rates or by an independent third party) of marketable securities of investment grade or its equivalent,

which must be available to make payment on the guaranteed obligation at the time payment on the guaranteed obligation is due or to reimburse the financial guarantee insurer for any payment made under the related financial guarantee insurance policy;

“eligible company”, “eligible bank” or “eligible insurance company” means —

- (a) a company, bank or insurance company (providing the eligible collateral) which is in one of the top 4 generic lettered rating classifications or its equivalent awarded by an internationally recognised credit rating agency; or

(b) such other company, bank or insurance company as the Authority may determine;

“financial guarantee insurance policy” means a policy that guarantees to the beneficiary of the policy the performance of a financial obligation in accordance with the terms of the obligation, including the right to receive scheduled payments in a trust certificate or other equity security but excludes letters of credit issued by licensed banks, performance bonds, fidelity bonds and such other similar contracts of guarantee as the Authority may determine;

“financial guarantee insurer” means an insurer who is licensed under the Act and who is permitted by his licence to carry on the business of issuing financial guarantee insurance policies;

[S 360/1999 wef 01/09/1999]

[S 229/2013 wef 18/04/2013]

“government unit” means a local, regional, national or supranational government entity or any agency thereof;

“guaranteed unpaid principal”, in relation to a financial guarantee insurance policy, means the outstanding amount of the principal the payment of which is guaranteed by the policy;

[S 360/1999 wef 01/09/1999]

“net exposure” under a financial guarantee insurance policy means the guaranteed unpaid principal, net of any eligible collateral;

[S 360/1999 wef 01/09/1999]

“qualified capital” means —

(a) in the case of a company incorporated in Singapore, the shareholders’ equity (paid-up share capital, share premium reserves and retained earnings) and capital on call of the company, and the Contingency Reserves maintained by the company under regulation 6; or

[S 802/2004 wef 01/01/2005]

(b) in the case of a company incorporated outside Singapore, the Contingency Reserves maintained by the company under regulation 6 and —

(i) the shareholders' equity (paid-up share capital, share premium reserves and retained earnings) and capital on call of the company; and

(ii) such other securities and interests of the company as the Authority may consider to be qualified capital,

reported by the company in its most recent financial statement filed with the authority regulating insurance business in the country or territory in which it is incorporated.

[S 360/99 wef 01/09/1999]

[S 802/2004 wef 01/01/2005]

Licensing by Authority

3.—(1) No person shall carry on business in Singapore as a financial guarantee insurer unless licensed by the Authority to do so.

[S 229/2013 wef 18/04/2013]

(2) A financial guarantee insurer shall not issue in Singapore a financial guarantee insurance policy in respect of any obligation other than the following:

(a) asset-backed obligations — obligations of an entity which owns a diversified pool of assets or to which a diversified pool of assets including residential real estate and other consumer and corporate assets have been pledged, the proceeds of which, whether through collection or sale, are available to make any payments due on the obligations;

(b) infrastructure obligations — obligations issued to finance construction, maintenance, improvement or expansion of physical infrastructure including power production and distribution, telecommunications, roads, bridges, tunnels, waste disposal and resource recovery facilities, pollution control facilities, airports, schools and hospitals;

- (c) government obligations — obligations that are payable or guaranteed by a government unit or that are payable from tax revenue, rates charges or appropriation imposed or collected by such government unit;
- (d) real estate obligations — obligations that are backed by cash flows or market values associated with income-producing real property excluding residential real estate;
- (e) corporate obligations — obligations related to corporate bonds or promissory notes issued by a corporation; and
- (f) such other financial obligations as the Authority may approve in writing.

[S 360/99 wef 01/09/1999]

Minimum capital and rating requirements

4. The Authority shall not license a person to carry on the business of a financial guarantee insurer in Singapore unless the insurer has —

- (a) a paid-up share capital of not less than US \$75 million or its equivalent in value; and
- (b) a claims-paying ability rating in the top 3 generic lettered classifications or its equivalent awarded by an internationally recognised credit rating agency.

[S 229/2013 wef 18/04/2013]

Single and aggregate risk limits

5.—(1) A financial guarantee insurer shall limit its net exposure under any single financial guarantee insurance policy issued by the insurer in Singapore as follows:

- (a) for asset-backed obligations — the net exposure to each of the supporting assets shall not exceed 10% of the financial guarantee insurer's qualified capital;
- (b) for infrastructure obligations that are issued in respect of projects or facilities built, owned or operated (whether at the time of construction or afterwards) by or on behalf of a government unit and for government obligations — the net exposure to the average annual debt service on the

obligation shall not exceed 15% of the financial guarantee insurer's qualified capital, and the net exposure to the principal amount of the obligations shall not exceed 100% of the financial guarantee insurer's qualified capital;

