

Media Release

For immediate release

NOMINATION OF BENEFICIARIES: LIA MEDIA STATEMENT

Singapore, 7 December 2005 – The Life Insurance Association of Singapore (LIA) views the changes to the law proposed by the Monetary Authority of Singapore in its Consultation Paper on Proposed Nomination of Beneficiaries Framework of December 2005 as a positive move, in that, if adopted, it recognises beneficiary nominations made under life and personal accident policies and hence addresses a gap that has existed for some time.

Presently, there are no legal provisions that recognise beneficiary nominations except where a trust under Section 73 of the Conveyancing and Law of Property Act (CLPA) has been created arising from the nomination of a spouse and/or child as beneficiary to the policy. For policies where the nominee is other than a spouse or child, the death proceeds of the policy are generally distributed based on the policyholder's will, intestacy law or to the "proper claimants" as defined under the Insurance Act. NTUC Income, being the only insurance cooperative in Singapore, has provisions under Section 45 of the Cooperatives' Societies Act that allows their policyholders to make a nomination.

With the proposed new legislation, the nomination of beneficiaries under life or personal accident policies will be recognised at law. At the time of making the nomination, the policyholder has the option to choose if his nomination is to be revocable or irrevocable. There will be specific conditions around each type of nomination with the proposed new laws. Details of the proposed new laws can be accessed via the MAS website at www.mas.gov.sg.

The LIA advises policyholders who have nominated a spouse and/or child at any time to refer to the set of Frequently Asked Questions (FAQ) to understand the implications of such nominations. This FAQ is posted on the LIA website at www.lia.org.sg as well as the websites of life insurance companies. Policyholders can also call their life insurance company's hotline if they have further queries.

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List of life insurance companies' hotlines:

1) American International Assurance Co Ltd

Hotline: 6248 8000

www.aia.com.sg

2) Asia Life Assurance Society Ltd

Hotline: 6325 0535

CatherineH@asialife.com.sg

3) Aviva Ltd

Hotline: 6827 9931

cs_life@aviva-asia.com

4) AXA Life Insurance Singapore Pte Ltd

Hotline: 1800-325 4462

comsvc@axa.com.sg

5) Great Eastern Life Assurance Co Ltd

Hotline: 6248 2888

wecare@lifeisgreat.com.sg

6) HSBC Insurance (Singapore) Pte. Limited

Hotline: 6225 6111

e-surance@hsbc.com.sg

7) Manulife (Singapore) Pte Ltd

Hotline: 6833 8125

service@manulife.com



8) NTUC Income Insurance Co-operative Ltd

Hotline: 6788 1122

cs1122@income.com.sg

9) Overseas Assurance Corporation Ltd

Hotline: 6248 2888

wecare@lifeisgreat.com.sg

10) Prudential Assurance Company Singapore (Pte) Ltd

Hotline: 1800-333 0333

enquiry@prudential.com.sg

11) UOB Life Assurance Ltd

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Life Insurance Industry's Approach to Beneficiary Nominations - FAQ

Part A: Background of section 73 Conveyancing and Law of Property Act ("CLPA")

1. *How does section 73 of the CLPA apply to a life insurance policy?*

When you buy a policy on your own life and your spouse and/or child is nominated as beneficiary under the policy, it is deemed to be a trust made in favour of your spouse and/or child under section 73 of the CLPA.

When a policy is subjected to a trust under section 73 of the CLPA, upon your death, if the Estate Duty Commissioner determines that you never had an interest in the policy, it forms a separate estate for estate duty purposes. In addition, the policy is protected from your creditors.

A trustee (above 21 years old) may be appointed when a trust is created. If no trustee is appointed, you will be the trustee by default.

When a policy is subjected to a trust under section 73 of the CLPA, you will no longer have any rights over that policy. Any changes to the policy by the trustee must be for the benefit of the named beneficiary.

2. *What policies can be issued under section 73 of the CLPA?*

Any life policy that you buy on your own life (including term, endowment, whole life, investment-linked policies) but excluding policies bought using CPF monies.

Part B: Creation of a trust under section 73 of the CLPA

(This Part of the FAQs is not applicable for policies issued by NTUC Income. Please contact NTUC Income [tel: 6788 1122] for any concerns regarding your policies with them.)

3. *When I bought the policy, I had nominated my spouse and/or child as the beneficiary and I had also indicated that no trust under section 73 of the CLPA is to be created. What is the position now?*

In the past, some insurers took the view that you could state explicitly that your policy is not intended to be subjected to a trust under section 73 of the CLPA even though you had nominated your spouse and/or child as beneficiary.

However, the law relating to this point is not clear. Most insurers now will not allow you to change your beneficiary after the policy has been issued with your spouse and/or child as beneficiary even if you had stated that you did not intend to create a



trust under section 73 of the CLPA.

4. *I did not intend to create a trust under section 73 of the CLPA when I nominated my spouse and/or child as the beneficiary under my policy. Why is the policy subjected to a trust under section 73 of the CLPA now?*

There have been recent developments in case law to show that a trust under section 73 of the CLPA comes into existence automatically whenever a person takes out a policy on his own life and names his spouse and/or child as beneficiary, notwithstanding that there was no intention to create a trust under section 73 of the CLPA.

