Asia Pacific Regulatory Landscape And Issues In Bancassurance



2018 EDITION

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Are there any other issues that may affect the

insurance company’s ability to enter into the distribution agreements and provide bancassurance services on

an ongoing basis to the bank? **30**

Who is the main regulator with oversight of bancassurance matters?



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| The China Banking | The Hong Kong | The Financial Services | The Financial Services | Bank Negara | The Insurance | The Monetary | The Financial | The Office of | The Insurance |
| and Insurance | Federation of Insurers | Authority or *Otoritas* | Agency (**FSA**). | Malaysia (**BNM**). | Commission and the | Authority of | Supervisory | Insurance Commission | Supervisory |
| Regulatory | (**HKFI**), Insurance | *Jasa Keuangan* (**OJK**). |  |  | Bangko Sentral ng | Singapore (**MAS**). | Commission (**FSC**). | (**OIC**) and Bank of | Authority of the |
| Commission (**CBIRC**). | Authority (**IA**), and |  |  |  | Pilipinas (**BSP** or the |  |  | Thailand (**BOT**). | Ministry of Finance |
| Hong Kong Monetary |  |  |  | Philippine Central |  |  |  | (the **MOF**) and State |
|  |
|  | Authority (**HKMA**). |  |  |  | Bank). |  |  |  | Bank of Vietnam (**SBV**). |

Is bancassurance a popular mode of distribution? What types of bancassurance partnership arrangements are available?

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| CHINA | HONG KONG | INDONESIA | JAPAN | MALAYSIA | PHILIPPINES | SINGAPORE | TAIWAN | THAILAND | VIETNAM |
| Yes. | Yes. | Yes. | Yes. | Yes. | Yes. | Yes. | Yes. | Yes. | Yes. |
| Bancassurance partnerships are generally divided into the exclusive and non-exclusive arrangements. | Bancassurance partnerships are generally divided into the exclusive and non-exclusive arrangements. | Over the past several years bancassurance has become a marketing trend  for life and other insurance companies. Most life insurance companies try  to expand their business by entering into bancassurance partnership agreements with major banks in Indonesia.  Based on OJK Circular Letter No. 32/ SEOJK.05/2016 on the distribution channel of insurance products in cooperation  with banks (bancassurance) (Circular 32), there are three types of business models for bancassurance cooperation: | Bancassurance partnerships are generally divided into agent arrangements or intermediary arrangements. | Bancassurance partnerships are generally divided into the following arrangements:   1. exclusive arrangements; 2. preferred partner arrangements; and 3. conventional arrangements (i.e., bank will distribute the   insurance products of insurer without preferential treatment). | Bancassurance partnerships are generally divided into the following arrangements:   1. exclusive arrangements; and 2. conventional arrangements (i.e., bank will distribute the   insurance products of insurer without preferential treatment). | Bancassurance partnerships are generally divided into the following arrangements:   1. exclusive arrangements; 2. preferred partner arrangements; and 3. conventional/ open architecture arrangements (i.e., bank will distribute the   insurance products of insurer without preferential treatment). | Bancassurance partnerships are generally divided into the following arrangements:   1. exclusive arrangements; and 2. conventional arrangements (i.e., bank will distribute the   insurance products of insurer without preferential treatment). | Bancassurance partnerships are generally divided into the following arrangements:   1. exclusive arrangements; 2. preferred partner arrangements; and 3. conventional arrangements (i.e., bank will distribute the   insurance products of insurer without preferential treatment). | Bancassurance partnerships are generally divided into the exclusive and non-exclusive arrangements (the default requirement is that a credit institution or a foreign bank branch in Vietnam may not concurrently act as an insurance agent to other insurers without a written  consent of the insurer that it is currently the agent to). |
|  |  | 1. product reference; 2. distribution cooperation; and 3. integrated products between a bank and insurance   products (bundled products). |  |  |  |  |  |  |  |

What are the main parameters in negotiating a distribution agreement?



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| The salient terms are:   1. exclusivity; 2. term and renewal; 3. product development arrangements; 4. remuneration; and 5. the rights of use of bank’s customer data. | The salient terms are:   1. exclusivity; 2. term and renewal; 3. product development arrangements; 4. remuneration; and 5. the ownership and use of the bank’s customer data. | The salient terms are as follows:   1. exclusivity; 2. fees, commissions and terms of payment; 3. nature of distribution (business model) of insurance products; 4. period of agreement, renewal and termination; and 5. limitations on rights and   obligations of each party. | The salient terms are:   1. remuneration; 2. products; 3. term and renewal; and 4. risk allocation. | The salient terms typically relate to:   1. exclusivity; 2. term and renewal; 3. products to be distributed; 4. product development arrangements; 5. fees and commissions, and timing for such payment; 6. rights and obligations of each party; and 7. ownership and use of the bank’s customer data. | The salient terms are:   1. exclusivity; 2. term and renewal; 3. presentation and sale of products; 4. remuneration; 5. risk allocation; 6. grievance mechanism; 7. consumer protection requirements; and 8. limited role of bank employees. | The salient terms are:   1. type of bancassurance partnership; 2. term and renewal; 3. products   and products development;   1. commission, incentives and timing for such payment; 2. distribution methodology and operating procedures; and 3. the mining of the bank’s customer data. | For joint promotion activities by  and between banks, securities firms, insurance  companies, insurance agents/brokers,  the Insurance Association of Taiwan promulgated  (1) a tripartite model agreement, the Template Agreement for Banks, Securities Firms, Insurance Companies, Insurance Agents and Insurance Brokers Conducting Joint Promotion  of other Business; and (2) a bilateral agreement between an insurance company and a bank which has obtained an approval from the FSC to concurrently engage in either  the insurance agency or brokerage  business. Such model agreements have been reviewed and recognized by the FSC. Though not mandatory, such agreement is usually adopted when the parties conduct bancassurance business in Taiwan. | The salient terms are:   1. exclusivity; 2. term and renewal; 3. products to be distributed; 4. duties of insurer and bank; 5. fees and timing for such payment; and 6. the mining of the bank’s customer data. | The salient terms are:   1. exclusivity; 2. term and termination of the agreement; 3. products to be distributed; 4. commissions and other payments; 5. confidentiality; 6. data privacy and data provision between the parties for the bank’s customer data; and 7. the insurer’s training for the bank’s sale staff. |

Are insurance companies and banks required to hold any specific license (whether to be obtained on an ad hoc or ongoing basis) in order to enter into the distribution agreements to provide bancassurance services and products?