- (c) for infrastructure obligations that are issued in respect of projects or facilities built, not owned or operated by a government unit — the net exposure to the average annual debt service on the obligations shall not exceed 10% of the financial guarantee insurer's qualified capital, and the net exposure to the principal amount of the obligations shall not exceed 75% of the financial guarantee insurer's qualified capital;
- (d) for real estate obligations that do not otherwise constitute asset-backed obligations — the net exposure to the principal amount of the obligations less 50% of the appraised value of the underlying real estate shall not exceed 10% of the financial guarantee insurer's qualified capital; and
- (e) for corporate and other obligations — the net exposure to the principal amount shall not exceed —
 - (i) 25% of the financial guarantee insurer's qualified capital for secured obligations; and
 - (ii) 15% of the financial guarantee insurer's qualified capital for unsecured obligations.

[S 360/99 wef 01/09/1999]

(2) A financial guarantee insurer shall maintain at all times qualified capital which in the aggregate shall be not less than the sum of —

- (a) 1% or 1/100th of the aggregate net exposure to asset-backed obligations;
- (b) 1.3333% or 1/75th of the aggregate net exposure to infrastructure obligations, government obligations, and real estate obligations that do not otherwise constitute asset-backed obligations;

- (c) 2% or 1/50th of the aggregate net exposure to other obligations which are secured; and
- (d) 4% or 1/25th of the aggregate net exposure to other obligations which are unsecured.

Contingency reserves

6.—(1) In addition to maintaining claim liabilities and premium liabilities as required under regulation 19 of the Insurance (Valuation and Capital) Regulations 2004 (G.N. No. S 498/2004) and MAS Notice 133, a financial guarantee insurer shall —

- (a) maintain contingency reserves in each insurance fund established and maintained by the financial guarantee insurer under section 17(1) of the Act; and
- (b) at the end of each accounting period and subject to paragraph (2), transfer to the contingency reserves in respect of every financial guarantee insurance policy issued by the insurer which is in force during the accounting period —
 - (i) a sum equivalent to 3.33% of net premiums written in respect of that policy; or
 - (ii) a sum equivalent to the relevant percentage of the guaranteed unpaid principal under that policy, net of reinsurance,

whichever is the higher.

[S 134/2020 wef 31/03/2020]

(2) A financial guarantee insurer shall not be required to make the transfer to the contingency reserves under paragraph (1)(b) at the end of an accounting period if the contingency reserves at the end of that accounting period, but before any transfer under that paragraph is made, is equal to or more than 4 times the highest of the following amounts:

- (a) the amount of the total net premiums written in respect of all financial guarantee insurance policies in force during that accounting period;

- (b) the amount of the total net premiums written in respect of all financial guarantee insurance policies in force in the preceding accounting period; or
- (c) the amount of the total net premiums written in respect of all financial guarantee insurance policies in force in the accounting period which precedes the accounting period referred to in sub-paragraph (b).

(3) Where the total net claims settled by a financial guarantee insurer during an accounting period in respect of financial guarantee insurance policies issued by the insurer exceed 80% of the total net premiums written in respect of all financial guarantee insurance policies issued by the insurer which are in force during that accounting period, the insurer may withdraw from the contingency reserves maintained by the insurer an amount which is no greater than the difference between the total net claims settled and 80% of the total net premiums written for that accounting period.

(4) In this regulation —

“MAS Notice 133” means the notice commonly known as MAS Notice 133 issued by the Authority under sections 18 and 64(2) of the Act, as amended from time to time, and includes any notice that replaces it;

[S 134/2020 wef 31/03/2020]

“net claims settled”, in relation to an accounting period, means the gross claims paid, including any portfolio losses, any increase or decrease (as the case may be) in outstanding claims during the period, and any medical or legal expense incurred directly in settlement of claims paid in the period, net of recoveries from salvages, subrogation and reinsurance business ceded, where applicable;

“net premiums written” means the net amount of premiums after deduction of return premiums and payments in respect of reinsurance business ceded;

“outstanding claims” means the claims which have been approved by the financial guarantee insurer for payment but not yet paid, and includes expenses associated with the

settlement of such claims but does not include such claims that are already included in policy liabilities;

“policy liabilities”, in relation to an insurance fund, means liabilities in respect of policies for which the insurance fund is established and maintained under section 17 of the Act;

[S 838/2018 wef 01/01/2019]

“relevant percentage”, in relation to the guaranteed unpaid principal under a financial guarantee insurance policy, means —

- (a) 0.037% of the guaranteed unpaid principal, where the policy is issued in respect of a government obligation which is of investment grade;
- (b) 0.057% of the guaranteed unpaid principal, where the policy is issued in respect of a government obligation which is not of investment grade;
- (c) 0.067% of the guaranteed unpaid principal, where the policy is issued in respect of an infrastructure obligation which is of investment grade;
- (d) 0.167% of the guaranteed unpaid principal, where the policy is issued in respect of an infrastructure obligation which is not of investment grade;
- (e) 0.1% of the guaranteed unpaid principal, where the policy is issued in respect of any financial obligation (other than a government or infrastructure obligation) which is of investment grade; or
- (f) 0.167% of the guaranteed unpaid principal, where the policy is issued in respect of any financial obligation (other than a government or infrastructure obligation) which is not of investment grade.

