

**Baker
McKenzie.**

Insurance Consumer Protection Guide

2022 Edition



APAC Developments in Consumer Law

Insurance Consumer Protection Guide



Questions

What are the main legislation and regulators relating to financial consumer protection in relation to insurance or capital market products?

How active (or passive) a role, are the regulators in according protection to consumers in relation to insurance or capital market products?

Briefly, what are the disclosure requirements of insurance products to the consumers?

Are there any specific remedies or requirements to protect the consumer where the sale was made through digital channels (non agency channel).

Is there any prohibited business conduct imposed on licensed insurers / insurance intermediaries?

What are the potential consequences that may be imposed on the licensed insurers or insurance intermediaries for a breach of the obligations imposed by the legislations or regulators?

What are the obligations on licensed insurers with respect to management and/or disclosure of customer's personal data or information?

Are there any measures in place to help increase and improve financial literacy and awareness of financial consumers in your jurisdiction?

Have there been any changes to consumer protection post-Covid? Have the Regulators adopted any further measures to increase protection for the consumer arising from covid?

Are there additional requirements for vulnerable customers or those who are more susceptible to risk of harm or mis-selling?

What are the mechanisms in place to deal with complaints or disputes relating to financial consumers of insurance or capital market products?

Please provide an example of non-compliance by licensed insurers (e.g., mis-selling of insurance products, data breaches, etc.) in your jurisdiction and the action(s) taken by the regulator(s) in relation to the same.

Describe generally any disclosure requirements on sustainability, for insurance / financial products.

What are the main legislation and regulators relating to financial consumer protection in relation to insurance or capital market products?



The Law of the People's Republic of China on the Protection of Rights and Interests of Consumers, the Guiding Opinions of General Office of the State Council on Strengthening the Protection of Rights and Interests of Financial Consumers (Guo Ban Fa [2015] No. 81), and the Notice on Further Regulating Financial Marketing and Publicity Activities (Yin Fa [2019] No. 316) govern the financial consumer protection for both insurance and capital market products in mainland China.

Insurance Products

In addition to the laws and regulations mentioned above, the Insurance Law of the People's Republic of China ("Insurance Law") and some regulations and rules enacted by China Banking and Insurance Regulatory Commission ("CBIRC") put forward according requirements for protection of consumer's rights and interests for insurance products, such as the Guiding Opinions of CBIRC on Strengthening the Development of Systems and Mechanisms for the Protection of Consumer Rights and Interests by Banking or Insurance Institutions (Yin Bao Jian Fa [2019] No.38), the Administrative Measures for Settling Consumer Complaints against Banking and Insurance Industries (CBIRC Decree [2020] No.3), the Measures for Regulatory Evaluation of Protection of Consumer Rights and Interests by Banking or Insurance Institutions (Yin Bao Jian Fa [2021] No.24), etc. In addition, CBIRC issued the Measures on the Protection of Rights and Interests of Consumers of Banking and Insurance Institutions (draft for comments) in May this year which have not come into effect so far.

CBIRC and its local offices are the main regulator for consumer rights and interests protection in the fields of banking and insurance.

Capital Market Products

In addition to the laws and regulations mentioned above, the main regulations relating to financial consumer protection for capital market products include the Securities Law of the People's Republic of China ("Securities Law"), the Opinions of the General Office of the State Council on Further Strengthening the Protection of Legitimate Rights and Interests of Small and Medium Investors in Capital Market (Guo Ban Fa [2013] No. 110) and the Administrative Measures on the Suitability of Securities and Futures Investors (Revised in 2020).

The China Securities Regulatory Commission ("CSRC") and its local offices are the main regulator for the said protection in the field of capital market.

What are the main legislation and regulators relating to financial consumer protection in relation to insurance or capital market products?



Insurance Products

Financial consumer protection for insurance products is provided for in the Insurance Ordinance (Cap 41 of the Laws of Hong Kong) and the guidelines issued by the Insurance Authority ("IA"), such as Guideline on Underwriting Class C Business (GL15) and Guideline on Underwriting Long Term Insurance Business (GL16). The IA is the main regulator.

Capital Market Products

The main legislation relating to financial consumer protection for capital market products is the Securities and Futures Ordinance (Chapter 571 of the Laws of Hong Kong) ("SFO").

The primary regulator is the Securities and Futures Commission ("SFC"), which is an independent statutory body to regulate Hong Kong's securities and futures markets.

The statutory objectives of the SFC include:

- a. to maintain and promote a fair, efficient, competitive, transparent and orderly securities;
- b. to maintain and promote a fair, efficient, competitive, transparent and orderly securities and futures industry;
- c. to help the public understand the workings of the securities and futures industry;
- d. to provide protection for the investing public;
- e. to minimise crime and misconduct in the industry;
- f. to reduce systemic risks in the industry; and
- g. to assist the Government in maintaining Hong Kong's financial stability.

The SFC regulates the conduct of financial intermediaries (which includes imposing regulatory conduct requirements in selling financial products). The SFC also regulates offences such as market misconduct offences and other prohibited conduct for securities, including insider dealing, false trading, price rigging, disclosure of information about prohibited transactions, disclosure of false or misleading information inducing transactions, stock market manipulation, etc. Failure to comply with the SFO may result in civil, criminal and/or regulatory consequences.

Further, the SFC establishes and maintains a compensation fund known as "Investor Compensation Fund". Individuals may seek monetary compensation from the compensation fund under certain prescribed circumstances.

What are the main legislation and regulators relating to financial consumer protection in relation to insurance or capital market products?



In Indonesia, insurance and capital market activities are supervised by the Financial Services Authority (Otoritas Jasa Keuangan — "OJK").

As the main regulator that supervises the insurance and capital market activities, OJK issued OJK Regulation No. 6/POJK.07/2022 of 2022 on the Consumer and General Public Protection in the Financial Services Sectors ("OJK Reg 6/2022") that serves as the main legislation relating to financial consumer protection for both insurance and capital market products. The following are the "insurance" and "capital market" business actors (among other financial services business actors) that are subject to OJK Reg 6/2022:

- a. Insurance companies;
- b. Reinsurance companies;
- c. Securities Brokers; and
- d. Investment Managers.

What are the main legislation and regulators relating to financial consumer protection in relation to insurance or capital market products?



The principal obligations under OJK Reg 6/2022 that must be complied with by financial services business actors are:

- a. implement written policies and procedures on consumers protection (which written policies and procedures shall capture: (i) equal access for all consumers; (ii) special services for consumers with disabilities or elderly customers; (iii) protection of consumers' assets, data and information; (iv) information on the procedure to handle and resolve consumers' complaints; and (v) mechanisms to use consumers' personal data;
- b. improve financial literacy of consumers and/or public;
- c. self- assessment (by submitting annual reports containing the self-assessment to OJK);
- d. establish and maintain a function or unit responsible for the implementation of consumers and public protection; and
- e. establish a reporting mechanism to the board of directors.

Additionally, financial services business actors are prohibited from, inter alia:

- a. disclosing the personal data of consumers to other parties;
- b. requiring consumers to agree to share personal data as a condition of delivery of products or services; and
- c. using the personal data of former consumers or prospective consumers whose product applications have been rejected and/or prospective consumers who have withdrawn their applications.

For complete reference, the general consumer protection regulation that applies to all business players in Indonesia is regulated under Law No. 8 of 1999 on Consumer Protection, under the supervision of the Ministry of Trade of the Republic of Indonesia.

What are the main legislation and regulators relating to financial consumer protection in relation to insurance or capital market products?



The Financial Services Agency of Japan (JFSA) is the regulator responsible for the authorization and supervision of financial institutions, including banks, insurers, securities firms. This includes seamless off-site and on-site monitoring by the Supervisory Bureau of the JFSA. The JFSA delegates a part of their authority to the directors of the Local Finance Bureau of the Ministry of Finance (LFB).

As indicated below, Insurance Products are mainly regulated by Insurance Business Act (IBA). Capital market products which are various securities and other financial investment products (including derivatives) are mainly regulated by Financial Instruments and Exchange Act (FIEA). Both acts are supervised by the JFSA.

Insurance Products

The IBA mainly regulates companies that provide insurance services, such as insurance companies and insurance brokers. The IBA covers licensing, supervision, scope of business, accounting, consumer protection for insurance products, major shareholders, subsidiaries of insurance companies and foreign insurance companies. The IBA provides various regulations (including duty to provide information) as well as the cooling-off system, and the financial ADR system for consumer protection.

The Financial Service Act, the Consumer Contract Act, and the FIEA also provide rules relating to the solicitation and sale of insurance contract for financial consumer protection. In addition, Insurance Act, which provides rule regarding insurance contract, contains certain mandatory provisions for financial consumer protection.

Capital Market Products

The FIEA regulates financial instruments business operators who provide capital market products which are various securities and other financial investment products (including derivatives) and related businesses. Businesses covered by the FIEA include underwriting, securities dealing and brokerage, investment advice, investment management, asset management and funds management. The FIEA covers licensing, supervision, disclosure requirements, take-over bids, insider trading, scope of business, major shareholders, foreign securities firms, accounting, exchanges, clearing, self-regulatory functions and customer protection for capital market products. The Financial Service Act and the Consumer Contract Act also provide rules relating to the solicitation and sale of capital market products for financial consumer protection.

What are the main legislation and regulators relating to financial consumer protection in relation to insurance or capital market products?



Insurance Products

The Malaysian Financial Services Act 2013 ("FSA") governs the financial consumer protection for insurance products in Malaysia. The Central Bank of Malaysia (i.e., Bank Negara Malaysia ("BNM")) regulates, amongst others, licensed insurers, banks, and insurance brokers in Malaysia. Please see the responses to the questions below in relation to the provisions of the FSA applicable to financial consumer protection for insurance products.

Capital Market Products

The main legislation relating to financial consumer protection for capital market products would be the Malaysian Capital Markets and Services Act 2007 ("CMSA"); the Securities Commission Malaysia ("SC") regulates capital market intermediaries undertaking regulated activities under the CMSA. Pursuant to the CMSA:

- a. a stock exchange or derivatives exchange shall ensure, so far as may be reasonably practicable, an orderly and fair market in the securities or derivatives that are traded through its facilities by having particular regard to the need for the protection of investors;
- b. a licensed person under the CMSA shall not make a recommendation with respect to any securities or derivatives to a person who may reasonably be expected to rely on the recommendation without having a reasonable basis for making the recommendation to the person; and
- c. any person who (i) issues or provides false or misleading information; (ii) makes any false or misleading statement; or (iii) wilfully omits to state any matter or thing without which the statement or information is misleading in a material aspect, to a person who invests in a capital market product, commits an offence under the CMSA.

The CMSA also regulates offences such as market misconduct and other prohibited conduct for securities/derivatives, including false trading and market rigging, stock market manipulations, dissemination of information about false trading, insider trading, etc. Failure to comply with the obligations under the CMSA may result in fine up to RM10 million and/or imprisonment up to 10 years.

Further, the CMSA provides for the establishment of Capital Market Compensation Fund Corporation. Individuals may seek monetary compensation from the compensation fund under certain prescribed circumstances.

What are the main legislation and regulators relating to financial consumer protection in relation to insurance or capital market products?



In Taiwan, the main legislation governing the financial consumer protection in relation to insurance or capital market products include the Financial Consumer Act (金融消費者保護法), Consumer Protection Act (消費者保護法) and the Treating Customers Fairly Principles for Financial Service Industries (金融服務業公平待客原則). The regulators relating to financial consumer protection in relation to insurance or capital market products are the Financial Supervisory Committee. (FSC).

Please see below an introduction of the three main regulations mentioned above.

1. Financial Consumer Protection Act: This Act is specifically enacted to protect the interests of financial consumers, and to fairly, reasonably, and effectively handle financial consumer disputes, which are disputes between financial services enterprise and financial consumers. Financial services enterprise includes banking enterprises, securities enterprises, futures enterprises, insurance enterprises, electronic stored value card enterprises, and enterprises in other financial services as may be publicly announced by the competent authority. Financial consumers are parties that receive financial products or services provided by a financial services enterprise, excluding qualified institutional investor and natural persons or juristic persons with a prescribed level of financial capacity or professional expertise.
2. Consumer Protection Act: This act is enacted for the purposes of protecting the interests, facilitating the safety, and improving the quality of life of the consumers. As this act is the general law that applies to all consumers disputes, the Financial Consumer Protection Act being the special law, should apply in the first instance.

What are the main legislation and regulators relating to financial consumer protection in relation to insurance or capital market products?



3. Treating Customers Fairly Principles for Financial Service Industries:(TCF Principles) The FSC promulgated the TCF Principles on December 31, 2015 and revised it on May 12, 2022. The principles are applicable to the entire financial service industries, including banking, security, and insurance, aiming to ensure all customers in the financial sectors could receive the financial services with same quality and sufficient consumer protection. To achieve this goal, the FSC enacts ten treating customers fairly principles, which are:

- Principle of Fair and Good Faith upon Entering into Agreements
- Principle of Due Care and Fiduciary Duty
- Principle of Truthfulness in Advertisement and Solicitation
- Principle of Suitability of Products or Services
- Principle of Notification and Disclosure
- Principle of Balance between Remuneration and Sales Performance
- Principle of Customer Complaint Handling
- Principle of Professional Qualification of Sales People
- Principle of Friendly Service
- Principle of Financial Integrity

What are the main legislation and regulators relating to financial consumer protection in relation to insurance or capital market products?



Insurance Products

The Life Insurance Act B.E. 2535 (1992) and the Non-Life Insurance Act B.E. 2535 (1992) regulates licensed insurers, insurance brokers, and insurance agents in Thailand ("Insurance Acts"). The Office of Insurance Commission ("OIC") is the main regulator supervising the insurance industry in Thailand, under supervision of the Ministry of Finance ("MOF").

What are the main legislation and regulators relating to financial consumer protection in relation to insurance or capital market products?



For general protection of consumers' rights in Vietnam, Law No. 59/2010/QH12 on the Protection of Consumers' Rights ("Consumer Protection Law") and its guiding documents are the main legislations. The Ministry of Industry and Trade is the main regulator in the sector of consumer protection.

Specific protection of financial consumers' rights in insurance and capital market products will also be subject to the following regulations and under the supervision of the following regulators:

Insurance Products

The current Law on Insurance Business 2000, as amended in 2010 and 2019 ("Law on Insurance Business") and the new Law on Insurance Business 2022 (taking effective from 01 January 2023) govern the protection for insurance products.

The Ministry of Finance ("MOF") (as supported by its Insurance Supervisory Authority ("ISA")) regulates, amongst others, licensed insurers, reinsurers, insurance brokers, and insurance agencies in Vietnam in relation to insurance products.

Capital Market Products

Vietnam has the Law on Securities 2019 ("Law on Securities") and its guiding decrees to govern the consumer protection in the securities sector. Then, the MOF issues different circulars to govern different securities products, such as listed securities, investment funds, derivatives. There is no comprehensive law or regulation on capital markets products.

The State Securities Commissions ("SSC") under the MOF is the main regulator relating to the consumer protection in the securities sector.

a. The Law on Securities provides the following principles in the securities activities:

- Be respect of ownership and other rights over assets in the securities activities and on the securities market;
- Be respect of freedom to trade, invest and provide information about securities of organizations and individuals;
- Fairness, openness, transparency; and
- Protection of investors' the lawful rights and interests.

What are the main legislation and regulators relating to financial consumer protection in relation to insurance or capital market products?

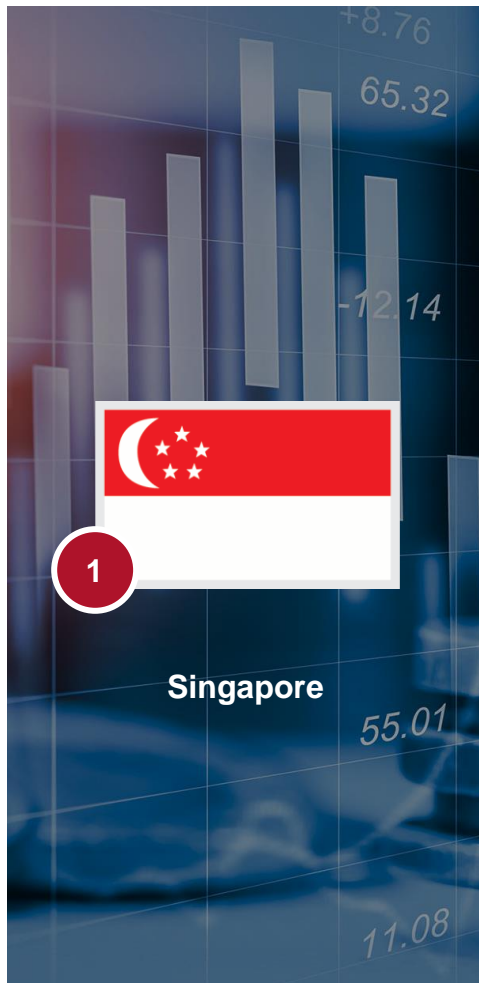


b. The following acts, amongst others, are prohibited under the Law on Securities:

- Committing, directly or indirectly, frauds, forgery of documents, providing or disclosing false information to conceal true information or omit necessary information in a manner that causes misunderstanding, adversely affects the offering, listing, trading, investment of securities and provision of securities-related services;
- Collaborating with another person in trading securities to manipulate securities prices; or using of other methods, with or without false information, to manipulate securities prices;
- [Licensed securities brokers/fund managers] Using client's account or asset without the client's authorization or against the law; or abusing trust to appropriate a client's assets;
- Using of internal information to buy or sell securities to oneself or another person; revealing or providing of internal information; advising another person to buy or sell securities based on internal information.

Failure to comply with the obligations under the Law on Securities and the relevant guiding decrees and circulars may subject the violators to administrative sanction of up to 5 times of illegal profits gained from the violation (for the insider trading and manipulation of stock prices) or up to VND 1.5 billion (approx. USD 65,000) (for other non-compliance or violations). If the regulator discovers any criminal signs arising from the violation, the violators may be subject to penalty under the Criminal Code (e.g., imprisonment).

What are the main legislation and regulators relating to financial consumer protection in relation to insurance or capital market products?