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| Yes, banks are required to have the part-time insurance agency license issued by the CBIRC. | Yes, banks must be registered with the HKFI and the bank staff who are  responsible for selling insurance must be registered as technical representatives. | Yes. An insurance company must obtain approval for each specific bancassurance activity from the OJK, and a bank must report the bancassurance activity to the OJK. | Yes, the bank serving as an insurance agent shall be registered with the competent regional financial bureau to carry on insurance solicitation in Japan. | Yes, insurance companies and banks must be licensed under the Malaysian Financial Services Act 2013 (**FSA**) to carry on insurance business or banking business (as the case may be) in Malaysia. | Yes. Insurance companies must have a certificate of authority from the Insurance Commission while banks must have an authority to cross- sell from the BSP. | Yes, insurance companies and the banks must be  respectively licensed (or exempted from licensing) under the Insurance Act (Cap. 142 of the Republic of Singapore), the Banking Act (Cap.  19 of the Republic of Singapore) and the Financial Advisers Act (Cap.  110 of the Republic of Singapore) to carry on insurance business and the booking of general insurance policies, banking business or the marketing/ arrangement of life policies (as the case  may be) in Singapore.  Representatives or personnel of the banks or insurance companies carrying out such activity must also be appropriately registered (see Question 22 below). | Yes, either a bank or an insurance company must comply with the requirements and apply to the FSC for approval  before conducting bancassurance business.  There is a regulatory requirement that when a bank or an insurance company first enter into bancassurance arrangements, it shall get approval from the FSC. After the first approval being acquired, a bank can deal with any other insurance companies or an insurance company can deal with any other banks without further approval unless  the FSC suspends their bancassurance business (due to their violation of laws or regulations). | Banks are required to hold an insurance brokerage license to carry on insurance brokerage business.  Insurance companies must be licensed under the Life Insurance Act or the Non-life Insurance Act, as the case  may be. | Yes, insurance companies must be licensed, and for life and health insurance products, the products must  be approved by the Ministry of Finance.  Insurance agency operation of banks must be approved by the State Bank of Vietnam. |

Are there any legal or regulatory restrictions on the insurance company or the bank providing exclusivity to the other party?



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| There is no regulatory restriction for an insurer to appoint a bank as its exclusive distributor or the term/duration of  the appointment. In addition, the CBIRC requires that in general, each bank outlet should only have bancassurance arrangement with no more than three insurance companies, unless the local branch of the CBIRC approves otherwise. | There is no regulatory restriction for an insurer to appoint a bank as its exclusive distributor or the term/duration of the appointment. | There is no regulatory restriction for an insurer to appoint a bank as its exclusive distributor, except  on a credit-linked portfolio under a referral business model where the bank must have a panel of at least three insurers. | There is no regulatory restriction for the insurance company or the bank to provide exclusivity, although it may be prudent to undertake a competition analysis as set forth in the answer to the Question 10. | There is no regulatory restriction for an insurer to appoint a bank as its exclusive distributor, although there may be limitations on the part of the banks  to offer exclusivity.  To the extent that an exclusive arrangement is  possible, the length of the exclusivity is a matter of negotiation between the parties. However, note that a long-term exclusive agreement could potentially amount to an infringement  of the Malaysian Competition Act unless the parties fall within the prescribed safe harbour or if  the parties can rely on the efficiency argument. | We are not aware of any regulatory restriction against an insurance company or a bank  providing exclusivity to the other party.  To the extent that an exclusive arrangement is  possible, the length of the exclusivity is a matter of negotiation or contractual agreement between the parties. Such agreement may  be upheld for as long as the agreed duration of the  exclusivity agreement is reasonably necessary to protect the interests of the parties and does not unduly restrict trade or competition. | Exclusivity, and its term or duration, is a matter of negotiation between the parties. Parties must also be aware of competition law considerations. | There is no regulatory restriction for an insurance company or a bank to provide exclusivity to  the other party. The length of the exclusivity is a  matter of negotiation between the parties. | Currently, there is no regulatory restriction for an insurer to appoint a bank as its exclusive distributor. The length of the exclusivity is a matter of negotiation between the parties. | There is no legal restriction for an insurer to appoint a bank as its exclusive distributor or the term/duration of the appointment.  However, a bank may not concurrently act as agent for other insurers unless it is approved by the insurer of which such bank is an existing agent. To the extent that an exclusive arrangement is possible, the length of the exclusivity is a matter of negotiation between the parties. |

Assuming full exclusivity is not possible for legal or regulatory reasons, would the



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bank be able to grant the insurance company preferential treatment? If yes, under what conditions?

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| Yes, and the form of the preferential  treatment is a matter of negotiation. | Yes, and the form of the preferential  treatment is a matter of negotiation. | Yes, the form of the preferential  treatment is a matter of negotiation. | Yes, preferential treatment is permissible. The form of the preferential treatment is a matter of negotiation. | Yes, preferential treatment is common in instances where a bank  resists an exclusive arrangement.  The form of the preferential  treatment is a matter of negotiation. | Yes, preferential treatment may be possible. The form of the preferential  treatment is a matter of negotiation  or contractual agreement. | Yes, preferential treatment, or preferred partner arrangement, is common in instances where a bank  resists an exclusive arrangement.  The form of the preferential  treatment is a matter of negotiation. | There is no regulatory restriction for an insurance company or a bank to provide exclusivity to the other party. | Yes, preferential treatment is common in instances where a bank  resists an exclusive arrangement.  The form of the preferential  treatment is a matter of negotiation. | Yes, and the form of the preferential  treatment is a matter of negotiation. |

What type of engagement (if any) with the regulators would be legally required in connection with the negotiation/entering into of the distribution agreements?