5. *I had nominated my mother to be sole beneficiary when I bought the policy; subsequently I changed the nomination to my spouse, what is the implication?*

It is accepted at law that a trust is created under section 73 of the CLPA over a policy if the spouse and/or child are nominated as beneficiary from the inception of the policy. However, the law is unclear whether a trust will be created if a spouse and/or child are nominated as beneficiary after the policy has already been issued.

6. *I had nominated my spouse and/or child when I bought the policy, but I did not complete any trust form. How will death proceeds be paid?*

A trust under section 73 of the CLPA is still deemed to be created over your policy. In the absence of trustees appointed by you, and upon your death, your personal representatives are regarded as trustees of the policy. The insurer can pay to the personal representatives (executors or administrators) of the deceased's estate, as trustees for the benefit of the named beneficiary. At the insurer's discretion, payment can also be made under section 61 of the Insurance Act (Cap. 142) to the named beneficiary provided that they are at least 21 years old.

7. *I have nominated my spouse as the sole beneficiary when I bought the policy; subsequently it was changed to my mother, would this policy still be deemed as a section 73 trust of my policy?*

Once you had nominated your spouse as the sole beneficiary at policy inception, a trust was created over your policy under section 73 of the CLPA in favour of your spouse and the subsequent change to your mother would have been void.

8. *I have nominated my spouse, child and another person as beneficiaries; can I request to change the beneficiaries?*

It is clear that a trust is created over a policy under section 73 of the CLPA if your spouse and/or child are nominated as beneficiaries. However, the law is unclear on whether a trust under section 73 of the CLPA is created for the benefit of the spouse and/or child where the spouse and/or child as well as another person (who is not your spouse and/or child) are nominated as beneficiaries. Most insurers will now not



allow you to change your spouse and/or child (who is above 21 years of age) as the named beneficiary without their consent.

Part C: Effect of the creation of a trust under section 73 of the CLPA

9. *Can I revoke the section 73 trust of my policy?*

You can revoke the section 73 trust of your policy provided the existing beneficiary gives consent and is above 21 years of age.

10. *Can I change my beneficiary under the section 73 trust of my policy?*

You can change the beneficiary under the section 73 trust of your policy provided the existing beneficiary gives consent and is above 21 years of age. The new beneficiary nominated by you must be your spouse and/or child.

11. *What happens if my beneficiary under the section 73 trust of my policy predeceases me? Can I re-nominate?*

(a) In the event that there was only 1 beneficiary nominated.

On the death of a named beneficiary, the benefits of the policy will belong to the estate of the beneficiary. Therefore you cannot nominate a new beneficiary.

(b) In the event that 2 or more beneficiaries were nominated

If there are no words used to describe what proportions each beneficiary is to take under the policy and 1 beneficiary dies, the share of the deceased beneficiary in the policy will pass to the surviving beneficiary. When the claim event happens, the claim proceeds under the policy will be paid to the trustee of the policy for the benefit of the surviving beneficiary.

In the absence of any appointed trustee, your legal personal representatives will be deemed to be the trustees and the policy proceeds will be paid to them.

12. *Can I change the proportion of the entitlement of the beneficiaries under the section 73 trust of my policy?*

You can only change the proportion of the entitlement of the beneficiaries under the section 73 trust of your policy provided they all give consent and are above 21 years of age.

13. *If I am going through a divorce, what shall I do with my policy which is subjected to a section 73 trust as my spouse is the named beneficiary?*

You will have to ask your lawyers to get the court to grant an order to change your



spouse as the named beneficiary under your policy if your spouse does not give consent.

14. *If I am already divorced, how can I remove my ex-spouse as a beneficiary under the section 73 trust of my policy?*

You can do so by getting your ex-spouse's written consent to be removed as a beneficiary under that policy as divorce does not automatically destroy the section 73 trust of your policy.

15. *If I did not appoint a trustee and my beneficiary is still a minor at the time of my death, who will be paid the policy proceeds?*

In the absence of any appointed trustee, your legal personal representatives will be deemed to be the trustees and the policy proceeds will be paid to them for the benefit of the named beneficiary.

Part D: For NTUC Income policies only

16. *I have an individual life insurance policy with NTUC Income. I was told that I can nominate the beneficiaries according to my wishes. The practice seems to be slightly different from what is stated above. What is the reason?*

NTUC Income is the only insurance cooperative in Singapore. The Cooperative Societies Act has provisions which allow you to make a nomination. You are allowed to change the nominated beneficiaries at any time.

NOTES:

- Wherever the context requires, masculine form shall apply to the feminine and singular term shall include the plural and vice versa.
- This is an administrative framework adopted by the life insurance industry and reflects the basic position of the industry based on the developments to-date. This is not "law". If you wish to know more about the legal or tax position that applies to your particular case you should obtain independent professional advice.