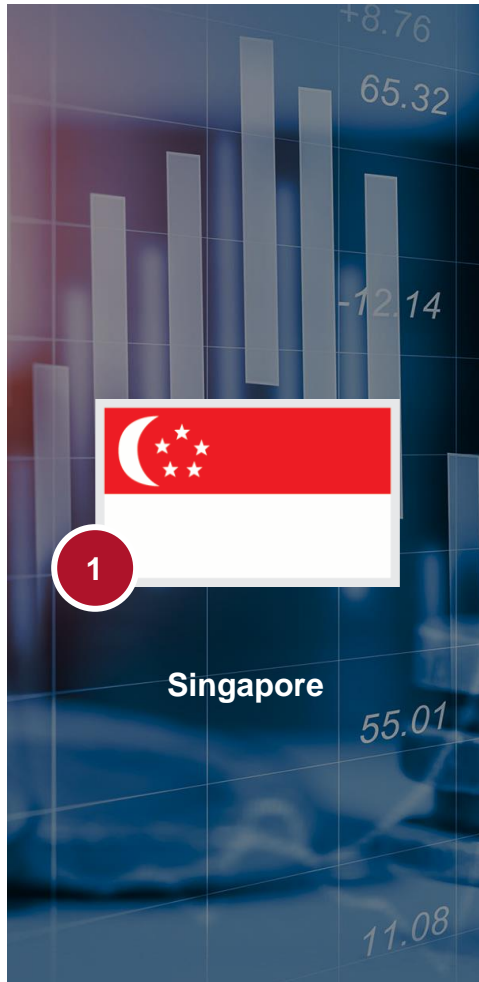
The Monetary Authority of Singapore ("MAS") regulates the financial consumer protection relating to both insurance products and capital markets products in Singapore pursuant to the relevant legislation (set out below). As part of such regulation, the MAS often issues notices, directives, guidelines, codes, and practice notes to supplement the main bodies of legislation. Directives and notices primarily impose legally binding requirements on financial institutions, where failure to comply could attract legal liability. Guidelines, codes, and practice notes do not carry the force of law, but a failure to comply may affect MAS' overall risk assessment of a financial institution. For more details and examples, please refer to [MAS' webpage on regulatory instruments](#).

Insurance Products

The main body of legislation which governs insurance products is the Insurance Act 1966 ("IA") which regulates insurance intermediaries and governs general insurance. Relating to financial consumer protection, insurance intermediaries are subject to various obligations, such as a duty on pre-contractual disclosure, a duty not to misrepresents, and a registration requirement. A further body of legislation - the Financial Advisers Act 2001 ("FAA") - governs the arranging of any contract of insurance in respect of life policies, other than a contract of reinsurance, thereby imposing further licensing requirements and checks on the conduct of the business. There are also subsidiary legislations under the IA and FAA which may be relevant. Please see the responses to the questions below in relation to the provisions of the IA and FAA (or any subsidiary legislation) applicable to financial consumer protection for insurance products.

It should also be noted that there are other non-government organisations supporting the regulation of insurance products, most notably the Life Insurance Association Singapore ("LIA") and General Insurance Association ("GIA"). They may also issue further guidelines and codes of practice that are based on the main body of regulations issued by the MAS.

What are the main legislation and regulators relating to financial consumer protection in relation to insurance or capital market products?



Capital Markets Products

The main body of legislation that governs the regulation of activities and institutions in the securities and derivatives industry, including leveraged foreign exchange trading of financial benchmarks and of clearing facilities, is the Securities and Futures Act 2001 ("SFA"). The SFA is supported by other legislation (e.g. the Companies Act 1967) and subsidiary legislations. Further, the MAS may be supported by other institutions in regulating the space, such as the Singapore Exchange which supervises the activities of listed companies and sets non-statutory rules.

Financial institutions that intend to conduct any regulated activities relating to capital markets products in Singapore are subject to various requirements that go to financial consumer protection. For instance, the SFA imposes certain requirements for disclosures to such as setting out prospectus disclosure standards and requirements or continuous disclosure requirements for listed companies and makes it a criminal offence to carry out certain activities, such as the dissemination of false information, employment of manipulative or deceptive devices, or false trading and market rigging.

How active (or passive) a role, are the regulators in according protection to consumers in relation to insurance or capital market products?



The CBIRC and CSRC are active in according protection to consumers in relation to insurance and capital market products.

Insurance Products

The activeness of CBIRC in this regard shows generally in 3 aspects:

1. promulgating some regulations, for instance, among others:
 - a) Notice of General Office of CBIRC on Addressing Banking and Insurance Institutions' Misconducts Against Consumer Rights and Interests (Yin Bao Jian Ban Fa [2019] No. 194): requires all banks, insurance companies to comply with the Guiding Opinions of General Office of the State Council on Strengthening the Protection of Rights and Interests of Financial Consumers (Guo Ban Fa [2015] No. 81) while local offices of CBIRC shall examine the exiting problems comprehensively, and lists the key misconducts of the banking and insurance institution.
 - b) Guiding Opinions of CBIRC on Strengthening the Development of Systems and Mechanisms for the Protection of Consumer Rights and Interests by Banking or Insurance Institutions(Yin Bao Jian Fa [2019] No.38): requires banking and insurance institutions to implement relevant requirements on the protection of consumers' rights and interests at all stages of corporate governance; requires the China Banking Association, the Insurance Association of China and the China Trustee Association to establish a specialized consumer rights protection committee, which shall be subject to the guidance and supervision of CBIRC.
 - c) Notice of the China Banking and Insurance Regulatory Commission on Regulating Retrospective Management of Internet Insurance Sales (Yin Bao Jian Fa [2020] No. 26): put forward specific requirements on Internet insurance business to protect consumers' basic rights such as the right of learning the truth, independent choice and fair trade.
 - d) the Measures on the Protection of Rights and Interests of Consumers of Banking and Insurance Institutions (draft for comments) specifies specific requirements in this aspect.

How active (or passive) a role, are the regulators in according protection to consumers in relation to insurance or capital market products?



2. CBIRC will request the insurance institutions to carry out self-examination and rectification against specific business conducts which damage the consumers' rights and interests from time to time depending on feedback from the market.
3. CBIRC will issue some guidance in relation to avoidance of some risks, e.g. risks of application for some life insurance products on internet.

Capital Market Products

As early as 2013, the Opinions of the General Office of the State Council on Further Strengthening the Protection of Legitimate Rights and Interests of Small and Medium Investors in Capital Market were issued to protect to consumers of capital market products.

The chapter of "Investor Protection" has been added to the Securities Law when it was revised in 2019, which also reflects that the regulators has attached great importance to the protection of securities investors.

How active (or passive) a role, are the regulators in according protection to consumers in relation to insurance or capital market products?



Insurance

The IA has been stepping up its supervision and enforcement functions. Regular inspections shall be conducted on insurers and insurance intermediaries, and any non-compliance will be looked at. Where necessary, investigations will be conducted.

In recent years, there have been disciplinary actions imposed on insurance intermediaries and insurers for non-compliance.

Capital Market Products

The SFC is relatively active in according protection to consumers in relation to capital market products. For instance, the SFC has issued various codes, guidelines, circulars and FAQs on financial consumer protection and/or constantly updating the same. Please see below the list as an example.

1. Codes

The Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission (the "Code of Conduct") is applicable to all licensed / registered financial intermediaries in their conduct of SFC regulated activities (e.g., advising on securities, etc.). The Code imposes various requirements on conducting know-your-client (KYC), ensuring suitability and making disclosure.

Reasonable advice

Paragraph 5.2 of the Code of Conduct requires a licensed or registered person to, when making a recommendation or solicitation, ensure the suitability of the recommendation or solicitation for the client is reasonable in all the circumstances, having regard to information about the client of which the licensed or registered person is or should be aware through the exercise of due diligence.

How active (or passive) a role, are the regulators in according protection to consumers in relation to insurance or capital market products?



Investment in derivative products

Pursuant to paragraph 5.1A of the Code of Conduct, a licensed or registered person should, as part of the KYC procedures, assess the client's knowledge of derivatives and characterise the client based on his knowledge of derivatives. There are also additional steps to be undertaken if the client does not have any derivative knowledge.

Under paragraph 5.3 of the Code of Conduct, a licensed or registered person providing services to a client in derivative products, including futures contracts or options, or any leveraged transaction should assure itself that the client understands the nature and risks of the products and has sufficient net worth to be able to assume the risks and bear the potential losses of trading in the products.

Investment in complex products

Pursuant to paragraph 5.5 of the Code of Conduct, a licensed or registered person providing services to a client in complex products should ensure that:

- a transaction in a complex product is suitable for the client in all the circumstances;
- sufficient information on the key nature, features and risks of a complex product is provided so as to enable the client to understand the complex product before making an investment decision; and
- warning statements in relation to the distribution of a complex product are provided to the client in a clear and prominent manner.

Client agreements

There are prescribed client agreement content requirements under paragraph 6 of the Code of Conduct, which includes including the following provision: "If we [the intermediary] solicit the sale of or recommend any financial product to you [the client], the financial product must be reasonably suitable

for you having regard to your financial situation, investment experience and investment objectives. No other provision of this agreement or any other document we may ask you to sign and no statement we may ask you to make derogates from this clause."

How active (or passive) a role, are the regulators in according protection to consumers in relation to insurance or capital market products?



Disclosure

Paragraphs 8.3 and 8.3A of the Code of Conduct impose requirements on disclosure of transaction related information, and monetary and non-monetary benefits.

2. Guidelines

The SFC has issued various guidelines including the Management, Supervision and Internal Control Guidelines for Persons Licensed by or Registered with the Securities and Futures Commission (the "Internal Control Guidelines") to provide guidance to licensed or registered persons with respect to the SFC's expectations in relation to internal controls, including internal controls in providing investment advice.

3. Circulars

The SFC has issued various circulars on selling financial products such as the below:

- a. Circular to licensed corporations - Review of online brokerage, distribution and advisory services
- b. Joint circular to intermediaries - Concurrent SFC-HKMA thematic review of the distribution of non-exchange traded investment products
- c. Joint circular on intermediaries' virtual asset-related activities
- d. Circular to intermediaries - Findings of concurrent SFC-HKMA thematic review of spread charges and other practices
- e. Circular to intermediaries - Distribution of insurance-linked securities and related products
- f. Circular to Intermediaries - Frequently Asked Questions on Compliance with Suitability Obligations and Requirements for Complex Products
- g. Circular to Intermediaries - Reminder of important obligations to ensure suitability and timely dissemination of information to clients
- h. Circular to Intermediaries - Implementation of regulatory requirements for online and offline sale of complex products

How active (or passive) a role, are the regulators in according protection to consumers in relation to insurance or capital market products?



- i. Circular to Intermediaries - FAQs on implementation of additional protective measures for complex products
- j. Circular to Intermediaries - Implementation of online platform guidelines and offline requirements for complex products
- k. Circular to intermediaries - Distribution of complex and high-risk products
- l. Circular to Intermediaries - Frequently Asked Questions on Disclosure of Transaction Related Information
- m. Circular to all licensed corporations - Compliance failures in the distribution of fixed-income and structured products
- n. Joint reviews by HKMA and SFC on managing conflicts of interest in financial groups
- o. Circular to Intermediaries - Frequently Asked Questions on Triggering of Suitability Obligations
- p. Circular to Intermediaries - Frequently Asked Questions on Compliance with Suitability Obligations
- q. Circular to Licensed Corporations Distribution of bonds listed under Chapter 37 of the Main Board Listing Rules and local unlisted private placement bonds

4. FAQs

The SFC has issued the following FAQs such as the below on selling financial products:

- a. Frequently Asked Questions on Disclosure of Transaction Related Information
- b. Frequently Asked Questions on Guidelines on Online Distribution and Advisory Platforms and Paragraph 5.5 of the Code of Conduct
- c. Frequently Asked Questions on paragraphs 8.3 and 10.2 of the Code of Conduct
- d. Frequently Asked Questions on Triggering of Suitability Obligations
- e. Frequently Asked Questions on Compliance with Suitability Obligations by Licensed or Registered Persons
- f. Frequently Asked Questions on Investor Characterization Requirement
- g. Frequently Asked Questions on New Conduct Requirements

How active (or passive) a role, are the regulators in according protection to consumers in relation to insurance or capital market products?



In practice, we have seen the OJK taking an active role - both in providing and supervising the protection of consumers of insurance and capital market products.

Such active role is reflected in amongst others the following actions:

- a. OJK took the initial step to provide a platform where the consumers of financial services business actors can submit their complaints in respect of insurance or capital market players in Indonesia;
- b. OJK established designated departments/units to supervise the implementation of consumer protection by each type of financial services business actor. In practice, we have seen these departments taking an active role in conducting investigations on alleged consumer protection breaches by financial services business actors.
- c. OJK announces, from time to time, official statements regarding sanctions imposed on financial services players that violate the requirements.

How active (or passive) a role, are the regulators in according protection to consumers in relation to insurance or capital market products?



The JFSA is relatively active in according protection to consumers in relation to insurance and capital market products.

The IBA and the FIEA provide detailed regulations for such protection to consumers. Based on the IBA and the FIEA, the JFSA has the power to issue administrative dispositions to insurance companies / business operators, including orders for business improvement, suspension of business, or cancellation of license/registration.

Moreover, the JFSA also issues Comprehensive Guidelines for supervision, which include detailed financial consumer protection and other supervising policies:

- a. Comprehensive Guidelines for Supervision for Insurance Companies contain basic concepts, evaluation criteria and other guidelines relating to the supervision of insurance companies.
- b. Comprehensive Guidelines for Supervision of Financial Instruments Business Operators, etc., contain basic concepts, evaluation criteria and other guidelines relating to the supervision of financial instruments business operators who provide capital market products.

How active (or passive) a role, are the regulators in according protection to consumers in relation to insurance or capital market products?



BNM and the SC are relatively active in according protection to consumers in relation to insurance and capital market products. For instance, BNM has issued policy documents in relation to financial consumer protection and/or constantly updating the same. Such policy document includes, but not limited to:

- a. **Policy Document on Introduction of New Products by Insurers and Takaful Operators:** requires licensed insurers to develop and implement consumer suitability assessments that will require insurance companies to seek sufficient knowledge about consumers to ensure that consumers have a practical understanding of a product and the associated risks, as well as ensure that the product would meet the consumer's investment objectives and risk appetite.
- b. **Policy Document on Investment-Linked Business:** sets out several new requirements for investment-linked product ("ILP") insurance policies with the primary objective to protect the interests of consumers, such as implementation of standards on minimum allocation rates to protect the account values of ILP policy/certificate owners and strengthened disclosure standards on product illustration to facilitate more informed decision-making by consumers.
- c. **Guidelines on Fair Treatment of Financial Consumers:** requires financial service providers (including licensed insurers, approved insurance brokers and approved financial advisers) ("FSP") to, among others, cultivate and promote a culture where the interest of financial consumers is an integral part to the FSP's business and strategies. To achieve this, the principles that are to be observed include corporate culture, fair terms, provision of information, fair dealing, advice and recommendation, and consumer redress.

How active (or passive) a role, are the regulators in according protection to consumers in relation to insurance or capital market products?



The SC has also issued the following guidelines in relation to financial consumer protection:

- a. **Guidelines on Advertising for Capital Market Product and Related Services:** provides a general framework for advertising and promotional activity within the capital market with the aim to avoid investors being subject to false or misleading information or deceptive conduct.
- b. **Guidelines on Conduct for Capital Market Intermediaries:** aims to foster good business conduct and a good corporate culture within all capital market intermediaries that is centred upon the fair treatment of clients and to promote trust in capital market intermediaries.
- c. **Guidelines on Sales Practices of Unlisted Capital Market Products:** this is applicable to all unlisted capital market products (with certain exceptions) and covers areas such as treating investors fairly, requirements with respect to the product highlights sheet and suitability assessment.
- d. **Guidelines on Market Conduct and Business Practices for Stockbroking Companies and Licensed Representatives:** sets out standards for market and business conduct, and to illustrate conducts and activities which in the SC's opinion constitute market abuse and unethical business conduct.

How active (or passive) a role, are the regulators in according protection to consumers in relation to insurance or capital market products?



The FSC is relatively active in terms of protecting financial consumers. For example, the FSC has implemented the Treating Customer Fairly Evaluation Mechanisms since 2019 to understand if the market players in the banking sector, insurance sector and securities sector have established relevant TCF measures during the sales of financial products and providing services to the consumers and to help the financial industries to shape its organizational culture into one that values the spirit of treating customers fairly.

Moreover, the FSC would hold the ceremony to give prizes to the financial institutions with good records of treating customers fairly and ask the financial institutions requiring improvement to attend the regulatory sharing meeting to learn from their peers winning the TCF awards. The FSC also includes the TCF evaluation result of a financial institution as an indicator when the said financial institution intends to apply for approval to engage in new business. For instance, unless otherwise provided by the Insurance Bureau, if an insurer wants to apply for Insurance Bureau's approval to conduct e-commerce business (non-agency channel), one criterion is to rank in the top 80% in the TCF Evaluation in the previous year.

Additionally, the FSC has actively enforced the TCF Principles in financial consumer disputes and would impose regulatory sanctions on those failing to abide by the TCF Principles: In the event of customer complaints or financial consumer disputes, the financial service company shall handle them in a timely and appropriate manner in accordance with the SOP, and review whether there is any violation of the TCF Principles or financial consumer protection laws and regulations; whether it provides flexible and appropriate customer services, establishes good customer service systems and processes, and conducts reviews of the rules and regulations related to the TCF Principles on a rolling basis. (Point 5, para. 4, sub-para. 4 of TCF Principles)

Moreover, the FSC has issued "Matters Requiring Special Attention When Applying Treating Customers Fairly Principles," listing issues that require special attention and identifying common TCF failures that the financial institutions might have when providing financial consumers with insurance and capital market products.

How active (or passive) a role, are the regulators in according protection to consumers in relation to insurance or capital market products?



The OIC is relatively active in according protection to consumers in relation to insurance products. For instance, in 2020 the OIC has updated the Notification Re: Criteria and Procedures on the Issuance, Offering for Sale of Insurance Policies of Insurance Companies and the Performance of Duties of Insurance Agent, Brokers and Banks (the "Sale Notification"), replacing the previous sale notification issued in 2018. In addition, the OIC recently issued guidelines that elaborate requirements under the Sale Notification in January 2022.