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| Notification. | No regulatory approval is necessary. In practice, the insurer will notify the IA and the bank will notify the HKMA. | There is no regulatory approval or notification needed just for entering  into a negotiation. Insurance companies, however, must obtain approval from the OJK before entering into a bancassurance arrangement. | No regulatory approval is necessary. | No regulatory approval is necessary but insurance companies are required to notify BNM of the bancassurance arrangement prior to the commencement date. | The bank must obtain approval from the Monetary Board  of the BSP before it may engage in bancassurance. It must submit an application letter along with various documentary requirements prior to engaging in bancassurance.  Insurance companies must submit  annual summary reports and other regulatory reportorial requirements to  the Insurance Commission. | No regulatory approval is necessary but a bank which intends to arrange any contract of insurance in respect of life and non- life policies (other  than a contract of reinsurance) in the course of its bancassurance  activities is obliged to notify the MAS of the commencement of such business. | There is a regulatory requirement that when a bank or an insurance company first enters into bancassurance arrangements, it shall obtain approval from the FSC. After the first approval being acquired, a bank can deal with any other insurance companies or an insurance company can deal with any other banks without any further approval unless  the FSC suspends their bancassurance business (due to their violation of laws or regulations). | No regulatory approval is required. | Periodical (quarterly) reporting is required to the MOF (for insurers) and to the SBV (for banks). No specific approval is required under the law. |

Would the insurance company and/or the bank be required to submit the distribution



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agreements (and any ancillary documents) to the regulators as part of any notification/approval process? If yes, do the regulators require any specific terms to be included in the distribution agreements?

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| The bancassurance agreement should be filed with CBIRC. | In practice, the insurer and the bank will notify their respective regulators. | In obtaining an approval of the bancasurance partnership from the OJK, the insurance company must submit an application along with documents, including:   1. a draft bancassurance agreement (parties must place their initials in the draft); 2. a copy of approval of the insurance products; 3. a sample of the brochure, marketing media, or an   application letter which includes information on the commission payable to the bank; | No statutory or regulatory requirement to submit the agreement(s). | No statutory or regulatory requirement to submit the agreement(s) although the practice and convention in the manner in  which the insurer liaises with BNM could dictate  the supporting documents that it would provide to BNM as part of the notification described in Question 7 above. | The BSP requires banks to keep various documents for examination as part of the BSP’s exercise of its regulatory powers over the bank. These  documents include the contract between the insurance company and the bank. However, the contract between the insurance company and the bank need not be submitted to the BSP prior to approval.  The pre-approval application letter to the BSP must contain an explanation of the relationship (i.e.,  how the bank and the insurance company are related under a common financial  conglomerate) between the insurance company and the bank as well  as a description of the products and  justification for entering into a bancassurance arrangement.  The bancassurance arrangement or agreement must be reviewed and approved by the Insurance Commission. Any amendment must likewise be submitted for prior approval. | No, unless the MAS requests for it. | Only when a bank or an insurance company first enters into a bancassurance arrangement, it  shall submit the agreement and other required documents to the FSC as part of the approval process. After obtaining the first approval for  the bancassurance business, a bank or an insurance  company can engage in bancassurance business with  other parties without submitting any distribution agreements to  the FSC (unless the FSC suspends the bancassurance  business due to their violation of laws or regulations). | No statutory or regulatory requirement to submit the agreement. | No, there are no specific legal  requirements for the insurance company or the bank to submit the distribution agreements (and  any ancillary documents) to the regulators. The law requires distribution agreements (i.e., agency agreements) to contain certain key provisions. However, there are no specific requirements for  the details of each provision. |
|  |  | d) description of insurance product that will be sold; and |  |  |  |  |  |  |
|  |  | e) procedure under the insurance policy closing and premium payment. |  |  |  |  |  |  |
|  |  | The regulation also prescribes the minimum content of a bancassurance agreement. |  |  |  |  |  |  |

If the distribution agreements are submitted, would the regulators review/provide comments and require that the agreements be modified?



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| In practice, it is uncommon that regulator will comment on the terms, although the regulators have an extensive regulatory power to do so. | In practice, it is uncommon that regulator will comment on the terms, although the regulators have an extensive regulatory power to do so. | The OJK, in its sole discretion, can ask for the agreement to be amended with a view to ensuring compliance with the regulation. | Not applicable. | BNM has broad powers as a regulator and has the right to direct an insurer to modify or unwind  a distribution agreement/ arrangement (as it deems appropriate). | The Insurance Commission has broad powers as regulator, and may require  amendments to be made to distribution agreements (as appropriate). | Not applicable. | There is a tripartite model agreement and a bilateral model agreement as mentioned in Question 3 above for joint promotion activities (i.e., bancassurance business) by and between banks, securities firms,  insurance companies, insurance agents and insurance brokers. If the model agreement is adopted, the  FSC usually does not require the agreement to be modified before granting the first approval for the bancassurance business. | Not applicable. | In practice, it is uncommon that regulator will comment on the terms, although the regulators have an extensive regulatory power to do so. If the distribution agreement is requested to be submitted to the regulators, it is likely that the regulators would only provide comments to the provisions that they find contrary to the law. |

Would any antitrust/competition analysis have to be conducted with respect to the insurance company and/or the bank prior to entering into the distribution agreements?



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| It is advisable to do so. | The Competition Ordinance applies to all agreements, not just agreements between competing  businesses. It may be prudent to undertake a competition analysis given that the broad application of, and significant penalties for breach under,  the Competition Ordinance in Hong Kong. | There is no requirement under the Insurance Law or Anti Monopoly Law to make antitrust  or competition analysis related to the bancassurance agreement. However it would be prudent to do so if a dominant position or unfair competition is likely to be created. | It may be prudent to undertake a competition analysis given the broad application of, and significant penalties for breach under, the Antimonopoly Act in Japan. | It would be prudent to undertake a competition analysis given the broad application of, and significant penalties for breach under, the Malaysian Competition Act. | The Philippine Constitution, the Revised Penal Code, and the Philippine Competition Act prohibit monopolies and combinations in restraint of trade. In this context, it would be prudent to undertake a  competition analysis to ensure that  the distribution agreement is valid in light of these prohibitions. | It would be prudent to undertake a competition analysis given the broad application of, and significant penalties for breach under, the Competition Act (Cap. 50B of the Republic of Singapore). | It would be prudent to undertake a competition analysis given the broad application of, and significant penalties for breach under, Taiwan’s Fair Trade Act (FTA). | It may be prudent to undertake a competition analysis given the broad application of, and significant penalties for breach under, the Trade Competition Act in Thailand. | It would be prudent to undertake a competition law review to make sure that there will be no potential risk of violation. |

What are the competition law considerations that might impact the term (e.g., duration) of a distribution agreement?