(5) For the purposes of the definition of “relevant percentage” in paragraph (4), an obligation is of investment grade if, as at the end of the accounting period in question, it is in one of the top 4 generic

lettered rating classifications (or their equivalent) awarded by an internationally recognised credit rating agency.

[S 802/2004 wef 01/01/2005]

Currency adjustment

7. Where a financial guarantee insurance policy is issued in non-Singapore dollars —

- (a) for the purposes of determining the net exposure limits under regulation 5(1), the foreign exchange rates prevailing at the time the policy is issued shall apply; and
- (b) for the purposes of determining aggregate net exposure limits under regulation 5(2), the foreign exchange rates prevailing at the time of such determination shall apply.

8. [*Deleted by S 229/2013 wef 18/04/2013*]

Requirements and returns as to fund solvency and capital adequacy

8A.—(1) A financial guarantee insurer who carries on the business of issuing only financial guarantee insurance policies shall be exempt from —

- (a) regulation 4 of the Insurance (Valuation and Capital) Regulations 2004 (G.N. No. S 498/2004); and
- (b) [*Deleted by S 838/2018 wef 01/01/2019*]

(2) For the purposes of section 18(1)(a) of the Act, the fund solvency requirement in respect of an insurance fund established and maintained under the Act by a financial guarantee insurer who carries on the business of issuing only financial guarantee insurance policies shall at all times be such that —

- (a) in the case of an insurance fund that relates to Singapore policies, the surplus of assets over liabilities of the fund, less its contingent liabilities, is not less than the highest of the following amounts (referred to in this regulation as the SIF amount):
 - (i) \$5 million;

- (ii) 50% of net premiums written of the fund in the preceding accounting period; or
 - (iii) 50% of claim liabilities of the fund as at the end of the preceding accounting period; and
- (b) in the case of an insurance fund that relates to offshore policies, the surplus of assets over liabilities of the fund, less its contingent liabilities, is not less than the highest of the following amounts (referred to in this regulation as the OIF amount):
- (i) \$1 million;
 - (ii) 20% of net premiums written of the fund in the preceding accounting period; or
 - (iii) 20% of claim liabilities of the fund as at the end of the preceding accounting period.

(3) For the purposes of section 18(1)(b) of the Act, the capital adequacy requirement of a financial guarantee insurer who carries on the business of issuing only financial guarantee insurance policies shall at all times be such that the shareholders' equity and surplus of the insurer, less the contingent liabilities of the insurer, is not less than the sum of the SIF amount, OIF amount and \$5 million.

[S 802/2004 wef 01/01/2005]

- 9. *[Deleted by S 838/2018 wef 01/01/2019]*
- 10. *[Deleted by S 838/2018 wef 01/01/2019]*
- 11. *[Deleted by S 838/2018 wef 01/01/2019]*

THE SCHEDULE

[Deleted by S 838/2018 wef 01/01/2019]

[G.N. No. S 40/1997]

LEGISLATIVE HISTORY
INSURANCE (FINANCIAL GUARANTEE INSURANCE)
REGULATIONS
(CHAPTER 142, RG 6)

This Legislative History is provided for the convenience of users of the Insurance (Financial Guarantee Insurance) Regulations. It is not part of these Regulations.

1. G. N. No. S 40/1997 — Insurance (Financial Guarantee Insurance) Regulations 1997

Date of commencement : 6 February 1997

2. 1998 Revised Edition — Insurance (Financial Guarantee Insurance) Regulations

Date of operation : 15 June 1998

3. G. N. No. S 360/1999 — Insurance (Financial Guarantee Insurance) (Amendment) Regulations 1999

Date of commencement : 1 September 1999

4. G. N. No. S 802/2004 — Insurance (Financial Guarantee Insurance) (Amendment) Regulations 2004

Date of commencement : 1 January 2005

5. G.N. No. S 229/2013 — Insurance (Financial Guarantee Insurance) (Amendment) Regulations 2013

Date of commencement : 18 April 2013

6. G.N. No. S 838/2018 — Insurance (Financial Guarantee Insurance) (Amendment) Regulations 2018

Date of commencement : 1 January 2019

7. G.N. No. S 134/2020 — Insurance (Financial Guarantee Insurance) (Amendment) Regulations 2020

Date of commencement : 31 March 2020