How active (or passive) a role, are the regulators in according protection to consumers in relation to insurance or capital market products?



The regulators are relatively active in order to protect the consumers' rights and benefits in relation to insurance or capital market products.

Insurance sector

Besides the activeness during the drafting process of the new Law on Insurance Business which covers several parts to protect policyholders and/or the insured, the activeness of the regulators (e.g., the MOF, its ISA) is indicated by their reaction to certain cases that the regulators may be concerned that the rights and benefits of the consumers are affected. For example, during the COVID-19 period, several insurers launched insurance products in relation to the COVID-19 pandemic. However, on 31 March 2020, the regulators requested insurers to stop introducing or selling insurance products in relation to the COVID-19 pandemic. According the news during this period, the reason of the request was due to the uncertainty of the pandemic and that the Government health insurance fund will cover medical fee for infected patients. It is not necessary for insurers to launch such new products, and hence, from regulators' point of view, it would avoid potential cases the insurers may abuse such situations to gain profits during the Covid period. However, insurance policies entered into before the regulators' request remained their effectiveness, meaning that the rights and benefits of policyholders that had purchased Covid-related insurance products were still secured. Another example is in relation to the bancassurance. Certain banks' staff members (as insurance agents) have forced the borrower/banks' customers to purchase insurance products as a condition for accepting loans from banks. The MOF then issued several official letters to the insurers to review their insurance agents network, and also sent official letters to banks to enhance the supervision of the insurance agency activities of their staff members (who directly offers the insurance products to customers).

Capital markets sector

The SSC has frequently updated the information on administrative sanctions applicable to securities companies and publicized them on its official websites.

How active (or passive) a role, are the regulators in according protection to consumers in relation to insurance or capital market products?



Further regulation

MAS is relatively active in according protection to consumers in relation to insurance and capital markets products. MAS aims to safeguard consumers by raising industry standards to improve the quality of financial advice provided to consumers; enhance the transparency and efficiency of financial products distributed in Singapore; and ensure that safety nets are in place to protect and assist consumers should financial institutions encounter issues. Besides the IA, FAA, SFA, and their subsidiary legislation, MAS frequently issues guidelines, notices, and codes that contributes to financial consumer protection relating to insurance and capital market products , including but not limited to:

- a) **Guidelines on Fit and Proper Criteria [FSG-01]**. Sets out that all relevant persons carrying out regulated activities ought to be fit and proper, with the expectation that they are competent, honest, have integrity, and are of sound financial standing. The guidelines state the criteria for assessing if a relevant person is fit and proper, and therefore seeks to encourage a high caliber of personnel in the financial industry.
- b) **Guidelines on Standards of Conduct for Marketing and Distribution Activities by Financial Institutions [FSG-G02]**. Sets out safeguards for financial institutions to put in place to manage and address market conduct risks, and the roles and responsibilities of the board and senior management in this regard. In particular, it aims to, among others, prevent the harassment of consumers, enticement of consumers with unsuitable financial products, and creation of an uncondusive environment for the purchase of financial products. Safeguards expected include tracking and monitoring customer complaints, ensuring proper training on sales and advisory conduct for representatives, and implementing call-backs/surveys for consumers prospected at retailers or in public places to ensure their understanding of their purchases. The guidelines thus seek to reduce the potential for market misconduct at retailers and in public places, ensuring and flagging up inappropriate conduct such as mis-selling, misrepresentation, or pressure selling.

How active (or passive) a role, are the regulators in according protection to consumers in relation to insurance or capital market products?



c) **Notice 120 Disclosure and Advisory Process Requirements For Accident and Health Insurance Products.** Imposes mandatory disclosure requirements and best practice standards on the disclosure of information and provision of advice to policy owners for certain insurance products. Failure to comply with the mandatory requirements would constitute a statutory offence under the IA. This notice thus seeks to enhance disclosure standards to better inform consumers and reduce instances of them being misled when purchasing insurance products.

A full list of such regulations issued can be found on the [MAS website](#).

Singapore Deposit Insurance Corporation ("SDIC")

The SDIC is set up by an act of parliament and has been designated to be the deposit insurance and policy owners' protection fund agency under the Deposit Insurance and Policy Owners' Protection Schemes Act, whose board is accountable to the Minister in charge of MAS. It set up and administers the Policy Owners' Protection Scheme to protect consumers in the event of a failure of a life insurer / general insurer.

Enforcement

MAS is also active in taking enforcement actions against financial institutions that breach such requirements. Please see the responses to question 10 for information on the enforcement actions taken.

Briefly, what are the disclosure requirements of insurance products to the consumers?



According to relevant regulations, e.g. the Administrative Measures on Information Disclosure of Insurance Companies (CBIRC Decree [2018] No. 2) and the Measures on the Protection of Rights and Interests of Consumers of Banking and Insurance Institutions (draft for comments), information disclosure by insurance companies shall comply with the principles of veracity, accuracy, integrity, timeliness and effectiveness, shall not contain any false record, misrepresentation and major omission, and shall be made in reader-friendly language as much as possible. The information disclosed by insurance companies shall at least include basic information of insurance products such as the product catalog and clauses, nature, fees, main risk, examination and the like of the product, the manual of a new type of life insurance product, etc.

Insurance

Under the utmost good faith principle, insurers should disclose facts which are material to the insured's decision of taking out the policy.

Under GL15 and 16 (which are applicable to investment linked products and other life products, respectively), there are general disclosure requirements, such as the following:

- Product information (e.g. product brochure, standard illustration) should be bilingual, clear and succinct, with the use of plain language and legible font size, and should be easily understandable by average customers
- Key product risks should be included in the product brochure and marketing materials, including key exclusions, premium adjustment and premium term, termination conditions, market value adjustments, etc.
- For products with policy loan facility, information about the terms of the loan (including interest rate to be charged) should be included
- For policies to be used as collateral assignment (e.g. for premium financing), insurers should ensure that the policyholder fully understands the relevant risks and limitations
- Projections such as policy value projections should not be overly optimistic in order to manage the reasonable expectations of customers.

Briefly, what are the disclosure requirements of insurance products to the consumers?



For financial services products in general, OJK Reg 6/2022 requires financial service business actors to provide the product summaries which consist of at least (i) names and types of products and/or services; (ii) names of issuers; (iii) benefits and risks and (iv) simulations and/or historical data (if the offered products and/or services involve any fund collection, distribution and/or management activities).

Specifically for insurance products, Article 52 of OJK Regulation No. 23/POJK.05/2015 of 2015 on Insurance Products and the Marketing of Insurance Products and Section III of Circular Letter of OJK No. 19/SEOJK.05/2020 of 2020 on Insurance Products Marketing Channels ("OJK CL 19/2020") also provide for a similar requirement - i.e. for the insurance companies to disclose a summary the product that explains the specifications of the insurance product, including the benefits, risks, costs, rights and obligations of the prospective consumer and the requirements of the product. Such summary must be accurate and not misleading and must also comply with the prevailing consumer protection regulations.

Under the IBA, upon insurance solicitation, the solicitor shall provide written information and an explanation of important items necessary for the customers to determine whether to enter into insurance contract. The information shall contains outlines of the insurance contract and alerting information. Details of such required information are provided in the Comprehensive Guidelines for Supervision for Insurance Companies.

Further, under the IBA, the solicitor has the duty to confirm customer's intent is in line with the insurance products. Detail of methods for such confirmation of customer's intent are provided in the Comprehensive Guidelines for Supervision for Insurance Companies.

Appropriate and adequate explanations are required to be provided to the consumers, especially for sale of insurance products where the consumers bear risks, such as variable insurance and insurance in foreign currency. The Comprehensive Guidelines for Supervision for Insurance Companies also provide detailed provisions in this regard.

Briefly, what are the disclosure requirements of insurance products to the consumers?



The Guidelines on Fair Treatment of Financial Consumers prescribes that a FSP must include key contract terms that affect financial consumers' rights and obligations in the product disclosure sheet for all financial products, and keep the financial consumers adequately informed regarding a financial service or product at the pre-contractual stage, at the point financial consumers enter into a contract and during the term of the contract.

In addition, the Policy on Bancassurance / Bancatakaful, applicable to bancassurance arrangements (licensed bank, licensed Islamic bank, licensed investment bank and prescribed institution that has a distribution or marketing arrangement or agreement with a licensed insurer), requires that disclosure of any product features of an insurance products shall not be expressed or illustrated in a manner which can mislead a customer or result in the customer misinterpreting the insurance product features or that could that could lead to inappropriate comparison with the returns of banking deposit or investment products.

Briefly, what are the disclosure requirements of insurance products to the consumers?



The disclosure requirements of insurance products to the consumers generally include the critical aspects of the financial products or services, and the contact, to the financial consumer, and shall also fully disclose the associated risks. For instance, an insurer should make publicly available the description of the insurance product, policy wording, insurance application form, rate table, a description of rates shall be provided where no rate table is available, unless the Insurance Bureau otherwise provides it. (Article 10, Para. 1 of the Financial consumer Protection Act; and Article 18 Regulations Governing Pre-sale Procedures for Insurance Products.)

A separate chapter on disclosure of information is introduced in the Sale Notification.

According to the Sale Notification and the Sale Notification Guideline, sellers need to carefully engage certain groups of prospective customers, such as those who are senior in age or inexperienced in insurance or finance, particularly when providing them with information.

Sellers are also obligated to disclose assumptions that serve as a basis for calculating estimated returns when selling par policies, unit-linked policies and universal life policies.

In addition, for advertisements, the Sale Notification Guideline requires that it shall include clear warnings and recommendation on decision making in audio advertisements.

Specifically for insurance products sold via an online channel, insurance companies need to disclose basic information of the products on the OIC's website.

Briefly, what are the disclosure requirements of insurance products to the consumers?



From an insurance business law perspective, when entering into insurance policies/contracts with policyholders, the licensed insurers is obligated to provide sufficient information on the insurance policies/contracts and explain insurance terms and conditions to the policyholders. If the licensed insurers intentionally provide false information in order to enter into the insurance contracts with the policyholders, the policyholders may unilaterally suspend the performance of the insurance contracts, and such insurers have to pay indemnification for the damage caused to the policyholders due to the provision of such false information.

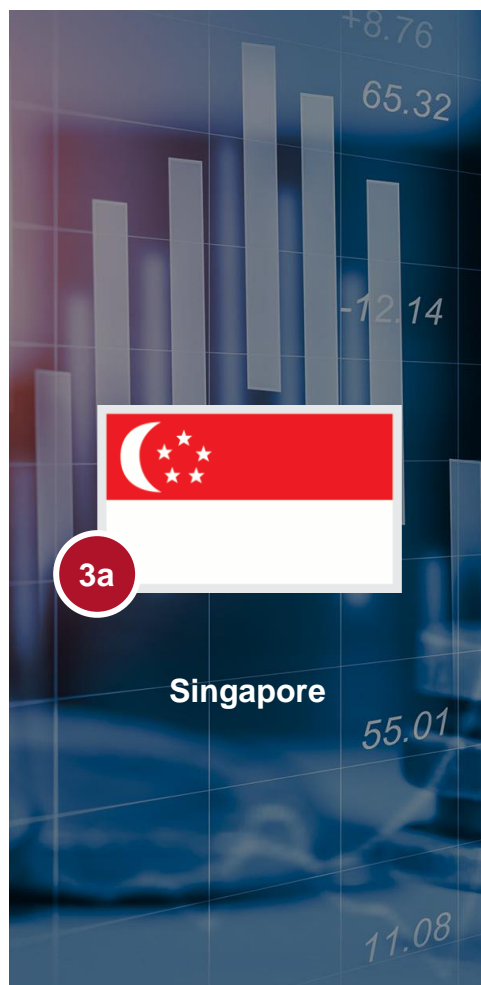
From a consumer protection law perspective, disclosure requirements relevant to insurance products are as follows:

- Publicize prices of the products at business locations and service offices;
- Provide user manual; and
- Accurately and fully notify consumers of standard form contracts and general trading conditions before entering into the transaction.

In addition, Decree No. 73 and Circular No. 37/2019/TT-NHNN of the State Bank of Vietnam ("SBV") applicable to bancassurance arrangement (under which licensed credit institutions such as banks have the insurance agency arrangement with licensed insurers), provides the following requirements on information disclosure:

- the credit institutions must explain to clients that insurance products distributed via credit institutions are not products of credit institutions;
- the credit institutions, as insurance agencies, must provide adequate and accurate information on insurance products to the policyholders.

Briefly, what are the disclosure requirements of insurance products to the consumers?



Bearing in mind that there are broader public disclosure requirements imposed on insurance intermediaries, this response is only limited to disclosures relating to insurance products.

The disclosure requirements of insurance products to consumers are broadly set out in the IA and FAA. Sections 67 and 34 of the IA and FAA respectively impose a pre-contract disclosure requirement on insurance intermediaries to disclose "all material information", which includes any information that the MAS may prescribe or specify in directions. These generally require product information, the rights and obligations of the consumer in relation to the product, and the terms and procedures relating to the free-look period. Specific disclosure requirements (mandatory and non-mandatory) in relation to discrete insurance products are set out in the directions issued by MAS. For instance:

- A. *Notice 120 Disclosure and Advisory Process Requirements For Accident and Health Insurance Products.*** Imposes mandatory disclosure requirements and best practice standards on the disclosure of information and provision of advice to policy owners for accident and health policies and life policies that provide accident and health benefits. Failure to comply with the mandatory requirements would constitute a statutory offence under the IA. Such requirements include disclosure of the nature and objective of the policy, details of the insurer, contractual rights and obligations, benefits of the policy, risks on the free-look period of the policy, details on the claims and termination under the policy, and warnings, exclusions, and disclaimers relating to the policy.
- B. *Notice 307 Investment-Linked Policies.*** Imposes mandatory and non-mandatory requirements in relation to disclosure, investment guidelines, borrowing limits, and operational practices for investment-linked policies. Generally, there is a requirement to disclose information set out in Appendices A, B and C of Notice 307, which includes (among others) a description of the policy in non-technical terms, information on the manager of the policy sub-funds, general risks of investing in the policy, and fees and charges for the policy.

Briefly, what are the disclosure requirements of insurance products to the consumers?

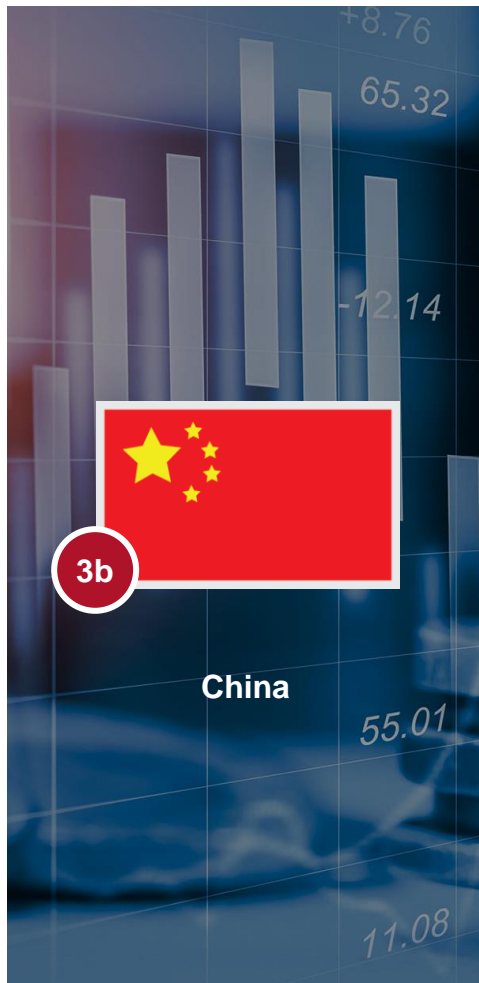


C. Notice FAA-N03. Sets out the general principals relating to disclosure applicable to licensed/exempt financial advisers under the FAA and imposes mandatory disclosure requirements relating to any designated investment product recommended to consumers, including life policies. This includes, among others, the nature and objective of the product, the commitment required from the consumer (specifically, whether the premium rate is guaranteed or non-guaranteed), and the benefits of the product (using a policy illustration in respect of the life policy, where applicable).

For a list of the directions relating to disclosure, please look at [MAS' webpage](#). Insurance intermediaries will therefore be required to familiarise themselves with the disclosure requirements in respect to specific insurance products. On top of these, there are certain requirements imposed by non-governmental organisations. One such example is the Code of Practice for Agents, published by GIA for insurance agents representing their member companies, which sets out best practices, including that for disclosures relating to insurance products.

Aside from disclosure of information, it is also an offence to make statements or omissions that mislead consumers. Section 69 of the IA makes it an offence to, with intent to deceive, make a false or misleading statement or omit to disclose any matter that is material to a statement, in relation to amounts payable under a proposed contract of insurance or the effect of any provision of such contract. A similar provision is set out in Section 35 of the FAA for life policies.

Are there any specific remedies or requirements to protect the consumer where the sale was made through digital channels (non agency channel).



Yes.

Measures for the Regulation of Internet Insurance Businesses (CBIRC Decree [2020] No.13) specifies the requirements on Internet insurance businesses to provide a comprehensive protection for the consumers, such as

1. The webpage of selling or introducing internet insurance products shall include required contents which may have some influence on the rights and interests of consumers;
2. The marketing of internet insurance products shall comply with relevant laws and regulations, and it shall be prudential when sending information to customers for marketing promotion. When a customer expressly refuse to receive such information, no such information shall be sent to the customer again;
3. Specific requirements to protect consumers' right to know and purchase products of their choice in the whole process of sales;
4. The insurance company shall set up a unified and centralized service handling portal on its platform for the after-sale services; etc.

Notice of the China Banking and Insurance Regulatory Commission on Regulating Retrospective Management of Internet Insurance Sales (Yin Bao Jian Fa [2020] No. 26) specifies that the process of internet insurance sales shall be traceable, and relevant materials and sales webpages shall be restored in required ways for inspection.

Are there any specific remedies or requirements to protect the consumer where the sale was made through digital channels (non agency channel).