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| There is no official guideline on this point. | The Competition Ordinance prohibits agreements that have the object or effect of preventing, restricting or distorting competition in  Hong Kong. Certain provisions of a bancassurance agreement may raise issues under the Competition Ordinance and therefore should be reviewed on  an agreement-by- agreement basis (for example, exclusivity, territorial or customer restrictions, non- competes). Factors relevant to this analysis will be: (i) the market positions of the parties; (ii) whether similar restrictions exist in other agreements in the market; and (iii) the extent to which the agreements are efficiency enhancing (e.g., because  they guarantee or encourage  investments by one or more parties to the agreement). | The Business Competition Supervisory Commission (a state agency established to examine allegations relating to the  Anti-Monopoly Law) (KPPU) may consider that the exclusivity arrangement in  a bancassurance arrangement between a major bank with a large numbers of customers can create unfair competition and  market closure and that these practices are violations of the Anti-Monopoly Law. This is all a matter of fact and it would be prudent to undertake a competition analysis and for the issue to be considered in identifying a bank and dealt with in negotiations. | Various terms and conditions would be considered, especially exclusivity, amount of compensation  and amount of insurance products to be offered, as well as market shares of the parties, business justification for entering into the agreements and  the general market circumstances such as the level of concentration in the market for the  relevant products or services. | The Malaysian Competition Commission is a relatively young regulator, and  it has not, to date, issued any guidelines specific to distribution agreements in  the context of a bancassurance arrangement.  However, as noted above, under the general principles of the Malaysian Competition Act, a long-term exclusive agreement could amount to an infringement unless  the parties fall within the prescribed safe harbour or if the parties can rely  on the efficiency argument. | The Revised Penal Code and the Philippine Competition Act of 2014 prohibit combinations in restraint of trade.  However, Philippine case law indicates that agreements providing for exclusivity may be valid for as long as the restriction on trade is reasonably necessary to protect the interests of the parties and such restrictions are only partial or limited in place or duration. | None in particular. The concern is in determining whether the distribution agreement has any anti-competitive object or effect, and if any exclusions apply. | Article 20 (5) of the FTA prohibits any enterprise from restricting its counterparts’ business activity  improperly by means of the requirements of business engagement,  which is likely to lessen competition or to impede  fair competition. “Restrictions” pursuant to the Enforcement Rules of the FTA, refers to the circumstances under which an enterprise engages in restrictive activity in regards to tie-ins, exclusive dealing, territory, customers, use, or otherwise. Nevertheless,  please note that the restrictions are not per se illegal. It is only the “improper” restriction that is prohibited by the FTA. | Various terms and conditions would be considered, especially exclusivity, amount of compensation  and amount of insurance products to be offered, as well as market shares of the parties, including whether the parties  are considered having dominant position.  For information the Trade Competition Act was recently announced on 5 October 2017 and it is expected that there will be a number  of subordinate regulations to provide more guideline and clarity on relevant factors. | Insurance regulations prohibit the below anti-competition activities, and therefore should  be considered in reviewing a distribution agreement:   * Establish collusion among insurance enterprises; * Illegally intervene in the selection of insurance enterprises; * Provide untruthful information; * Fight for customers by obstructing employees or customers of   other insurance enterprises;   * Conduct illegal sales promotions; and * Conduct other illegal acts in cooperation, competition and bidding. |

Under applicable laws and regulations, would the insurance company be allowed to



**12**

use customer information (consisting of certain personal and demographic data) possessed by the bank to: (a) develop new products and refine marketing strategies, among others; (b) conduct its own telemarketing or direct mail activities; and

(c) cross-sell products?

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| There is no specific law in this regard, but generally speaking, individuals have  their privacy rights, hence it is advisable to obtain customer consent. | Yes, provided that the requisite notification is given at the time of data collection and (in case of use of data for direct marketing) consent be obtained. | Based on data privacy, insurance and banking regulations, both the bank and insurance company are obliged to maintain confidentiality of customers’ data. A bank is only allowed to provide personal information of its customers to the insurance company if the bank has obtained written approval from the customers (specific  purpose consents are required). Subject  to consent from the customers, there is no prohibition for an insurance company using customer information for its business. | No, unless the bank obtains the customers’ consent when the bank discloses customer information to the insurance company  for the purpose as set forth above. | Yes, provided the bank has obtained the necessary consent of the customers  and the sharing of information with the insurance company is within the scope of the consent granted by the customers. | It depends on the purpose/s for the processing of personal information that was declared to the data subject. Customer information may be processed only in ways compatible with such specified and legitimate purposes declared to the data subject.  Hence, if the insurance company wants to use customer information to:   1. develop new products, refine marketing strategies, etc.; 2. conduct its own telemarketing or direct mail activities; and 3. cross-sell products, the insurance company should confirm that the customer was informed by   the bank that his personal information will be processed by  a third party (i.e., the insurance company) in this manner and that the customer consented to such processing or use of his personal information. | Any customer information possessed by the bank is subject to banking secrecy provisions under the Banking Act, and such disclosure may only be made if one of the  exemptions to banking secrecy applies or the information is processed such that it is not referable to a customer or group of customers. Further, the collection, use and disclosure  of personal data will under the Personal Data Protection Act (No. 26 of 2012) (PDPA)  require the consent or deemed consent of the individual concerned, unless an exemption applies. Unless consent has been obtained or there is an applicable exemption, the insurance company will not be allowed to use customer information other than for the original purpose for which the insurance company received the information.  The PDPA has also established a Do Not Call Registry, and introduced obligations and restrictions that apply  in relation to persons sending specified messages (in the form of voice calls, text or fax messages) to Singapore telephone numbers. | Yes, although care will have to be taken by the bank in sanitizing the customer information before  it is provided to the insurer. According to the Personal Data Protection Act of Taiwan (PDPA), when collecting the  personal data form an individual customer,  a bank must inform such customer of the specific purpose of data collection (e.g., to be further shared with the insurers, telemarketing cross- selling) and obtain his/her written consent in the form prescribed by the PDPA. | Yes, although care will have to be taken by the bank in sanitizing the customer information before  it is extended to the insurer.  Although there is no specific law in this regard, but generally speaking, individuals have their privacy rights, hence it is advisable for banks to obtain customer consent. | Yes, provided that the bank has to obtain consent from relevant customers. |

Are there any laws or regulations limiting or prohibiting the dissemination of customer information without the customers’ consent? Are customers allowed to waive any of these limitations or prohibitions?



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| Please see response to Question 12. | Yes, the Personal Data (Privacy) Ordinance requires that customers’ notification be given at the time of data collection and (in case of use of data for direct marketing) consent be obtained. | Yes. Please see response to Question 12. | Yes, the Act on the Protection of Personal Information prohibits the dissemination  of customer information without the customers’ consent. Also the regulations under the Insurance Business Act and the relevant guidelines of the FSA are applicable to the sharing of customer information.  Yes, customers can provide comprehensive consent when they disclose their  personal information. | Yes, the bank is subject to the secrecy provisions under  the FSA, as well as the provisions of the Personal Data  Protection Act (PDPA). The bank may also be subject to contractual confidentiality restriction.  Appropriate consent should therefore  be obtained from customers, and where relevant, notifications should be issued to customers. | Yes, the Data Privacy Act of 2012 (Republic Act No. 10173)  imposes penalties of imprisonment and fine for unauthorized disclosure of personal information. Yes, customers may waive these limitations  or prohibitions by providing their consent to such disclosure. Philippine bank secrecy laws also  prohibit a bank from disclosing customer information.  However, as in the Data Privacy Act, a customer may waive such prohibition. | Yes, the PDPA prohibits the dissemination of customer information without the customers’ consent. Appropriate consent should be obtained from customers,  and where relevant, notifications  should be issued to customers. The banking secrecy provisions under  the Banking Act also provide an exception to allow disclosure where the customer’s prior written consent is obtained. | Yes, the PDPA prohibits the dissemination of customer information without the customers’ consent. Appropriate consent should be obtained from customers,  and where relevant, notifications  should be issued to customers. | There are no laws or regulations on this. However, the BOT has issued the  guideline to prohibit the dissemination of customer information without the customers’ consent. | Yes. Customers may provide consent to the banks to disclose their information to insurers. |

Are there any other prohibitions or limitations resulting from applicable privacy laws



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relating to the sharing of customer information for purposes of marketing and distribution of insurance products?

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| Please see response to Question 12. | Consent must be obtained from the customers. | Under the Electronic Information and Transaction Law (and implementing regulations), any use of personal data (e.g., data collection, transfer, process, disclosure) through electronic media may only be done with proper prior consent from the  relevant data owners. Further, similar with Circular 12/35, the Financial Services Authority Regulation No.1/POJK.07/2013  on Protection for Financial Sector Consumers requires financial services providers (which includes insurance companies) to maintain the confidentiality of their customer data. | None. | None. | None. | Common-law duty of confidentiality may apply. | Under the PDPA and the relevant regulations promulgated by the FSC, a customer can ask the bank or the  insurance company at any time to remove him/her from the marketing or cross- selling list even after giving his/her written consent to the data collection and use. | None. | None. |

Are there any prohibitions or limitations in respect of compensation arrangements



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for bancassurance transactions (up-front/staggered payments, commission payments, bonus payment schemes)?

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| Yes, there are guidelines on amount of commissions. | No statutory limitations. | There is no prohibition on agreeing up- front/staggered payments to be paid by insurance companies to banks for their platform. For life insurance companies, fees and compensation payment can be  agreed between the parties.  For certain general insurance products (e.g., property and motor insurance products), acquisition costs are capped. | Yes, the insurance company is required to set the appropriate amount of the compensation in  the distribution agreement in terms of ensuring the soundness in  management of the insurance company and the fairness  of the insurance solicitation by the bank under the relevant guideline. | Yes.  There are restrictions relating to the payments and amounts that can be paid by an insurer. Notably, commission rates are regulated. | Generally, compensation arrangements are subject to contractual agreement. Please note, however,  that, under the Amended Insurance Code (Republic Act 10607), an insurance company may not pay commission to any person or entity not licensed as an insurance broker or insurance agent in the Philippines. Thus, a bank may not be paid commission from the sale of insurance products. | Parties should consider the rules in place concerning commission payments for regular premium life policies paid by manufacturers to banks. | There are no laws or regulations applicable to the commissions, fees and other remuneration paid to a bank in connection with bancassurance. However, the Life Insurance Association and Non-Life Insurance Association may promulgate  self-disciplinary rules regulating payment of commission from time to time. | The compensation payments are regulated by the OIC and vary according to the type of products. | Yes, there are certain limitations. In respect of commissions, commission rate must be subject to maximum limits set out by the MOF for each type of product. In respect of other expenditures for banks (as insurance agents), for non-life insurers, there is  a restriction that expenditure for agent rewards and agent support must not exceed 50% of insurance commissions of insurance policies implemented in a fiscal year. |

What are the sanctions for non-compliance with the prohibitions or limitations in respect of compensation arrangements?