Insurance

The usual remedies and requirements will apply for any mis-selling, whether through digital or agency channel.

Capital Market Products

The SFC has issued the Guidelines on Online Distribution and Advisory Platforms which provides guidance on governance and control of online platforms, triggering and discharging of suitability requirements in an online context and additional protection measures for the sale of complex products.

1. Suitability requirements in solicitation / recommendation

Where there is a "solicitation" or "recommendation", platform operators must discharge the obligations at the point of sale or advice in accordance with the requirements set out in Chapter 5 of the aforesaid guidelines.

2. Sale of complex products on online platforms

In relation to the sale of complex products (regardless of whether there is any solicitation or recommendation), there are suitability obligations and disclosure obligations imposed on the platform operators under Chapter 6 of the aforesaid guidelines.

There are also specific requirements in relation to materials posted on the online platforms, robo-advisory services, etc. The SFC has issued a set of FAQs on this entitled Frequently Asked Questions on Guidelines on Online Distribution and Advisory Platforms and Paragraph 5.5 of the Code of Conduct.

Are there any specific remedies or requirements to protect the consumer where the sale was made through digital channels (non agency channel).



Yes.

Under Section VIII of OJK CL 19/2020, there are specific requirements that must be complied with by insurance companies when conducting a direct sale to consumers through digital channels, in order to protect the consumer. The insurance company:

- a. must obtain an Electronic System Organizer certificate issued by the Ministry of Communication and Informatics of the Republic of Indonesia (through the online single submission system);
- b. must implement policies, standards, and procedures of information technology risk management (which cover among others: (i) the governance, operating procedures, and periodic audit mechanisms and (ii) electronic systems consumer data security system, and electronic transactions);
- c. must have a 24/7 service center that handles inquiries and/or complaints, whereby this service center must be informed of the electronic systems that are being used; and
- d. must satisfy all other OJK and relevant authorities' requirements in implementing the electronic system.

Are there any specific remedies or requirements to protect the consumer where the sale was made through digital channels (non agency channel).

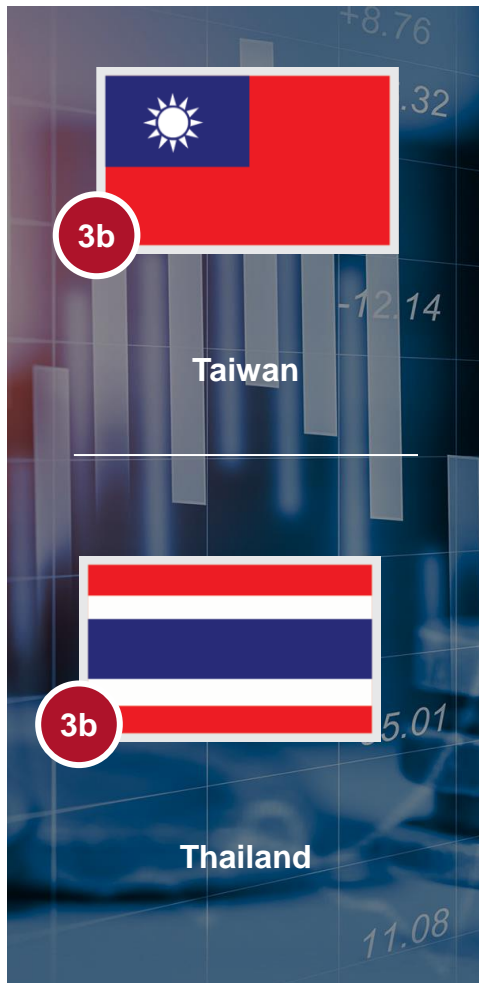


Where there are certain mistakes in executing electronic contract due to gross negligence of a consumer, the consumer can cancel the contract, as long as (i) the business operator does not set up measures to confirm the consumer's intention to enter the contract, (ii) the mistake is related to an element of the contract which materially affected the consumers decision to enter into the contract under the Act on Special Provisions to the Civil Code on Electronic Consumer Contracts.

We are not aware of any specific remedies and requirements to protect the consumer where the sale was made through digital channels (non-agency channels).

Note that BNM has recently issued a Discussion Paper on the Licensing Framework for Digital Insurers and Takaful Operators ("DITOs") ("DITOs Discussion Paper") that sets out a proposed framework for the licensing of DITOs, i.e., an insurance business offering insurance products and services wholly or almost wholly through digital or electronic means. Although there are no specific remedies for consumer protection where the sale was made through digital channels, DITOs are required to consider, amongst others, customers that are unable to access certain protection solutions or face wide exclusions due to (a) lack of data or experience to support the pricing of risks; or (b) lack of incentive to enter into traditionally excluded risks (e.g., challenges in achieving commercial viability to serve particular market segments), to further contextualize the value propositions to be submitted to the BNM as part of the application to be a DITO.

Are there any specific remedies or requirements to protect the consumer where the sale was made through digital channels (non agency channel).



Yes. The disclosure requirements protecting the consumer where the sale was made through digital channels (non agency channel) are mainly governed under Directions Governing E-Commerce of Insurance Enterprises (保險業辦理電子商務應注意事項) and Self-Regulation Rules Governing E-Commerce of Insurance Enterprises. (Collectively, the E-Commerce Regulations). The items to be disclosed on the e-commerce website generally include the insurance application declaration, notifications for the performance of the obligations under Personal Data Protection Act by Insurer (履行個人資料保護法告知義務內容), and other information requiring disclosure under applicable laws, such as those mentioned under our response to 3A and the important transaction information (e.g., the price, type, nature of the insurance product, and the consumer complaint handling mechanism). (Article 8 of Directions Governing E-Commerce of Insurance Enterprises; Article 10 of the Self-Regulation Rules Governing E-Commerce of Insurance Enterprises)

For A&H investment-linked insurance policies, the E-Commerce Regulations further require the following information to be disclosed to the e-commerce consumers: policy operation process (e.g., premiums collection, underwriting, telephone interview, issuance of policy, the refund of premiums collected when the insurer decides not to underwrite the policy or the policy is cancelled), coverage, introduction of the investment subject, policy-related fees, application requirements (e.g., restrictions on age and premium), the download links to sales documents (terms and conditions, product brochures, etc.), investment-related risks, and a reminder of the time difference between premium collection and investment proceeds allocation.(Article 11 of Directions Governing E-Commerce of Insurance Enterprises)

Yes. In February 2017, the OIC announced specific notifications aiming to regulate insurance activities that are undertaken via electronic channels, namely, the OIC Notification Re Rules, Process of Issuing Insurance Policy, Offering of Insurance Policy and Payment of Compensation Via Electronic Means B.E. 2560 (2017).

The notification came into full force on 26 August 2017. It stipulates that all activities conducted through electronic means must be carried out in accordance with the OIC's regulations, including the Sale Notification, and must comply with the law on electronic transactions, in terms of the level of security procedures and the requirements for a reliable electronic signature under the said law.

The offering of insurance products via electronic channel may only be conducted by an insurer, broker company and/or bank (with the insurer's consent in case of broker company/bank).

Insurers, brokers and banks must put in place procedures to manage personal data privacy, arrange for independent audits to assess the information technology systems and must register with the OIC before implementing the regulated electronic activities.

Any outsourcing of services to third parties require the approval from the OIC to ensure that the service provider complies with the requirements under the regulation.

Are there any specific remedies or requirements to protect the consumer where the sale was made through digital channels (non agency channel).



Current Law on Insurance Business does not have specific regulations on the sale of insurance products through digital channels. Decree No. 73 has only one general provision on distribution via electronic channel. However, there has not been any detailed provisions or guidance from the MOF on this sale method. That said, in brief, from an insurance business law perspective, the requirements on protecting the consumers applicable to licensed insurers will apply the same no matter whether the sale was made through agency channel or digital channels.

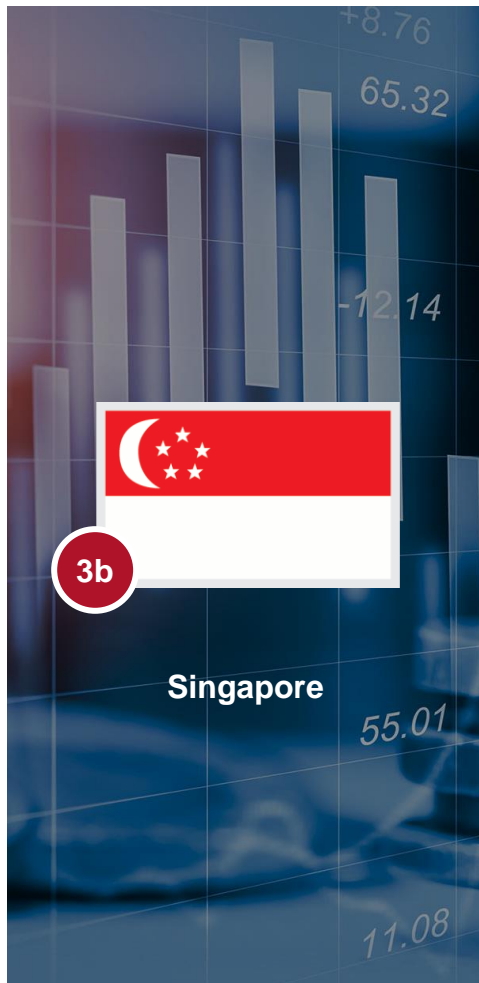
From a consumer protection law perspective, please see our discussion below:

- Under the Consumer Protection Law, traders that engage their consumers through "distance contracts" (e.g., contracts made through the internet, mail-order, telephone and fax) are subject to additional obligations. In particular, traders must provide consumers with accurate and sufficient information on, for example, (i) name and contact information of the trader, (ii) quality of the goods or service; (iii) goods delivery cost (if any); (iv) costs for use of communication devices for contract conclusion, if these costs are not included in the goods or service price. Unless agreed otherwise, if the traders failed to provide consumers with the required information, consumers will have the right to unilaterally terminate the distance contract within 10 days.
- The Consumer Protection Law places certain obligations on media owners and media service providers, as a third party, to ensure the accuracy of products' information provided by traders to consumers, to comply with press and advertising laws, and to take actions to prevent their services from being used to harass consumers (e.g., through developing technical solutions or not allowing traders to use their services to harass the consumers).

Should the sale be made via an e-commerce website, the website operator will be subject to certain obligations under e-commerce laws (e.g., information disclosure; payment information and personal data security; consumers' complaint redressal; registration, notification, and reporting obligations; etc.).

- Vietnamese law also regulates the protection of personal data in cyberspace when the sale is made through digital channels (e.g., any processing of a consumer's personal data shall be based on the consumer's consent or a competent authority's request (except for certain exceptional cases); personal data shall be safeguarded by adequate protection measures; the consumer is granted with certain rights regarding their personal data; etc.).

Are there any specific remedies or requirements to protect the consumer where the sale was made through digital channels (non agency channel).



We are not aware of general regulations imposed on insurance product sold through digital channels or non-agency channels; these can be done under the existing regime. However, the MAS has issued notices and guidelines in relation to sales, advertising, and distribution of specific insurance products online and via retailers that supports consumer protection via enhancing consumer knowledge and understanding. For instance:

- A. *Guidelines on Standards of Conduct for Marketing and Distribution Activities by Financial Institutions [FSG-G02]*.** Addresses market conduct risks where marketing and distribution of insurance products are conducted in public (such as roadshows) and via arrangements with retailers. It aims to, among others, prevent the harassment of consumers, enticement of consumers with unsuitable financial products, and creation of an unconducive environment for the purchase of financial products.
- B. *Notice FAA-N19 Distribution of Direct Purchase Insurance Products*.** Sets out the requirements necessary under the distribution of direct purchase insurance products. Where there is distribution of such products through representatives, customer service officers, or an online direct channel, licensed financial advisers must, among others, implement safeguards to ensure that the customer is able to afford premiums payable and has not misunderstood any of the terms and conditions, and provide the customer with product information as prescribed by the relevant MAS notices and industry standards.
- C. *Guidelines on the Online Distribution of Life Policies with No Advice [ID 01-17]*.** A direct life insurer may offer all types of life policies on the online direct channel with no advice provided, but must comply with these guidelines in setting out safeguards for consumers. These include, among others, the provision of key information such as prescribed product information and prominent statements, provisions of tools and calculators and considerations of other types of life policies, and implementation of adequate customer service facilities such as appropriate avenues to address general client queries.

On top of these, there may be further requirements for distribution through digital channels aimed at protection of customer data, such as data-protection or cybersecurity regulations and guidelines. For more information, please see our response to question 6.

Is there any prohibited business conduct imposed on licensed insurers / insurance intermediaries?



Yes.

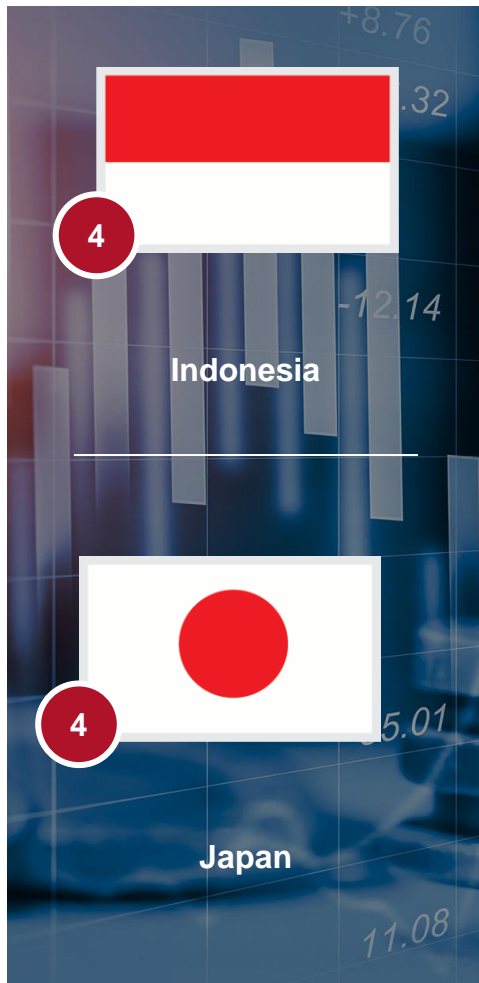
Under the Insurance Law, the Guiding Opinions of General Office of the State Council on Strengthening the Protection of Rights and Interests of Financial Consumers (Guo Ban Fa [2015] No. 81), and the Notice on Further Regulating Financial Marketing and Publicity Activities (Yin Fa [2019] No. 316), a licensed insurers / insurance intermediaries shall not:

1. misappropriate or occupy customers' funds, publish fraudulent information such as exaggerating product income and covering up product risks or make false or misleading publicity;
2. sell the products by force, tie up products or services against the wishes of financial consumers, attach other unreasonable conditions, or induce financial consumers to buy insurance products in a misleading way;
3. increase the responsibility of financial consumers, restrict or exclude the legal rights of financial consumers or mitigate or exempt the institution from civil liability for harming the legitimate rights and interests of financial consumers;
4. carry out financial marketing and publicity activities which impair fair competition, take advantage of credibility of the government, or use Internet in an improper way; etc.

Insurance

Yes. Apart from general prohibition on misconduct and unlawful activities, there is a guideline on gifting under which only gifts which will not distract customers from making decisions will be allowed to be offered to customers.

Is there any prohibited business conduct imposed on licensed insurers / insurance intermediaries?



Yes.

In addition to those stipulated in items (x) - (z) in the response to Question No. 1 above, OJK Reg 6/2022 also prohibits the following conduct of insurance companies:

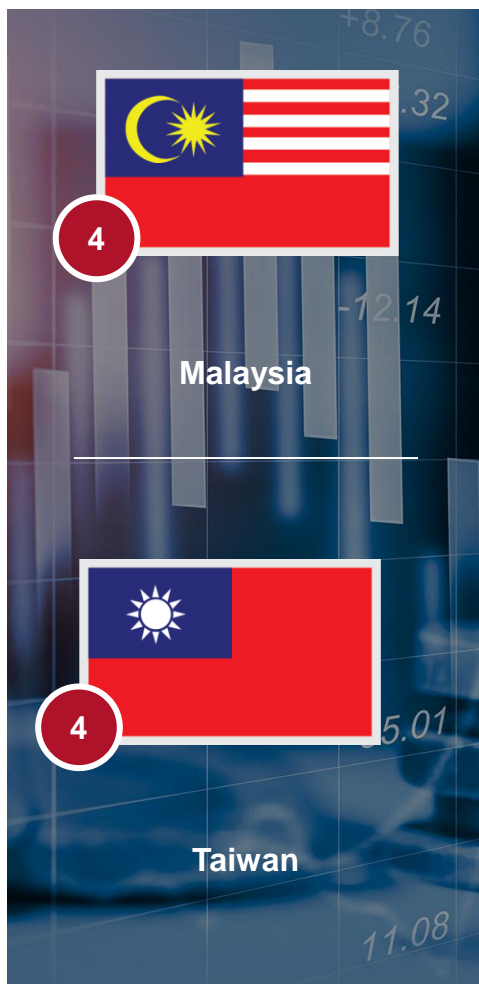
- a. offering insurance products that are detrimental or potentially detrimental to the prospective consumers by abusing the situation or condition of such prospective consumers and/or the public; and
- b. charging any fee to consumers for the implementation of complaints service policies and procedures.

Yes.

Upon solicitation, a licensed insurers / insurance intermediaries are prohibited under the IBA from engaging in any prohibited business conduct, which includes following:

- i. giving false statement and/ or failing to disclose important items
- ii. encouraging a customer to make a false statement or be prevented from disclosing a material fact to insurers
- iii. promising to offer, or offering discounts on insurance premiums or any other special benefits to a customer
- iv. providing misleading information regarding the content of an insurance contract in comparison with other insurance contracts.

Is there any prohibited business conduct imposed on licensed insurers / insurance intermediaries?



Yes.

A licensed insurer is prohibited under the FSA from engaging in any prohibited business conduct, which includes, among others, the misleading and deception of consumers, exerting undue pressure or influence, or threatening to use harassment, coercion, or physical force in relation to financial products or services.