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| No explicit sanctions, but CBIRC could request the  relevant insurance company and the bank to rectify the non-compliant arrangement and impose a fine on them. | Not applicable. | Not applicable. | The insurance company that is not in compliance with the regulation mentioned in the  answer to Question 15 above may be subject to the administrative sanction by the FSA. | The sanctions are imposed by BNM and include an order in writing requiring  compliance, monetary penalty, and/or a public or private reprimand. | The Amended Insurance Code imposes both a fine and imprisonment. The Insurance Commissioner may also suspend or revoke the license of the insurance company violating the prohibition. | Currently not applicable, but under the draft Financial Advisers (Remuneration and Incentive) Regulations, a contravention  of the proposed compensation limitations and product-related incentives will be regarded as an offense. However, the precise penalties for such  contravention has not been prescribed or announced yet. | There are no laws or regulations applicable to the commissions, fees and other remuneration paid to a bank in connection with bancassurance. However, if an insurance company does not comply  with the self- disciplinary rules regarding payment of commission, the FSC may hold that there is a defect in the internal control system and therefore impose a penalty. | A monetary penalty is imposed. | For payment of commission at a higher rate than the limit required under the law, a monetary fine from VND90  to VND100 million (approximately USD4,500 to  USD5,000) may be imposed. A part of the license relating to the violation may also be ceased for two to three months. Illegal profits are required to be disgorged. |

Would the regulators request information on compensation arrangements (for specific jurisdictions or globally)?



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| Bancassurance agreements must be filed with the regulators. | The regulators have wide power but it is not a common practice that they will request for the information. | No. | It is unlikely that the FSA requests information on compensation arrangements between the insurance company and the bank except where the insurance  company is suspected to be in violation  of the regulation mentioned in the answer to Question 15 above. | No statutory or regulatory  requirement for BNM to request information on compensation arrangements. However, as noted above, the practice  and convention in the manner in which the insurer liaises with BNM could dictate the supporting documents/ information that it would provide to BNM as part of the notification described in Question 7 above. | As part of its exercise of its regulatory powers over insurance companies transacting business in the Philippines, the Insurance Commission may request information on compensation arrangements in relation to the bancassurance agreements of insurance companies in the Philippines. | In our past experience, typically no. However,  based on the new requirements proposed (as discussed in Questions 15 and 16 above) this may change. | The regulators respect the commercial arrangements between the parties and do not request information on compensation arrangements for the bancassurance business. However, during financial inspections, the  FSC may request information in this respect. | The OIC has broad powers as a regulator, and therefore can request information on compensation arrangement in Thailand. | Yes, the MOF might request  information through periodical reporting requirements or their inspections from time to time.  For life insurers, they are required to report to the MOF on a quarterly basis on total premiums collected, total commissions and  other payments to its banks/agents. Banks are also required to report to the SBV  on total amounts of these payments  on a quarterly basis. For non-life insurers, no such specific requirements for periodical reports on compensation arrangements with banks. Only general requirements for quarterly reports on  the list of agents are applicable. |

Are there any restrictions in relation to the classes of insurance products which may be offered pursuant to a bancassurance arrangement?



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| The products should be listed out in  the bancassurance agreement. | Yes, the bank must be registered for the relevant line of business before it can sell the relevant products. | No, although note that there is a delineation between insurance companies (general versus life, and sharia products need to be dealt with separately).  Any insurance product sold through a bancassurance arrangement must be approved by the OJK. | No restrictions. | No, provided that the classes of insurance products to be offered pursuant to the bancassurance arrangement are in line with the scope of the insurer's licence issued under the but there is an obligation to FSA. | Yes. | No, but depending on the class of product, there may be an obligation to hold  a separate license or notify the MAS (see our response to Question 7 above). Different ongoing conduct of business requirements  may also apply to different classes of insurance products. | There is no specific product specifications/ requirements/ limitations for insurance products  distributed via banks under the regulations in connection with bancassurance. | None, provided that the bank has obtained the  insurance brokerage license before selling. | None, provided that life or health insurance products must be approved by the MOF before sale under current regulations. |

Are there any products or product lines that the insurance company would be unable to offer to and distribute through the bank?



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| None. | None. | None provided such products are within its license. | None. | None. | Only retail financial products that do not create exposure to investment risk may be cross-sold under a bancassurance arrangement. | None, but subject to compliance requirements. | None. | None. | None. |

Would the policy forms used by the insurance company have to be approved by any



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regulator? Would the insurance company own the intellectual property rights relating to such policy forms?

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| Insurance products should either be approved or filed with the CBIRC. | For investment-linked policies, product documentation has to be authorized by the Securities and Futures Commission.  Yes, insurance companies own the IP rights to such policy forms. | All insurance products sold in Indonesia (including sold  using bancassurance arrangements)  must be approved by the OJK. Before approving a product, the OJK will review the specifications of  the product, including the insurance policy.  Yes, insurance companies generally own the IP rights to such policy forms. | Yes, the contents of the insurance policy need to be examined and approved by  the FSA under the Insurance Business Act.  There are no specific provisions in Japanese IP laws or court cases  supporting the view that the insurance company owns the  IP rights to its policy forms. | No, although BNM has a right to require an insurer to lodge its proposal form with them.  Yes, insurance companies own the IP rights to such policy forms. | Yes, the policy forms have to be approved by the Insurance Commission.  Yes, insurance companies own the intellectual property rights to such policy forms. | New policies or policies with features that do not appear  in the insurance company’s existing business portfolio need to be approved by the MAS. The approval request requires submission of the policy form, proposal form, product summary and benefit illustration (among others).  Yes, insurance companies own the IP rights to such policy forms. | Yes, the policy forms used by the insurance company have to  be reviewed and approved by the FSC.  Yes, insurance companies own the IP rights to such policy forms. | Yes, the policy needs to be approved by the OIC.  Yes, insurance companies own the IP rights to such policy forms. | For life and health products, policy forms must be reviewed and approved by the MOF before the insurers can offer and sell their products  in the market. Also, life insurance policy template and terms and conditions need to be registered with the Vietnam Competition Authority in accordance with the law on consumer protection.  Insurers own the IP rights to such forms. |

Are there any prohibitions or limitations in respect of co-branding between the bank and the insurance company?