The Guidelines on Prohibited Business Conduct provides guidance on descriptions of prohibited business conduct as set out in the FSA and the factors that BNM will consider in determining whether a FSP has engaged in prohibited business conduct. For instance, in determining whether a FSP is engaging in misleading or deceptive conduct, BNM will consider factors such (a) whether the FSP has met standards issued by BNM on product transparency and disclosure and proper advice practices; or (b) the circumstances in which the alleged misconduct occurred.

Yes.

For instance, an insurer is generally not permitted to borrow funds from an outside party, act as guarantor for an outside party, or provide its assets as collateral for the debt of another. (Article 143 of the Insurance Act)

Insurance intermediaries, such as insurance agents or brokers, are prohibited from engaging in multiple business conducts listed under Article 49 of the Regulations Governing Insurance Agents, Article 49 of the Regulations Governing Insurance Brokers, and Articles 6 and 7 of Regulations Governing Business Solicitation, Policy Underwriting and Claim Adjusting of Insurance Enterprises.

For instance, the common prohibited business conducts that the insurance agents or brokers are penalized by the Insurance Bureau include improper solicitation, inducing customers to cancel the existing and use the surrender to purchase a new policy, and improperly collecting payments that are not payable to the insurance agents or brokers from the insurers.

Is there any prohibited business conduct imposed on licensed insurers / insurance intermediaries?



Yes. Under the Sales Notification, sellers shall refrain from:

inducing the insureds to terminate their insurance policies in order to purchase the new insurance policy;

providing false statements, conceal facts, or manipulate information which must be clearly provided, with an aim of having the customer entering into an insurance contract;

providing recommendations which may cause misunderstanding, or omitting disclosure of material information which may cause the customer's misunderstanding; and

forcing the customers to enter into an insurance contract, or use the execution of insurance contract as a condition for provision of services or any other transactions, unless the execution of insurance contracts is done for the purpose of protecting risks from such services.

Is there any prohibited business conduct imposed on licensed insurers / insurance intermediaries?



Yes.

(a) A licensed insurer is prohibited under the Law on Insurance Business from engaging in, amongst others, the following business conducts:

- Collusion between insurers, or between insurers and policyholders to divide insurance market;
- Unlawful intervention in the selection of insurers [of the policyholders];
- Abusing positions and powers in order to assign, require, force, or prevent organizations and individuals engaged in insurance;
- Providing false information or advertisement on contents, operation scope and terms and conditions of insurance products, which cause harms to the legitimate rights and interests of the policyholders;
- Conducting illegal sales promotion.

(b) Insurance intermediaries in Vietnam include two types: insurance brokers and insurance agencies.

- A licensed insurance broker is prohibited from disclosing or providing information that may cause harms to legitimate rights and benefits of policyholders.

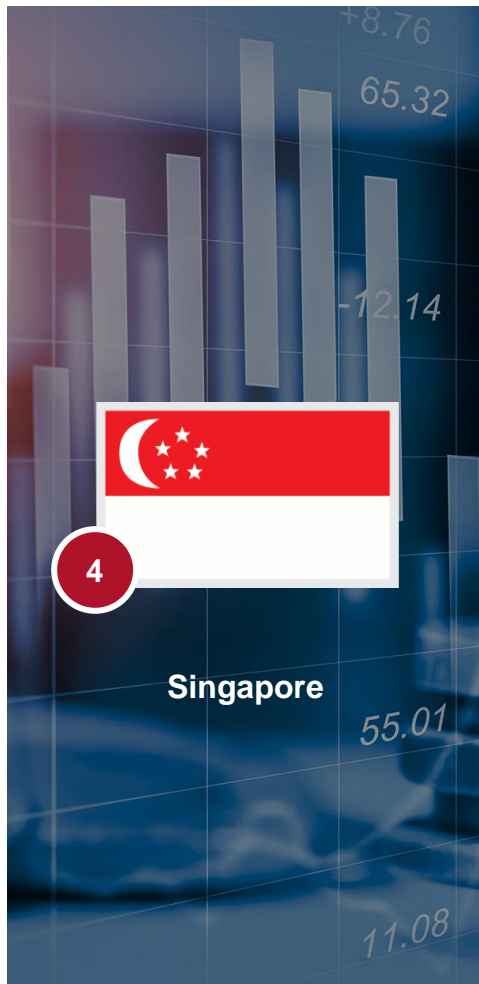
Is there any prohibited business conduct imposed on licensed insurers / insurance intermediaries?



Additionally, a licensed insurance broker is also prohibited from conducting the following acts:

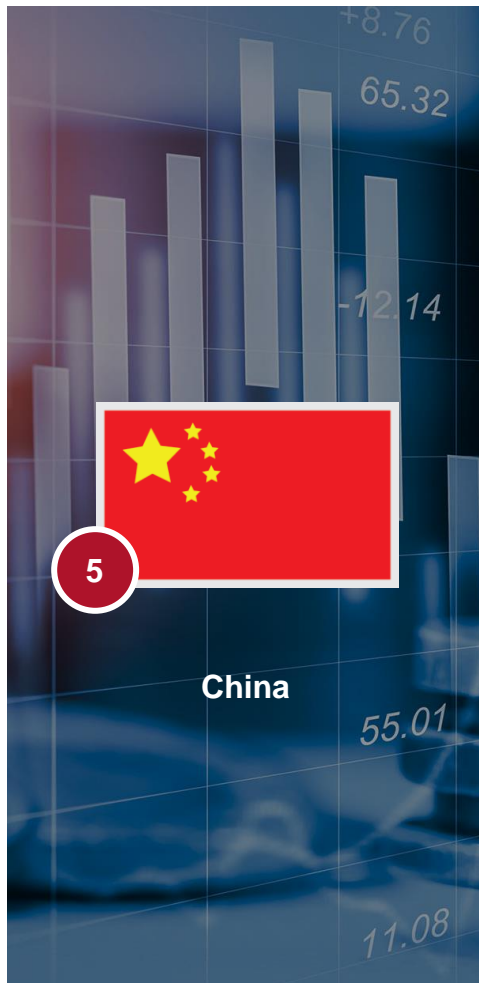
- Obstructing the policyholder and the insured to disclose information on an insurance contract or inciting them not to declare details of an insurance contract.
- Promising customers with illegal interests to incite them to enter into an insurance contract.
- Inciting policyholders to terminate existing insurance contracts to enter into new ones.
- Advising customers to purchase insurance from a licensed insurer that offers less favorable terms and conditions than another licensed insurer in order to receive a higher brokerage commission.
- Providing customers with information that misleads and conflicts with the insurance terms and conditions of a licensed insurer.
- An insurance agency must not conduct the following acts:
 - Providing or advertising incorrect information of the contents and scope of operations of the licensed insurer, or terms and conditions of an insurance product that violates the legitimate rights and interest of policyholders;
 - Obstructing a policyholder to disclose information of an insurance contract or inciting the policyholder or an insured not to declare details of an insurance contract;
 - Competing for customers by obstructing, enticing, bribing or threatening employees or customers of other insurers, insurance agencies and insurance brokers; and
 - Inciting customers, in any manner, to terminate their insurance contracts that are in effect.

Is there any prohibited business conduct imposed on licensed insurers / insurance intermediaries?



Yes. Under the IA, FAA, subsidiary legislation and MAS-issued notices and directions (as the case may be), licensed insurers and insurance intermediaries are prohibited from certain conduct, which includes (amongst others) a prohibitions on giving false and misleading statements (Section 35 FAA), harassing customers (FSG-G02), and inviting persons to enter into a contract of insurance without making prescribed pre-contract disclosures (Section 67 IA). Such prohibitions would also come in the form of required conduct and practices under the notices and guidelines. Please see our responses in the rest of this survey for a high-level explanation of prohibited conduct and obligations of licensed insurers / insurance intermediaries.

What are the potential consequences that may be imposed on the licensed insurers or insurance intermediaries for a breach of the obligations imposed by the legislations or regulators?



There are many kinds of consequences depending on different types of breach. For example, when the insurance companies conceal important information of an insurance contract from a policyholder, misappropriate or encroach premiums, etc.,

1. such insurance companies shall be ordered by the insurance regulatory authorities to make correction;
2. shall be subject to a fine ranging from RMB50,000 to RMB300,000;
3. where the case is serious, the scope of business of the insurance company shall be restricted, the insurance company shall be prohibited from developing new business, or the business license of the insurance company shall be revoked;
4. the person directly in charge and other persons directly responsible shall be given a warning and imposed a fine ranging from RMB10,000 to RMB100,000; where the case is serious, such person shall be discharged from the post.

When it comes to the insurance intermediaries;

1. the insurance intermediaries shall be ordered by the insurance regulatory authorities to make correction;
2. the insurance intermediaries shall be subject to a fine ranging from RMB50,000 to RMB300,000;
3. where the case is serious, the business permit of the insurance intermediaries shall be revoked;
4. the person directly in charge and other persons directly responsible shall be given a warning and imposed a fine ranging from RMB10,000 to RMB100,000; where the case is serious, such person shall be discharged from the post;
5. for individual insurance agents, CBIRC is entitled to issue a warning and impose a fine ranging from RMB20,000 to RMB100,000.

What are the potential consequences that may be imposed on the licensed insurers or insurance intermediaries for a breach of the obligations imposed by the legislations or regulators?



Insurance

If an insurer or insurance intermediary is guilty of misconduct, it may be subject to:

- revocation of authorization or licence;
- suspension of authorization or licence;
- prohibition from applying to be authorized or licensed to carry on a class of insurance business, for a period or until the occurrence of an event, that the IA specifies;
- reprimand publicly or privately;
- pecuniary penalty not exceeding the amount which is the greater of (i) HK\$10,000,000; or (ii) 3 times the amount of the profit gained or loss avoided as a result of the misconduct.

What are the potential consequences that may be imposed on the licensed insurers or insurance intermediaries for a breach of the obligations imposed by the legislations or regulators?



In general, the following are the potential consequences that may be imposed on the licensed insurer or insurance intermediaries for breaching the consumer protection legislation:

- a. written warning;
- b. fine (the amount of fine will depend on the type of breach: (i) for a delay in submitting a self-assessment in complying with consumer protection requirements, the fine will be IDR100,000 (approx. USD6.9) per day of delay, and (ii) fine for breaching applicable consumer protection provisions other than a delay in submitting a report will be up to IDR15 billion (approx. USD1,034.482.760)
- c. prohibition to become the main parties in financial services companies;
- d. restriction on products and/or services and/or business activities;
- e. suspension of products and/or services and/or business activities;
- f. revocation of product and/or service license;
- g. revocation of business license.

The sanctions in b. to g. can be imposed with or without the imposing the sanction a. first.

What are the potential consequences that may be imposed on the licensed insurers or insurance intermediaries for a breach of the obligations imposed by the legislations or regulators?



Depending on the type of breach, there may be various potential consequences that may be imposed on the licensed insurer or insurance intermediaries pursuant to the IBA. We have summarized the potential consequences as follows:

a. Fine and imprisonment:

For example, licensed insurer/ insurance intermediaries may be subject to a monetary fine of up to JPY 1,000,000 and/ or up to 1 year imprisonment for conducting prohibited acts above 4(i) or (ii).

b. Revocation of license and other administrative actions:

The JFSA can issue administrative actions to the I insurance companies or insurance intermediaries to order business improvement, the full or partial suspension of the insurance company's business, and/or the revocation of the license.

What are the potential consequences that may be imposed on the licensed insurers or insurance intermediaries for a breach of the obligations imposed by the legislations or regulators?



Depending on the type of breach, there may be various potential consequences that may be imposed on the licensed insurer or insurance intermediaries pursuant to the FSA. We have summarized the potential consequences as follows:

- a. **fine and imprisonment:** a FSP who engages in any prohibited business conduct shall, on conviction, be liable to imprisonment for a term not exceeding 5 years and/or to a fine not exceeding RM 10 million;
- b. **revocation of license:** the Minister of Finance ("Minister") may, on the recommendation of BNM, revoke the license of a licensed insurer, on the basis that it is in the interest of consumers of financial services and products to do so; and
- c. **assumption of control by BNM:** in the event:
 - i. the assets of the licensed insurer are not sufficient to give adequate protection to its policy owners or participants; or
 - ii. the capital of the licensed insurer has reached a level or is eroding in a manner that may detrimentally affect its policy owners, participants, and the public generally,BNM shall have the power to:
 - i. assume control of the business, affairs or property of the licensed insurer with the prior approval of the Minister;
 - ii. make an application to the High Court for an order to appoint a receiver and manager to manage the business, affairs or property of the licensed insurer; or
 - iii. recommend to the Minister for the winding up of the licensed insurer.

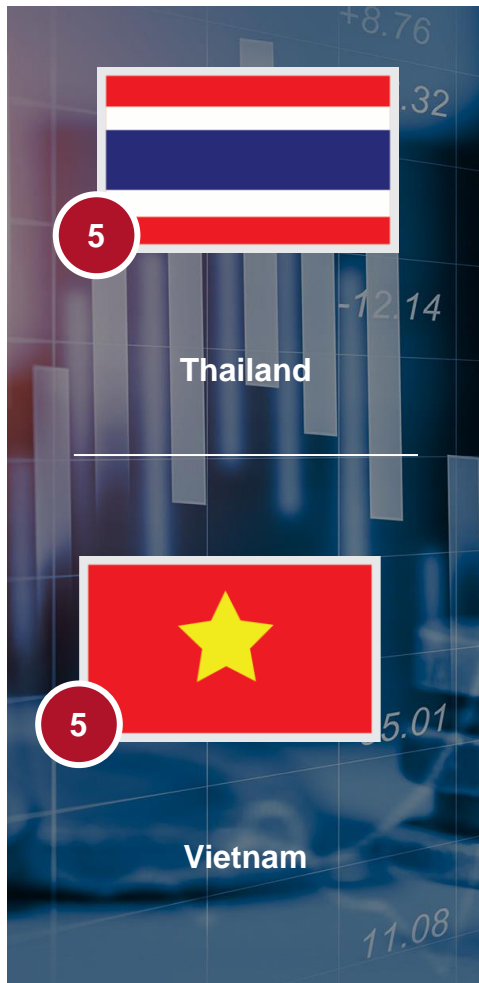
What are the potential consequences that may be imposed on the licensed insurers or insurance intermediaries for a breach of the obligations imposed by the legislations or regulators?



Depending on the type of breach, there may be various potential consequences that may be imposed on the licensed insurer or insurance intermediaries. We have summarized the potential consequences as follows:

1. Direct sanctions for breach of obligations include monetary fine and other necessary administrative disposition the regulator deems fit: For instance, the regulator could impose the following regulatory sanctions on the licensed insurers or insurance intermediaries.
 - i. Restrict the scope of its business or funds allocations.
 - ii. Order the insurance enterprise to suspend sales of an insurance product or products or restrict its launch of new insurance products.
 - iii. Order the insurance enterprise to increase its capital.
 - iv. Order removal of its managers or employees from their positions.
 - v. Revoke the resolutions of statutory meetings.
 - vi. Dismiss its directors or supervisor(s), or suspend them from their duties for a certain period of time.
 - vii. Any other necessary disposition.
 - viii. Monetary fine.
2. Apart from direct sanctions, indirect consequences may be imposed on licensed insurers/ insurance intermediaries. For instance, the licensed insurers/insurance intermediaries with penalty record might have difficulty when applying for regulatory approval to engage in new business or launch new products because many new license application criteria include no penalty record for a certain period of time of the applicant. For example, this requirement can be found in:
 - i. Regulations Governing Non-Life Insurance Enterprises Engaging in Injury Insurance and Health Insurance Article 3, Para. 1
 - ii. Regulations Governing Pre-sale Procedures for Insurance Products Article 21, Para. 2
 - iii. Directions Governing E-Commerce of Insurance Enterprises Point 5
 - iv. Regulations for Establishment and Administration of Insurance Enterprises Article 24, Para. 2
 - v. Regulations for Establishment and Administration of Foreign Insurance Enterprises Article 14

What are the potential consequences that may be imposed on the licensed insurers or insurance intermediaries for a breach of the obligations imposed by the legislations or regulators?



Insurer's non-compliance with the Sale Notification

Insurers could be subject to a fine penalty of not more than Baht 500,000 and Baht 20,000 daily if the violation continues. In addition, the OIC may order the insurance company to comply with requirements within a stipulated timeframe.

Intermediary's non-compliance with the Sale Notification

If an insurance broker, agent or bank is the party who violates the Sale Notification, the OIC may issue an order to require actions, omissions or amendments to be carried out within the stipulated timeframe.

Failure to comply with such order may result in the OIC suspending or revoking the insurance brokerage or agency license until non-compliance has been rectified. During the period of suspension, the party whose license has been suspended must cease all actions as a non-life insurance broker or agent.

Depending on the type of breach, there may be various different potential consequences that may be imposed on the licensed insurer or insurance intermediaries under Vietnamese laws. We have summarized the potential administrative and criminal consequences as follows:

a. Monetary fine:

- A licensed insurer may be subject to a monetary fine of up to VND 140,000,000 (approx. USD 6,000) for conducting prohibited acts applicable to insurers as listed above;
- A licensed insurance broker may be subject to a monetary fine of up to VND 100,000,000 (approx. USD 4,300) for conducting prohibited acts applicable to insurance brokers as listed above;
- An insurance agency may be subject to a monetary fine of up to VND 60,000,000 (approx. USD 2,600) for obstructing a policyholders to disclose information of an insurance contract or inciting a policyholder or an insured not to declare details of an insurance contract.

b. Suspension of operation: the insurers, the insurance brokers and the insurance agencies may be suspended from their operation for the scope of business operations in their licenses that directly relates to the violation acts for a period from two to three months.

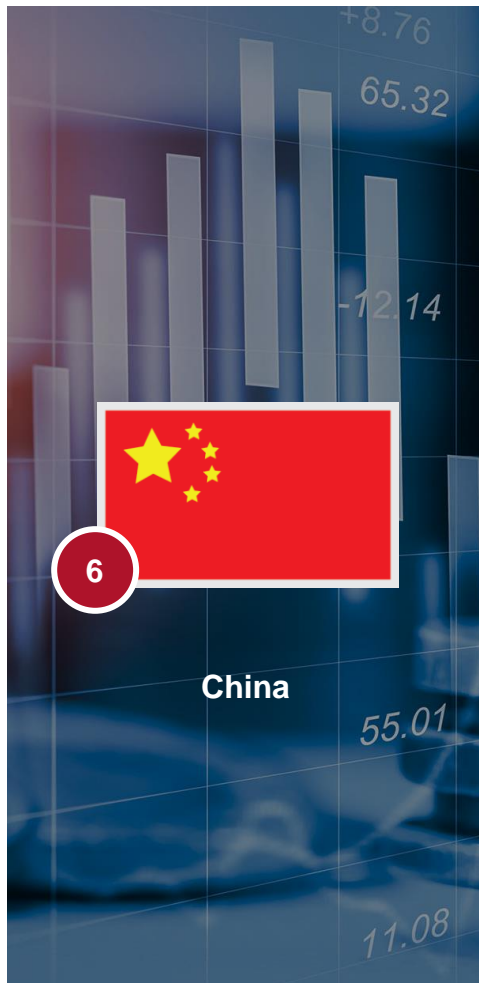
What are the potential consequences that may be imposed on the licensed insurers or insurance intermediaries for a breach of the obligations imposed by the legislations or regulators?



There are a range of potential consequences depending on the obligation that is breached, including fines, imprisonment, and enforcement actions by MAS. For instance:

- **Section 29, IA:** A breach / non-compliance of directions or notices given by MAS would result, in the case of an individual, to a fine not exceeding \$125,000 or imprisonment not exceeding 3 years or both and where there is a continuing offence, to a further fine not exceeding \$12,500 for every day or part of a day during which the offence continues after conviction, and in any other case, a fine not exceeding \$250,000 and in the case of a continuing offence, a further fine not exceeding \$25,000 for every day or part of a day during which the offence continues after conviction.
- **Section 74, IA:** The MAS may prohibit a person from carrying on business as an insurance intermediary or from taking part, directly or indirectly, in the management of any insurance intermediary where the person has been convicted, whether in Singapore or elsewhere, of an offence involving fraud, dishonesty or moral turpitude or the conviction for which involved a finding that the person acted fraudulently or dishonestly, or where MAS is satisfied that the person has committed prohibited conduct, including but not limited to, forging policyholders' signatures, misappropriating policyholders' premiums, misleading any policyholder when assisting the policyholder to fill up the proposal form, and/or contravening any provision of the IA.
- **Section 112, FAA:** Any officer of a licensed financial adviser who fails to take all reasonable steps to secure compliance with any provision of the FAA or the accuracy and correctness of any statement submitted to the MAS or such other person as may be required under FAA, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 2 years or to both.

What are the obligations on licensed insurers with respect to management and/or disclosure of customer's personal data or information?



Law of the People's Republic of China on the Protection of Rights and Interests of Consumers

Business operators collecting and using personal information of consumers shall adhere to the principles of legitimacy, bona fide and necessity, clearly state the purpose, method and scope of collection, and use of information, and shall obtain the consent of consumers.

Business operators collecting and using personal information of consumers shall publicize the rules of collection and usage, and shall not violate the provisions of laws, regulations and the agreement between both parties.

Business operators and their staff shall keep strict confidentiality of personal information of consumers collected by them, shall not divulge, sell or provide such information to others illegally. Business operators shall adopt technical measures and other requisite measures, ensure information security, and prevent disclosure and loss of personal information of consumers. In the event of disclosure or loss or possible disclosure or loss of information, remedial measures shall be forthwith adopted.

Guiding Opinions of General Office of the State Council on Strengthening the Protection of Rights and Interests of Financial Consumers (Guo Ban Fa [2015] No. 81)

Financial institutions shall take effective measures to strengthen the management of third-party cooperative institutions, clarify the rights and obligations of both parties, strictly prevent and control the risk of information disclosure of financial consumers, and ensure the information security of financial consumers.

Measures for the Regulation of IT Outsourcing Risks of Banking and Insurance Institutions (Yin Bao Jian Ban Fa [2021] No. 141)

When important data or personal information of insurance customers have been disclosed, the insurance institutions shall report to the CBIRC or its local office in accordance with the relevant requirements for regulatory reporting of emergencies.

When collecting and processing the customer's personal data or information, the insurer shall also comply with the relevant provisions in Personal Information Protection Law of the People's Republic of China and the Data Security Law of the People's Republic of China.

What are the obligations on licensed insurers with respect to management and/or disclosure of customer's personal data or information?



Insurance

The Personal Data (Privacy) Ordinance ("PDPO", Cap 486 of the Laws of Hong Kong) is the applicable personal data protection law. The main regulator is the Privacy Commissioner of Personal Data ("PCPD").

Personal data should be collected in fair and lawful manner. At or before the time personal data is collected, customers should be informed, amongst others, the reasons for collecting the data, how data may be used, and the persons to whom the data may be transferred. In addition, if the data is to be used for direct marketing, prescribed consents should be obtained from the customers.

There are also various codes and guidelines issued by the PCPD.

What are the obligations on licensed insurers with respect to management and/or disclosure of customer's personal data or information?



In general, an insurance company cannot, in any manner, provide a consumer's data and/or information to a third party, unless the customer has given its written consent (an opt-in approach), or it is provided as mandated by regulations.

Furthermore, an insurance company that receives customer data and/or information from another party, and is going to use the data and/or information for its business activity must secure a written statement from the relevant data and/or information provider, confirming that the data and/or information provider has obtained the relevant customer's written consent to disclose his/her data and/or information to such insurance company.

What are the obligations on licensed insurers with respect to management and/or disclosure of customer's personal data or information?



Personal Information Protection Act (PIPA) regulates collection, use, and disclosure of personal information. Where licensed insurers collect and use kinds of personal information such as customer information and employee information in Japan, the insurers must observe all the requirements under PIPA, including:

- disclosure of purpose of use of collected personal information;
- collection of personal information with consents;
- use of personal information within the range of disclosed purposes;
- taking appropriate measures to ensure data security;
- disclosure of personal information with consent (if any); and
- if the personal information is shared within the group companies without consent (i.e., "joint use of personal information"), notification of such fact of information sharing, types of data to be shared, range of entities that the information may be shared, the purpose of information sharing, a person responsible for management of such shared information.

PIPA expressly requires advance consents from each individual in the case that the personal information of the subject individuals will be transferred to abroad. Further, in the case that personal information is shared within the group companies, it should be construed as joint use of personal information and the notification of certain information set above to the subject individual will be required.

Also, the Guidelines for Personal Information Protection in the Financial Sector and the Practical Guidelines for Security Control Measures Provided in the Guidelines for Personal Information Protection in the Financial Sector are applied to the insurance company.

What are the obligations on licensed insurers with respect to management and/or disclosure of customer's personal data or information?



Malaysian Personal Data Protection Act 2010

The Malaysian Personal Data Protection Act 2010 ("PDPA") requires a data user (a person who either alone or jointly or in common with other persons processes any personal data or has control over or authorizes the processing of any personal data, but does not include a data processor, i.e., licensed insurer) must first obtain consent from the data subject (an individual who is the subject of the personal data) prior to processing his/her personal data.

As a data user, the licensed insurer is also required to comply with the relevant provisions under the PDPA. However, note that the Code of Practice on Personal Data Protection for the Insurance and Takaful Industries provides examples of when the data user is deemed to have given consent. This includes where the processing of personal data is necessary to enable an insurer to conduct its insurance business (as well as processing for the purpose of disclosure to third parties, including intermediaries such as bancassurance partners, brokers and financial advisers).

FSA

Under the Guidelines on Management of Customer Information and Permitted Disclosures issued by BNM, BNM imposes requirements on FSP in relation to the management and disclosure of customer information, which includes, but is not limited to:

- a. the requirement to establish written policies and procedures to safeguard customer information, which covers collection, storage, use, transmission, sharing, disclosure and disposal of customer information;
- b. customer information stored in portable storage devices must be adequately protected by relevant controls (e.g., password, data encryption); and
- c. the requirement to perform adequate and relevant due diligence assessments when selecting an outsourced service provider which has access to customer information.

What are the obligations on licensed insurers with respect to management and/or disclosure of customer's personal data or information?



The primary obligations of licensed insurers with respect to the management and/or disclosure of customers' personal data or information include establishing a personal data protection plan, implementing personal management controls, conducting personal data security audits, record keeping, and improvement measures. (Regulations on the Maintenance of Personal Data Security of Non-Governmental Institutions Designated by the FSC).

In addition to the above, the licensed insurers are obliged to report to the FSC within 72 hours of any major personal data incident. (e.g., theft, tampering, destruction, loss, or leakage of personal information) After the incident happens, the licensed insurers are obliged to take actions that could mitigate the damages, investigate the incident, inform the relevant victims and provide the necessary support for them, and implement correction plans and prevention protocols, which should be reviewed by an independent certified expert. (Article 6 of Regulations on the Maintenance of Personal Data Security of Non-Governmental Institutions Designated by the FSC).

What are the obligations on licensed insurers with respect to management and/or disclosure of customer's personal data or information?



Thai Personal Data Protection Act, B.E. 2562 (2019)

Data privacy issues are governed by the Personal Data Protection Act, B.E. 2562 (2019) (the "PDPA"), which is Thailand's first legislation on personal data protection. The PDPA came into force on 1 June 2022. Below are the PDPA's key requirements.

- **Legal basis reliance**
The core concept of the PDPA is that the collection, use, or disclosure of personal data must rely on one of the bases recognized by the PDPA (e.g. consent). In other words, data subject's consent is not the only solution.
- **General personal data**
For example, the collection, use and disclosure of the general personal data can rely on the contractual basis if the information required is necessary for complying with a contract to which the data subject is a contracting party, or for use in certain proceedings under a request of the data subject before entering into said contract, e.g. applying for an insurance policy. Therefore, consent from the data subject is not actually mandatory in all scenario.
- **Sensitive personal data**
However, if the information to be collected may involve sensitive personal data (e.g. health data, race, biometric data, or disability), legal bases for handling with this kind of data are stricter than general personal data. The contractual basis is not available, for instance
- **Provision of a privacy notice**
In addition to the obligation to rely on a legally recognizable basis, data controllers are also obliged to provide the data subjects with privacy notice prior to or at the time of the collection of personal data.
- **The privacy notice must address certain details, including purposes of collection for using or disclosing the personal data, the legal bases that the data controllers choose to rely on, the data retention period, types of the recipients of the data, data controllers' contact details and rights of the data subjects.**
- **Other requirements**
Data controllers are also subject to other requirements under the PDPA. These includes an obligation to arrange a proper data security mechanism, an obligation to appoint a local representative, and an obligation to arrange a system to facilitate the data subjects' exercise of their rights under the PDPA.

What are the obligations on licensed insurers with respect to management and/or disclosure of customer's personal data or information?



The Sale Notification

To ensure compliance with personal data protection law, the Sale Notification introduces a new chapter on data privacy, giving broad requirements that:

- insurance product sellers need to inform the customers how they obtain the customers' personal data if the customers ask for; and
- the insurers and the sellers are required to arrange for system and procedures to manage the collection, use and disclosure of the customers' personal data to be in accordance with the PDPA.

What are the obligations on licensed insurers with respect to management and/or disclosure of customer's personal data or information?



There have not been a comprehensive regulation regarding the obligation of licensed insurers to manage and/or disclose customers' personal data or information. The obligations are provided in different legislation.

Particularly, licensed insurers must ensure that:

- The licensed insurers keep confidential of information provided by the policyholders.
- The collection, use, storage, disclosure, or other acts of data processing, is based on the customer's prior informed consent or a lawful request of a competent authority, except for when the processing is to serve the purpose of concluding, amending, or performing a contract, to calculate prices and charges of information/products/services in cyberspace, or to comply with obligations prescribed by laws (e.g., data retention requirements under accounting laws; data localization requirements under cybersecurity laws).
- Technical and managerial measures are implemented to protect customer's personal data privacy.
- Personal data processing and protection policies shall be developed and publicized.
- Consumer's rights regarding their personal data can be exercised (e.g., right to data access, correction, processing-restriction, non-disclosure, destruction).

What are the obligations on licensed insurers with respect to management and/or disclosure of customer's personal data or information?

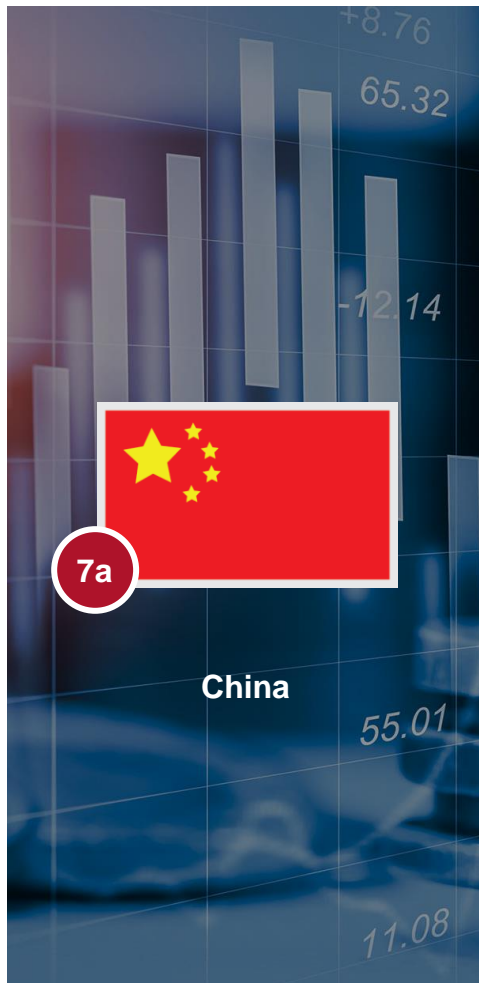


The management and/or disclosure of customer's personal data / information by licensed insurers is regulated by common law, statute, and self-regulatory codes / guidelines.

The main statute is the Personal Data Protection Act 2012 ("PDPA"), as supplemented by the common law. The PDPA subjects licensed insurers to regulations including the collection, use, and disclosure of customers' personal data. These generally relate to key obligations including but not limited to obtaining consent, ensuring that the purposes for collection/use/disclosure are appropriate, notification of customers, and having in place security arrangements to protect personal data of customers. Aside from the PDPA, non-governmental organisations also impose data protection guidelines relating to the PDPA. For instance, the LIA has a Code of Practice for Life Insurers and Code of Conduct for Tied Agents of Life Insurers that requires members to follow guidelines relating to the PDPA.

In addition, licensed insurers may be required to follow certain regulations and guidelines on cybersecurity and technology management that may be issued by MAS or relevant regulatory authorities so as to supplement their obligations under the PDPA.

Are there any measures in place to help increase and improve financial literacy and awareness of financial consumers in your jurisdiction?



Yes, both policies and practice have shown the efforts to help increase and improve financial literacy and awareness of financial consumers.

The Guiding Opinions of General Office of the State Council on Strengthening the Protection of Rights and Interests of Financial Consumers (Guo Ban Fa [2015] No. 81) requires that

1. A long-term mechanism for the popularization of financial knowledge shall be established;
2. Financial regulatory authorities, financial institutions and relevant social organizations shall strengthen research, use various methods, and promote in-depth publicity and education of financial consumers;
3. The Ministry of Education shall incorporate financial literacy education into the national education system and effectively improve the national financial literacy.

CBIRC will issue some guidance in relation to avoidance of some risks and key points when purchasing some types of insurance products.

In 2018, in order to promote financial knowledge popularization and spread the concept of safe investment, the National Internet Finance Association of China launched a competition of public advertisement work re the education of internet financial consumer.

Are there any measures in place to help increase and improve financial literacy and awareness of financial consumers in your jurisdiction?



Insurance

A "Future Task Force of the Insurance Industry" ("FTF") has been set up IA to explore the future of the insurance industry. One of the objectives is to promote the positive image of insurance and enhancing the public's understanding of insurance.

Capital Market Products

The Investor and Financial Education Council ("IFEC"), being an independent public organization and a subsidiary of the SFC, plays a key role in improving the general public's financial literacy. The IFEC has launched "The Chin Family" platform to provide comprehensive, credible and impartial investor and financial education information, tools and education resources to the Hong Kong public.

The work of the IFEC includes the following:

- a. mass media campaigns to raise awareness of and to deliver pertinent investor and financial education messages;
- b. tailored education programmes and seminars that address the needs of target groups;
- c. financial education tools, services and support for parents, social workers and teachers; and
- d. collaboration with stakeholders and community partners to extend the reach of our work on investor and financial education in Hong Kong.

The IFEC drives the financial literacy strategy, which aims to create a conducive environment for stakeholders to deliver more quality investor and financial education to the Hong Kong public.

Are there any measures in place to help increase and improve financial literacy and awareness of financial consumers in your jurisdiction?



Yes. Please see some of the following examples:

- a. OJK issues OJK Regulation No. 76/POJK.07/2016 of 2016 on Improvement of Financial Literacy and Inclusion in Financial Sector for Consumers and/or General Public (as partially revoked OJK Reg 6/2022) which in general requires financial services players like insurance companies to conduct activities to improve financial literacy. Financial services players must submit their financial literacy action plan to OJK;
- b. OJK has an online platform called "Sikapi Uangmu" that is created to improve the financial literacy of the general public, whereby OJK is actively issuing articles/information that can improve the financial literacy of the readers;
- c. OJK launches 54 cars called "SiMOLEK" (which means: Car Information Facility for Financial Literacy and Education), which will travel across Indonesia to improve Indonesia's public knowledge about financial education with a spirit to minimize the geographic and infrastructure limitations.

Are there any measures in place to help increase and improve financial literacy and awareness of financial consumers in your jurisdiction?



Japanese government is looking to promote financial literacy and strengthen financial education, especially after the age of adulthood was lowered from 20 to 18 under the amended Civil Code in April 2022. JFSA publishes a series of tutorial videos to warn new adults against potential risks in regard to financial transactions.

Also, the Central Council for Financial Services Information, which has its secretariat in the Public Relations Department of the Bank of Japan, periodically conducts a survey on the current state of financial literacy in Japan. The Council conducts financial services information activities by publishing materials regarding consumer/financial education, financial literacy surveys, etc. via its official website.