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| No specific prohibition, but the regulators will always have the power to raise requisitions and concerns if it creates market confusion. | No, there is no specific regulatory prohibitions or limitations, but the regulators always have the power to raise requisitions or concerns if co- branding creates market confusion. | Indonesia does not recognize a brand partnership between two insurance companies (or more) or between an insurance company and a bank.  Under the Indonesian Insurance Law an insurance product must be issued by an insurance company and this product must be registered under the name  of the insurance company.  The Indonesian Insurance Law prohibits an insurance product from being registered under  the name of two insurance companies. | None. | No, there is no specific regulatory prohibitions or limitations. | Under the General Banking Law (Republic Act 8791), a bank may not directly engage in insurance business in the Philippines. A bank must also ensure that promotional materials clearly indicate the relationship between the insurance company and the bank. Such materials must not create the impression that the insurance product  is the product of the bank whose  premises are used for bancassurance. | No, there is no specific regulatory prohibition or limitations on co- branding provided that the bank does not assume any risk or undertake any liability under the relevant policies and provided that it is not false, misleading or deceptive. | A co-branding insurance product is not allowed under Taiwanese law as  a bank may not directly engage in the insurance business save for in the insurance agency or brokerage business that has been approved by the FSC.  When the bank personnel sell insurance products, they shall ensure customers can distinguish the sale of insurance products from the bank’s business and present relevant insurance solicitor licenses to customers. | No, there is no specific regulatory prohibitions or limitations. | None, except for a general requirement that the conclusion/ execution of insurance policies (between a life insurer and its customers) and  the conclusion of other contracts (between a bank as the insurer’s agent and its customers) must be separated and that each of the insurer and the bank must independently take responsibility for their own products and services (including the case where the insurer and the banks agree to link insurance products with  banking products and services). |

Would the bank personnel be required to hold any specific license in order to distribute the insurance products? Are there any reasons why bank personnel may be prohibited from distributing insurance products?



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| CBIRC generally disallows insurance companies from dispatching their sales personnel to bank outlets. | Clearance would need to be obtained from the HKMA, but in practice it would be difficult. | No. However, the bank would generally exercise regarding the level of access to its customer data. | It is not customary for the sales personnel employed by the insurance company to carry on bancassurance  services at the bank’s branches except when the sales personnel of the insurance company is seconded to the bank to engage  in bancassurance services. | No. However, the bank would generally exercise care regarding level of access to its customer data, and to ensure continued compliance with the FSA, PDPA and any contractual confidentiality obligations. | The presentation and sale of the insurance products may only be done within a designated area within the bank premises  that is clearly distinguishable as a separate entity from the bank. | The bank would generally exercise care regarding the level of access to its customer data to preserve  confidentiality and banking secrecy. | Under the bancassurance regulations of Taiwan, the sales personnel for bancassurance can only be employed  by the bank, not the insurance company. | No. However, the bank would generally exercise care regarding the level of access to its customer data. | No. However, the bank would generally exercise care regarding the level of access to its customer data.  In addition, the sales people are usually employed by the bank rather than the insurer. Vietnamese law prohibits insurers from paying commissions to their sales people. |

If the sales person is employed by the bank: (a) is the insurance company required to



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have oversight or provide special training; and (b) are there applicable laws and regulations

allowing the insurance company to compensate the bank for the service provided by its sales personnel?

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| 1. There is no statutory requirement for training or oversight responsibility   by the insurer. However, it is common for the insurer to provide training to the bank personnel.   1. There are rules as to how insurers should compensate the bank. | 1. There is no statutory requirement for training or oversight responsibility   by the insurer. However, it is common for the insurer to provide training to the bank personnel.   1. There is no statutory requirement as to how insurers   should compensate the bank. | 1. The bank personnel must be trained and qualified to sell the product and must obtain agent certification. The   regulations related to bancassurance do not stipulate whether providing training to the bank employees who sell the insurance products is an obligation of the bank or the insurance company or whether training expenses must be paid by the insurance company. In practice this arrangement is agreed between the parties under the bancassurance agreement.   1. No, the bank would be compensated based on the consideration set out within the distribution agreement. | 1. Yes, the insurance company is required to monitor and oversee the circumstance of the insurance solicitation made by the bank under the relevant guideline. 2. There are no specific   restrictions on such compensation arrangement.  Where bancassurance services are provided by the sales personnel employed by the bank, which is a popular mode of bancassurance  in Japan, compensating the bank personnel will not be applicable. On the other hand, where bancassurance services are provided by  the bank sales personnel who is a secondee from the insurance company, it would be a matter of negotiation  whether the salary of such seconded employee is paid by the insurance company or the bank. | 1. There is no statutory requirement for training or oversight responsibility   by the insurer. However, it is common for the insurer to provide training to the bank personnel.   1. No, the bank would be compensated based on the consideration set out within the distribution agreement. | A bank may not employ sales personnel to sell insurance products. Bank personnel may not sell or solicit insurance contracts and may only:   1. refer bank clients to representatives of the insurance company; and 2. make a preliminary presentation of the insurance product to bank clients, provided they have undergone training from   the insurance company.  With regard to item (b), the Insurance Commissioner  may require bank employees to obtain a license to act as insurance agent for said activity.  Bank employees may receive referral incentives from the insurance company. | 1. There is no statutory requirement for training or oversight responsibility   by the insurer. However, it is common for the insurer to provide training to the bank personnel.   1. This is contractual. The bank would be compensated based on the consideration   set out within the distribution agreement. | 1. For the banks without approval from the FSC   to engage in either the  insurance agency or brokerage business, the bank personnel need  to be registered under the insurance agent or the insurance broker. Such insurance agent or broker shall provide periodic training programs  to those personnel. The bank is also required to ensure those personnel complete the training programs. For banks with approval from the FSC to engage  in either the insurance agency or brokerage business, such banks bear  the training or oversight responsibility.   1. There is no specific law and regulation on this. | 1. There is no statutory requirement for training or oversight responsibility   by the insurer. However, it is common for the insurer to provide training to the bank  personnel (mostly for obtaining  the insurance brokerage licenses).   1. The compensation arrangements between the insurer, the bank and the bank   sale personnel are based on the consideration arrangement  set out within the distribution agreement. | 1. Yes, the insurance company must provide training and issue insurance agency certificates to the sales personnel. 2. Insurance company may compensate the bank in the forms of commission, sale bonus and agent supporting amount, and the bank may use such compensation   to pay its sales personnel. |

If the sales person is employed by the insurance company, are there any restrictions on their access to the bank’s branches?