Are there any measures in place to help increase and improve financial literacy and awareness of financial consumers in your jurisdiction?



BNM plays an active role in promoting financial literacy by establishing different institutions. The Credit Counselling and Debt Management Agency (Agensi Kaunseling dan Pengurusan Kredit ("AKPK")), was established to educate and promote prudent financial management. AKPK provides counselling and advice and offers free services on financial education and debt management programmes to help individuals take control of their finances.

Schemes such as Managing Your Money (POWER!) (Pengurusan Wang Ringgit Anda) Programme under AKPK aim to educate consumers on practical financial topics such as managing cash flows, purchasing a house or a vehicle, and managing debts. It is a free programme which is held throughout the year and is conducted in all the main languages spoken in Malaysia.

SC has similarly taken various steps to reach out to the public with its investor education initiatives. For example, SC has launched InvestSmart®, which seeks to encourage members of the public to take control of their finances and to equip investors with the knowledge, skills and tools needed to exercise good judgement and discretion in making investment decisions. InvestSmart® has also recently organized various events such as InvestSmart® Online Series (monthly webinars for the public to gain knowledge on the basics of capital market products and services which also serve as a guide for the public on how and where to invest) and Digital Literacy for Seniors Programme (to improve digital literacy among seniors and to explore the investment opportunities available to them).

Are there any measures in place to help increase and improve financial literacy and awareness of financial consumers in your jurisdiction?



Yes. For instance, the FSC has adopted the following measures to help increase and improve financial literacy and awareness of financial consumers:

- **Promotion of the E-commerce:** The FSC has gradually broadened the scope of permissible insurance products that could be sold on the E-commerce website since it opened this business in 2014. The FSC also issued relevant press releases and provided a general introduction and the benefits of purchasing the insurance via E-commerce to encourage the consumers to utilize the E-commerce channels. In 2021, over 2 million insurance contracts were made through the E-commerce channels.
- **Setting up a webpage specifically for improving financial literacy and disseminating financial knowledge:** The webpage compiles the information and activities associated with financial literacy, such as events held by the FSC, Facebook pages, and Youtube videos.
- **Holding over 640 education events to promote financial knowledge and educate consumers** in all townships, villages, and districts, which attracted over 69,000 participants in 2021.
- **Promoting the use of e-policy certification and maintenance mechanism:** In 2021, over 29 insurance companies have participated in the said mechanism.

Are there any measures in place to help increase and improve financial literacy and awareness of financial consumers in your jurisdiction?



The OIC have been implementing certain measures to raise insurance literacy for Thai people, including the introduction of OIC Education, which is a website providing basic knowledge about insurance.

The OIC also recently launched a campaign to promote awareness among younger generations about importance of insurance products as wealth management tools, by circulating series of short videos via social media channels.

In addition, the OIC is aiming to transform itself to become a more digitalized authority under the scheme "Smart OIC". This proposed transformation is not limited to supervisory perspective, but also covers the OIC's services provided to the consumers. One of significant milestones is the implementation of personalized database that any Thai consumers can access a summary of all of their insurance policies via a single channel operated by the OIC (via LINE official account - chat application). This greatly facilitates general public in accessing their own insurance policies, resulting in more user-friendly environment for consumers in handling with insurance products.

From a legal perspective, the OIC tries to elevate market conduct standards to raise consumers' confidence towards the insurance industry. This can be observed from gradual updates on the Sale Notification and the Sale Notification Guideline that set out market conduct requirements.

Are there any measures in place to help increase and improve financial literacy and awareness of financial consumers in your jurisdiction?



Yes, in Vietnam. The Prime Minister issued the Decision No. 149/QĐ-TTg on 22 January 2020 to introduce the national financial comprehensive strategy by 2025, with visions to 2030 (“Decision No. 149”). Under the Decision No. 149, the objective is to help citizens to have chances to approach and use, on a safety and convenience basis, financial products that are suitable with their demands, with reasonable cost, focusing on the poor, low-income citizens, SME.

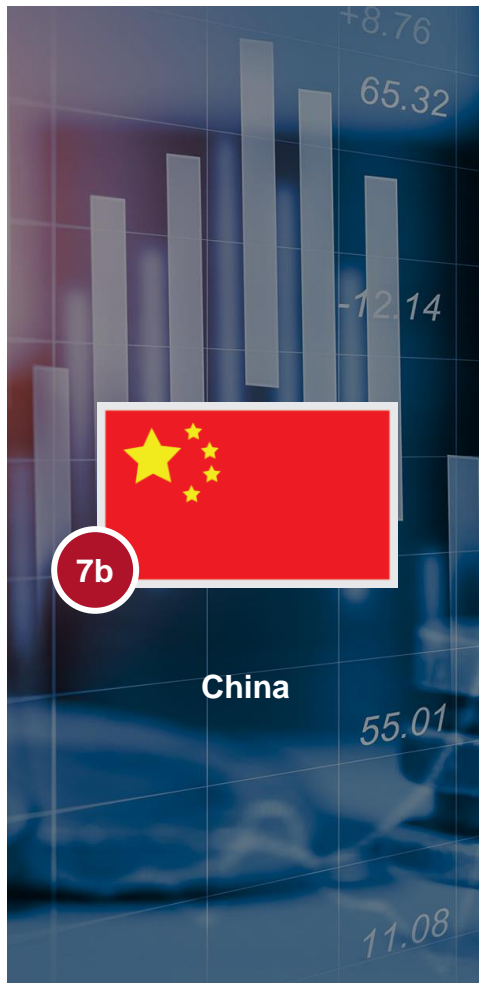
Following the issuance of Decision No. 149, a national steering committee in charge of directing the plan under Decision No. 149 has been established to support the Prime Minister in connection with the plan under Decision No. 149.

Are there any measures in place to help increase and improve financial literacy and awareness of financial consumers in your jurisdiction?



MAS (and the Singapore government more generally) is highly active in seeking to increase and improving financial literacy. Spearheading such initiatives is the national financial education programme in Singapore, MoneySense; the MAS co-chairs the MoneySense Council alongside the Ministry of Manpower, which oversees MoneySense. MoneySense aims to increase national financial literacy by helping consumers acquire knowledge and skills to manage daily finances, make investments, plan for their longer term needs, and exercise their rights as consumers of financial services. This is done through partnerships with schools, workplaces, and communities to educate the population, providing complimentary workshops, talks and financial health clinics (via the Institute for Financial Literacy), and providing educational resources online.

Have there been any changes to consumer protection post-Covid? Have the Regulators adopted any further measures to increase protection for the consumer arising from covid?



Notice on Strengthening the Cooperation of Banking and Insurance Financial Services for Epidemic Prevention and Control (Yin Bao Jian Ban Fa [2020] No.10) issued by CBIRC requires banking and insurance institutions to reduce the service fees, simplify the business process, and open up fast channels. Priority shall be given to the settlement of the claims raised by the customers who have been infected with the coronavirus.

Notice on Further Strengthening Financial Support for the Prevention and Control of the Epidemic (Yin Fa [2020] No. 29) issued by People's Bank of China, the Ministry of Finance, CBIRC, CSRC and the State Administration of Foreign Exchange, also requires to simplify relevant business process, especially for cross-border business related to epidemic prevention and control.

Based on the facts that it is increasing to buy insurance products by internet, CBIRC issued a warning on how to avoid some risks by the consumers.

Have there been any changes to consumer protection post-Covid? Have the Regulators adopted any further measures to increase protection for the consumer arising from covid?



Insurance

In order to minimize the need of face to face (F2F) meetings and the risk of infection during the sales process, temporary facilitative measures (“TFM”) are introduced by the IA. Under the TFM, non-F2F distribution methods (e.g. digital, tele-marketing, postal, video conference or any combination of those methods) for the distribution of certain products are allowed, such products include:

- i. Qualifying Deferred Annuity Policy (“QDAP”)
- ii. Voluntary Health Insurance Scheme (“VHIS”)
- iii. Term insurance policies
- iv. Refundable insurance policies without substantial savings component, or renewable insurance policies without cash value, that provide insurance protection (e.g. hospital cash, medical, critical illness, personal accident, disability or long-term care cover).

Under the TFM, upfront disclosure must be made by the intermediaries, in lieu of an FNA (financial needs analysis) assessment (which is required when intermediaries provide a recommendation), to ensure that the customers are aware of the nature, features and risks of the insurance products concerned before the customers make a purchase decision.

Have there been any changes to consumer protection post-Covid? Have the Regulators adopted any further measures to increase protection for the consumer arising from covid?



Capital Market Products

The SFC has published Circular to Intermediaries - Reminder of important obligations to ensure suitability and timely dissemination of information to clients to remind licensed and registered persons of their obligations under the Code of Conduct when distributing investment products, such as funds and bonds, to their clients. In particular, these include (i) the suitability requirement when they make a solicitation or recommendation; and (ii) the obligation to disseminate information in a timely manner where they hold an investment product directly or indirectly on behalf of their clients.

Given the potential impact of the COVID-19 outbreak on market volatility and liquidity as well as credit quality, licensed and registered persons are reminded to act in the best interests of their clients and exercise extra care when making a solicitation or recommendation or managing investment portfolios for their clients. Licensed and registered persons are reminded to, amongst other things:

- a. ensure that due diligence is conducted on investment products on the current approved product lists on a continuous basis at appropriate intervals having regard to the natures, features and risks of the investment products, including any deterioration in credit quality or liquidity, market and industry risks related to the COVID-19 outbreak and other factors which may have an impact on the risk return profiles and growth prospects of the investments;

Have there been any changes to consumer protection post-Covid? Have the Regulators adopted any further measures to increase protection for the consumer arising from covid?



- b. give due consideration to all relevant circumstances specific to a client when assessing the suitability of an investment product for the client, including the client's current financial situation, investment objectives, risk tolerance, investment horizon and liquidity needs, as well as the risk profile and concentration risk of the existing investment portfolio;
- c. explain to the client the risks and features of the investment product, including its credit quality, liquidity, termination conditions and transaction costs; and
- d. when recommending an investment product to a client, present balanced views at all times, do not focus solely on advantageous terms such as high coupon rates or yields and explain the disadvantages and downside risks, such as credit deterioration and illiquidity.

Further, where licensed or registered persons hold investment products directly or indirectly on behalf of their clients, they are also reminded to disseminate to their clients notices and other communications prepared or issued by the investment products' issuers, product arrangers or management companies on a timely basis upon receipt. These notices or communications may include material information or updates crucial for investment decisions, e.g., untoward circumstances relating to a fund which may include use of liquidity risk management tools by a fund manager.

Have there been any changes to consumer protection post-Covid? Have the Regulators adopted any further measures to increase protection for the consumer arising from covid?



Yes. The principal consumer protection regulation was strengthened by the issuance of OJK Reg 6/2022 in 2022, whereby one of goals of this new regulation was to keep up with the rapid development of digital technologies (which was arguably caused by the change in consumer behavior due to Covid-19). Further, the Indonesian House of Representatives has just agreed to pass a draft of the Indonesian Personal Data Protection Law which will serve as the very first comprehensive personal data protection in Indonesia, that will also be applicable to insurance companies.

Have there been any changes to consumer protection post-Covid? Have the Regulators adopted any further measures to increase protection for the consumer arising from covid?



In response to the growing demand for non-face-to-face solicitation during the Covid-19 pandemic, in 2021, the FSA deregulated the provision of explanatory documents for specific insurance policies, including variable insurance and foreign currency-denominated insurance and enabled electronic delivery of these documents under the amended Ordinance for Enforcement of the IBA.

We are not aware of any regulatory changes to consumer protection in relation to insurance products or financial products post-COVID. However, the SC has issued an alert warning consumers to beware of scams during the COVID pandemic, especially where promises such as investments with guaranteed profits or huge returns / profits are made.

Foreign unlicensed service providers are starting to receive more attention from the SC; the SC has been consistently updating the Investor Alert List (introduced pre-COVID) which sets out a list of unlicensed capital markets service providers operating in Malaysia (including on a cross-border basis). The SC has also issued various warnings and is actively taking enforcement actions against unlicensed capital markets service providers in order to protect consumers in Malaysia.

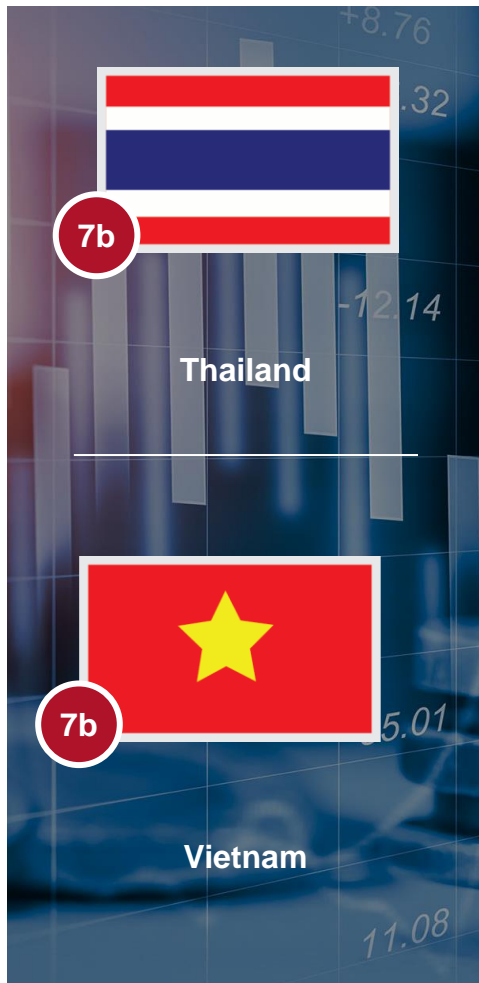
For completeness, BNM also maintains a Financial Consumer Alert List, which is a guide to enhance consumer awareness on entities or schemes which may have been wrongly perceived or represented as being licensed or regulated by BNM. Financial consumers may refer to the Financial Consumer Alert List as a way to check if an entity or a scheme has been identified as one that has not been authorised by BNM to offer financial products or services that are regulated by BNM.

Have there been any changes to consumer protection post-Covid? Have the Regulators adopted any further measures to increase protection for the consumer arising from covid?



1. No, no changes have been made to the consumer protection regulations post Covid. The Insurance Bureau has laid out plans to ensure insurance companies to implement Covid prevention measures, ensure the continued operation of insurance companies, and approved insurance for vaccines and infections.
2. Yes, the FSC adopted further measures to increase protection arising from Covid. On 18 November 2021, the FSC opened the remote insurance business and promulgated the "Directions for Insurance Companies Concluding Distance Insurance Contracts and Providing Insurance Services" (保險業辦理遠距投保及保險服務業務應注意事項), which enable the consumers to purchase coverage /receive financial services with zero contact in the midst of Covid. Some life insurers have been granted approval by the Insurance Bureau to engage in the remote insurance business to provide sufficient/continual protection and avoid any inconvenience that could cause to their customers because of Covid.

Have there been any changes to consumer protection post-Covid? Have the Regulators adopted any further measures to increase protection for the consumer arising from covid?

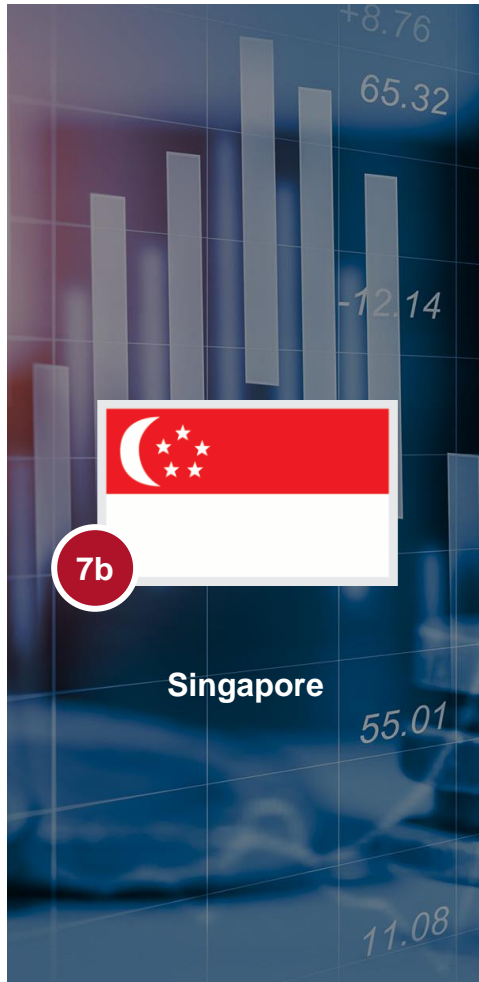


Due to the Covid pandemic, the OIC now permanently allows insurer's members of staff, agents and brokers to sell insurance policies via telephone conference or video conference if face-to-face meetings cannot take place. Certain security systems must be arranged to support this particular sales method in order to ensure customer protection, including conversation recording system and data collection system that takes into account the data privacy law.

Regulations on the protection of consumers' data (both personal and non-personal) have been strengthened through several new and draft laws (e.g., Decree No. 53/2022/ND-CP guiding the Cybersecurity Law, draft consumer protection law, draft personal data protection decree, etc.).

Regulations on the protection of consumers engaging in e-commerce and other online activities have also been tighten in both new and draft laws (e.g., Decree No. 85/2021/ND-CP on E-commerce, Decree No. 70/2021/ND-CP on Advertising, draft e-transaction law, draft consumer protection law, draft decree on Internet services and online information, etc.)

Have there been any changes to consumer protection post-Covid? Have the Regulators adopted any further measures to increase protection for the consumer arising from covid?