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| CBIRC generally disallows insurance companies from dispatching their sales personnel to bank outlets. | Clearance would need to be obtained from the HKMA, but in practice it would be difficult. | No. However, the bank would generally exercise regarding the level of access to its customer data. | It is not customary for the sales personnel employed by the insurance company to carry on bancassurance  services at the bank’s branches except when the sales personnel of the insurance company is seconded to the bank to engage  in bancassurance services. | No. However, the bank would generally exercise care regarding level of access to its customer data, and to ensure continued compliance with the FSA, PDPA and any contractual confidentiality obligations. | The presentation and sale of the insurance products may only be done within a designated area within the bank premises  that is clearly distinguishable as a separate entity from the bank. | The bank would generally exercise care regarding the level of access to its customer data to preserve  confidentiality and banking secrecy. | Under the bancassurance regulations of Taiwan, the sales personnel for bancassurance can only be employed  by the bank, not the insurance company. | No. However, the bank would generally exercise care regarding the level of access to its customer data. | No. However, the bank would generally exercise care regarding the level of access to its customer data.  In addition, the sales people are usually employed by the bank rather than the insurer. Vietnamese law prohibits insurers from paying commissions to their sales people. |

Are banks allowed to lease space to insurance companies marketing

products in bank branches?



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| Not a common practice in China. | Not a common practice in Hong Kong. | Yes. There is no restriction for banks to lease space to insurance companies.  In practice the bank will provide some space to  insurance companies to distribute its products.  If the insurance companies were to lease some space in the bank's premises, it must show:   * The name of the insurance companies in the table/room that is used by the insurance companies; and * The insurance companies personnel must keep using his/ her identity card of insurance companies. | It is not customary that bank leases spaces to insurance company to market insurance products in the bank’s branches because the sales personnel of the insurance company usually does not carry on bancassurance services at the bank’s branches (see the response to Question 24 above). For your information, if the insurance company is to establish its sales office at the premises of others (including the bank), such insurance company needs to implement appropriate  measures to avoid misunderstanding by customers, to protect customer information and to prevent crimes under the relevant guideline. | Yes. Banks are allowed to lease space to insurance companies. | The bank may lease space to insurance companies as part of its distribution/ bancassurance  agreement with such insurance companies. | This may be subject to regulatory notifications or approvals, and subject thereto banks are allowed to lease space to  insurance companies, provided there are adequate safeguards in segregating information and maintaining confidentiality and banking secrecy. | No. Under the bancassurance regulations of Taiwan, the sales personnel for bancassurance can only be employed  by the bank, not the insurance company. According to the regulations, the space where those sales personnel market insurance products must be segregated from the bank counters. | Yes. Banks are allowed to lease space to insurance companies. | If the bank is an insurance agent of the insurer and the parties enter into a distribution  agreement (agency contract), the bank will normally provide some space without additional fees to the insurance companies to distribute its products.  If the bank leases space to the insurance company by way of entering into a lease agreement, this may be difficult because it will require the bank to register for a leasing business  as one of its lines of business. |

Are there any investment requirements (e.g., minimum stake to be held by the insurance company in its distribution partner) or any other similar legal or regulatory



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obligations that may affect the insurance company’s ability to enter into the distribution agreements?

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| None. | None. | None. | None. | None. | Under the regulations of the BSP and Insurance Commission, the bank and the insurance company must belong to the same financial  conglomerate before bancassurance activities may be allowed. Further, BSP regulations provide that the insurance company must have been disclosed and reported as part of the group structure of the bank. | None. | None. | None. | None. |

Are there any recent (or pending) developments in laws and regulations that may be relevant to the negotiation and/or the entering into of the distribution agreements



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(or the provision of services by the insurance company and/or the bank pursuant thereto)?

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| CHINA | HONG KONG | INDONESIA | JAPAN | MALAYSIA | PHILIPPINES | SINGAPORE | TAIWAN | THAILAND | VIETNAM |
| None. | The Insurance Authority will implement a new licensing and regulatory regime for insurance intermediaries, which is expected to come into force in 2019.  Bank intermediaries will be subject to such new regime . | None. | None. | BNM has recently issued new guidelines that would apply  to life insurance products, and which has the effect of liberalising the caps on commission limits for certain products in the coming years. | The Insurance Commission and issued Circular Letter No. 2016-40  dated July 25, 2016 and Circular Letter  No. 2016-53 containing additional rules  on bancassurance supplementing Circular Letter No. 2015-20  or the implementing rules and regulations of bancassurance. | Draft amendments to legislation and the regulatory regime for financial advisory services (including the arranging of life insurance contracts) have been proposed pursuant to the Financial Advisers Industry Review.  The key thrusts introduced by the Financial Advisers Industry Review were: (i) raising the quality of financial advisory firms; (ii) lowering distribution costs in respect of distributing life policies; and (iii) promoting a culture of fair dealing. | None | The current Life Insurance Act and the Non-life Insurance Act are being amended. | Yes, the MOF and the SBV issued a joint circular No. 86/2014/ TTLT-BTC-NHNNVN  on 2 July 2014 on bancassurance between banks and life insurers in  Vietnam. Specifically, this joint circular provides guidelines on the principles and conditions for credit institutions to carry out life insurance agency activities, provides key contents of insurance agency agreements (i.e., distribution  agreements), specifies the commissions  and expenses for management of agents, states the rights and obligations of credit institutions and life insurance companies, provides arrangements for training for sale  staff of credit institutions, and provides for reporting requirements. |

Are there any other issues that may affect the insurance company’s ability to enter



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into the distribution agreements and provide bancassurance services on an ongoing basis to the bank?

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| CHINA | HONG KONG | INDONESIA | JAPAN | MALAYSIA | PHILIPPINES | SINGAPORE | TAIWAN | THAILAND | VIETNAM |
| None. | None. | None. | None. | None. | None. | None. | None. | None. | None. |

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