MAS made amendments to issued notices to ensure that consumer protection remains robust. However, they were mostly temporary arrangements that sought to implement protection only as long as necessary to ride out the pandemic. There appears not to be any permanent changes. For instance:

- MAS made amendments to Notice 211 Minimum and Best Practice Training and Competency Standards for Direct General Insurers to reduce the minimum requirements for a direct general insurer to, between **16 April 2020 and 30 September 2020** (both dates inclusive), for a period of six months from the date of employment or appointment of that insurance agent (or such longer period as may be allowed by the MAS in writing), enter into a contract of insurance arranged by that insurance agent notwithstanding the insurance agent does not satisfy any one of the requirements under the notice, provided the direct general insurer puts in place measures to properly supervise the activities and conduct of the relevant insurance agent, and put in place measures, including proper training, to ensure that the relevant insurance agent understands and complies with all Singapore laws that are relevant to the arrangement of contracts of insurance by that insurance agent.
- MAS made multiple amendments to Notice 120 Disclosure and Advisory Process Requirements For Accident and Health Insurance Products to keep in force temporary exemptions to allow closing of sales of specified insurance products over the phone, but with additional safeguards such as requiring insurance intermediaries to set out warnings that the policy owner may wish to seek advice from an accident & health insurance intermediary or conduct client call-backs for the client to reconsider his purchase of that policy. However, this saw a longer extension until **30 September 2022**, and it is unclear if this will be extended or become a permanent form of protection.

Are there additional requirements for vulnerable customers or those who are more susceptible to risk of harm or mis-selling?



There is no special requirement for vulnerable customers or those who are more susceptible to risk of harm or mis-selling, but the system of Investor Suitability has been established in mainland China, which means that insurance institutions shall introduce, sell and provide relevant services in accordance with the consumers' conditions, ability, demands and so on.

Insurance

Post sale control: For the protection of vulnerable customers, insurers are required to make audio-recorded post-sale confirmation calls to such customers procuring life insurance products (except term insurance) or products involving investment risks to ensure customers' understanding on the products and their associated risks. The post-sale confirmation calls are required to be conducted within 5 working days of the date of policy issue to reaffirm customers' understanding of the policy that they have procured, and that they are fully aware of their rights and obligations under the policy.

Capital Market Products

Licensed or registered persons may vary their processes and provide product explanations in a proportionate and risk-based manner having regard to the circumstances, such as the client's financial markets sophistication and prior trading experience as well as product-specific complexity and risks.

If a client has no or little prior knowledge or experience of a particular type of investment product, the licensed or registered person must provide more assistance to ensure that the client understands the product. However, where appropriate, products explanations may be less intensive for clients who are financially sophisticated with demonstrable and relevant expertise in investing in the same products or products of the same category.

Are there additional requirements for vulnerable customers or those who are more susceptible to risk of harm or mis-selling?



No.

Indonesian insurance regulations do not set out an additional requirements for vulnerable customers or those who are more susceptible to the risk of harm or mis-selling. This means that the requirements that discussed above apply equally to all consumers.

The Comprehensive Guidelines for Supervision for Insurance Companies provides, considering that the provision of appropriate and adequate explanations is important in insurance solicitation to the elderly,, taking into account the characteristics of products and the elderly, etc. the insurance companies are required to specify the insurance solicitation methods to contribute to the prevention and early detection of problems in the internal rules and implement such methods. Example of the methods are as following.

- i. (i) requesting the presence of relatives, etc. at the time of insurance solicitation.
- ii. (ii) soliciting insurance by multiple insurance agents at the time of insurance solicitation
- iii. (iii) providing multiple opportunities of insurance solicitation to ensure allowing sufficient time to consider an application for an insurance contract.
- iv. (iv) confirming that the content of products is in accordance with the elderly's intentions, etc. by making a phone call to the elderly by persons other than those who have conducted insurance solicitation after receiving the application for an insurance contract.

Also, the IBA provides that the insurance company and insurance agents must ensure that sales and solicitation of specified insurance contracts (insurance products with market risk to which the FIEA 's conduct regulations are partially applied) are conducted in an appropriate manner suited to their customer's attributes, etc. with correct understanding the customer's knowledge, experience, asset status, and purpose for concluding specified insurance contracts.

Are there additional requirements for vulnerable customers or those who are more susceptible to risk of harm or mis-selling?



As it relates to bancassurance, the Policy on Bancassurance / Bancatakaful has imposed a specific set of requirements in relation to vulnerable customers (e.g., a consumer who has an inadequate level of financial literacy or experience in using financial services or products or poor language skills), in particular segments of consumers which are more susceptible to the risk of harm or mis-selling, to mitigate the risk of poor targeting of consumers. FSPs are required to ensure that the bancassurance/bancatakaful partner's sales supervisor shall approve the product recommendation made to such consumers. A FSP is also required to carry out additional measures such as notifying and obtaining acknowledgement from the customer about the purchase of insurance-saving products within 15 calendar days from the date of purchase, and ensure prompt refund of premium contribution is paid in the event the customer decides to withdraw and discontinue his/her policy.

The Policy Document on Fair Treatment of Financial Consumers also provided examples of poor practices on a FSP, including the FSP's staff, representatives or agents misrepresenting key product information and taking advantage of vulnerable financial consumers by recommending financial products that earn them higher commissions.

Are there additional requirements for vulnerable customers or those who are more susceptible to risk of harm or mis-selling?



Yes. The FSC has implemented additional requirements for consumers with disabilities and consumers aged more than 65 (i.e., elderly consumers), which it believes are more susceptible to the risk of harm or mis-selling. Please see below for details.

The "Friendly Financial Services Principles for Insurance Enterprises" (保險業金融友善服務準則) are established for providing fair and reasonably convenient financial services to elderly consumers and consumers with disabilities. Article 6 requires additional care measures, while Article 7 sets instructions on product design for elderly consumers and consumers with disabilities.

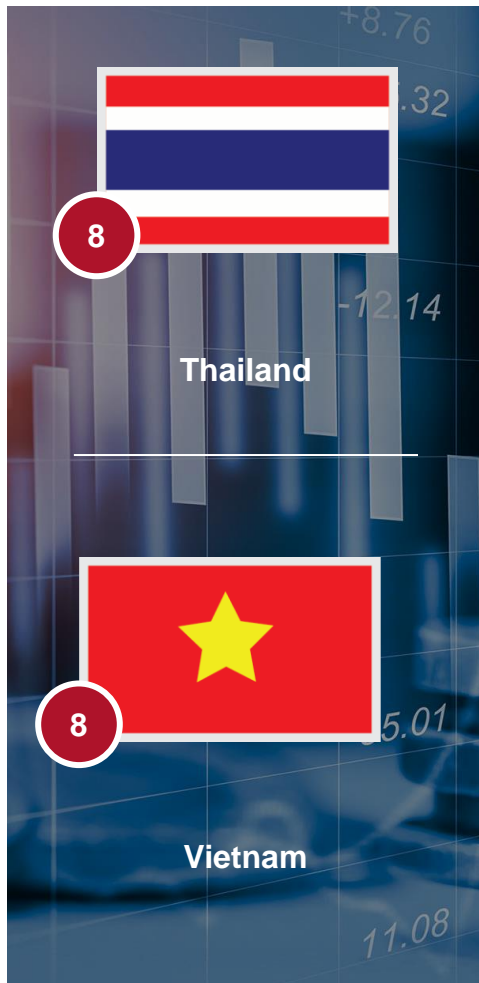
Specific requirements for elderly consumers:

- Pre-sale control: When designing insurance products, an insurer should strengthen the KYP measures to evaluate all factors that might have unfavorable effects on elderly consumers. When doing the product filing, the insurer should submit a description of its evaluation of whether the said product is suitable for elderly consumers. (Regulations Governing Pre-sale Procedures for Insurance Products)
- Strengthening the KYC from solicitation and underwriting process.
- Post-sale control: An insurer should conduct evaluation of product suitability regularly and check if there are any unfavorable effects on elderly consumers based on the said consumer's complaint history.. (Regulations Governing Business Solicitation, Policy Underwriting and Claim Adjusting of Insurance Enterprises)
- Enhanced insurance disclosure: For elderly consumers who wish to purchase investment-linked insurance policy, the insurer should provide proposal easily understandable.

Specific requirements for consumers with disabilities:

- An insurer should fairly treat consumers with disability. (Regulations Governing Business Solicitation, Policy Underwriting and Claim Adjusting of Insurance Enterprises)
- An insurer should establish a consistent underwriting policy for consumers with disabilities to reduce consumer disputes and strengthen customer interest protection. (Underwriting Principles Applicable to Consumers with Disabilities of Insurance Enterprises)
- An insurer should provide necessary support during the insurance application process based on the actual needs of the consumers with disabilities and are not allowed to improperly reject their application or try to ask them not to apply. (Mechanisms for Insurance Salespeople Assisting Consumers with Disabilities to be Insured).

Are there additional requirements for vulnerable customers or those who are more susceptible to risk of harm or mis-selling?



In addition to the basic requirements under the Sale Notification and the Sale Notification Guideline, insurance product sellers need to carefully engage certain groups of prospective customers, such as those who are senior in age or inexperienced in insurance or finance, particularly when providing them with information. This requirement is provided broadly, leaving insurers and sellers to adapt such requirement as they deem appropriate.

No.

Vietnamese insurance business laws do not set out additional requirement for vulnerable customers or those who are more susceptible to risk of harm or mis-selling from other customers. That means, requirements as we discussed above apply equally to all consumers.

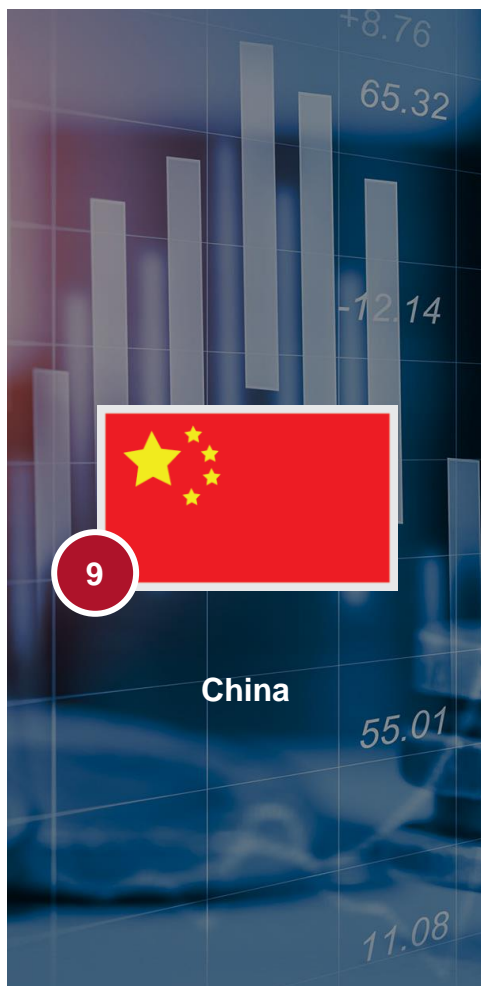
Are there additional requirements for vulnerable customers or those who are more susceptible to risk of harm or mis-selling?



The MAS implemented the Balanced Scorecard Framework ("BSC Framework") as a way to enhance customer protection, supplemented by MAS notices and guidelines. Under the BSC Framework and relevant guidelines and notices, specific vulnerable customers are subject to pre-transaction checks. Generally, where a representative of a licensed financial adviser has made recommendations to any such vulnerable customers, a supervisor should conduct client call-backs in respect of the recommendations to mitigate any mis-selling risks. The BSC Framework only applies to investment products including life policies, such certain insurance products (such as standalone accident & health policies) are not subject to the same.

It should be noted that the MAS has issued a consultation paper on guidelines to enhance pre- and post-transaction safeguards for retail clients including prescribed vulnerable customers. While it has not been effected, a draft notice has been issued. As part of this, the MAS proposes making pre-transaction checks on vulnerable clients a mandatory requirement under a notice, such that a breach of it would be an offence; set out minimum content requirements for client call-backs, alongside a requirement to document and record these call-backs; and setting-up of an independent to review any recommendations made to vulnerable clients.

What are the mechanisms in place to deal with complaints or disputes relating to financial consumers of insurance or capital market products?



Insurance Products

According to the rules and regulations, multi-solution mechanism has been established for insurance disputes, include:

1. The insurance institution is responsible for protecting the legitimate rights and interests of consumers and dealing with consumer complaints. It shall manage the settlement of consumer complaints of itself and its branches, and urge its branches to deal with various consumer complaints in a proper manner;
2. CBIRC shall supervise and guide the processing of consumer complaints related to insurance nationwide;
3. The local offices of CBIRC shall supervise and guide the processing of consumer complaints related to insurance and promote the establishment and improvement of the diversified consumer dispute resolution mechanism within their jurisdictions;
4. The Insurance Association of China shall coordinate and encourage insurance institutions to properly handle consumer disputes by means of consultation, mediation, arbitration, litigation or otherwise.

Capital Market Products

According to the Securities Law, where there is a dispute between an investor and the issuer or the securities company, both parties may apply to the investor protection organization for mediation; where there is a dispute between a normal investor and a securities company over a securities transaction, and the normal investor requests for mediation, the securities company shall not refuse.

The investor protection organization may support the investors to file a lawsuit against an act which harms the interests of investors.

What are the mechanisms in place to deal with complaints or disputes relating to financial consumers of insurance or capital market products?



Insurance

The IA handles complaints relating to the conduct of authorized insurers and licensed insurance intermediaries (being licensed insurance agents and licensed insurance brokers) in the insurance market in Hong Kong. "Conduct" broadly covers matters such as sales and marketing practices in relation to insurance policies, the negotiation or arrangement of insurance policies, the giving of advice and making of recommendations on insurance policies, and the handling of premium or other insurance monies on behalf of policyholders or potential policyholders.

The IA however cannot adjudicate whether a claim made under an insurance policy should be paid or adjudicate dispute on the terms and conditions or pricing of an insurance policy. Also, the IA cannot intervene in a complaint which is a pure commercial dispute involving no conduct issue (e.g. level of premium charged, on the interpretation of the terms and conditions, contractual or monetary / commission dispute between insurer and intermediary etc.); or order an insurer or a licensed insurance intermediary to pay compensation to the complainant.

If the complaint concerns the non-payment of a claim, the IA may refer it to the Insurance Complaints Bureau ("ICB") for adjudication.

Capital Market Products

1. Financial Dispute Resolution Centre Ltd ("FRDC")

A client having a dispute with a financial institution involving monetary loss may lodge a complaint with the relevant financial institution or report the case to the SFC. While the SFC may examine the conduct and practices of the financial institution, they do not adjudicate on any financial remedy for the client. Hence, the client may have to take the monetary claim through the court system. The objective of the Financial Dispute Resolution Scheme ("FDRS") is to provide clients with an alternative avenue which is independent and affordable for resolving monetary disputes with the financial institution amicably and in a timely manner by way of primarily "mediation first and arbitration next".

Under paragraph 12A of the Code of Conduct, a licensed or registered person should comply with the FDRS for managing and resolving disputes administered by the FRDC in full and be bound by the dispute resolution processes provided for under the FDRS.

What are the mechanisms in place to deal with complaints or disputes relating to financial consumers of insurance or capital market products?



2. SFC's requirements on licensed or registered person in handling complaints

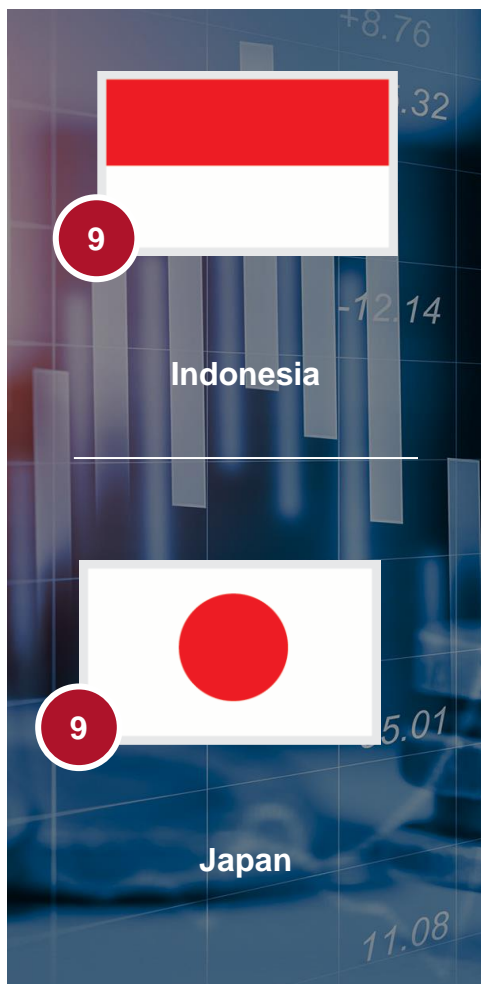
Paragraph 12.3 of the Code of Conduct sets out the standard of compliance expected in handling complaints. A licensed or registered person should ensure that:

- (a) complaints from clients relating to its business are handled in a timely and appropriate manner;
- (b) steps are taken to investigate and respond promptly to the complaints;
- (c) where a complaint is not remedied promptly, the client is advised of any further steps which may be available to the client under the regulatory system including the right to refer a dispute to the FDRG; and
- (d) where a complaint has been received, the subject matter of the complaint is properly reviewed. If the subject matter of the complaint relates to other clients, or raises issues of broader concern, a licensed or registered person should take steps to investigate and remedy such issues, notwithstanding that the other clients may not have filed complaints with the licensed or registered person and/or the FDRG.

Part V of the Internal Control Guidelines also requires the management of the licensed corporations to establish, maintain and enforce "policies and procedures to ensure the proper handling of complaints from clients and that appropriate remedial action is promptly taken".

The SFC has published the Circular to Licensed Corporations Handling of Client Complaints to provide guidance and details as to the SFC's expectation of how the licensed corporation should adhere to the requirements set out in the Code of Conduct and Internal Control Guidelines. This circular covers six key areas in relation to handling client complaints: (i) management oversight and complaint handling policies and procedures; (ii) disclosure of complaint handling procedures; (iii) identification and escalation of complaints; (iv) investigating complaints; (v) communicating outcomes with clients; and (vi) record keeping.

What are the mechanisms in place to deal with complaints or disputes relating to financial consumers of insurance or capital market products?



Under OJK Reg 6/2022, in the case a dispute related to a financial consumer complaint arises, consumers can settle this issue by way of court settlement or alternative dispute settlement facilities called Alternative Institutions for Dispute Resolution in the Financial Services Sector (Lembaga Alternatif Penyelesaian Sengketa Sektor Jasa Keuangan — "LASP").

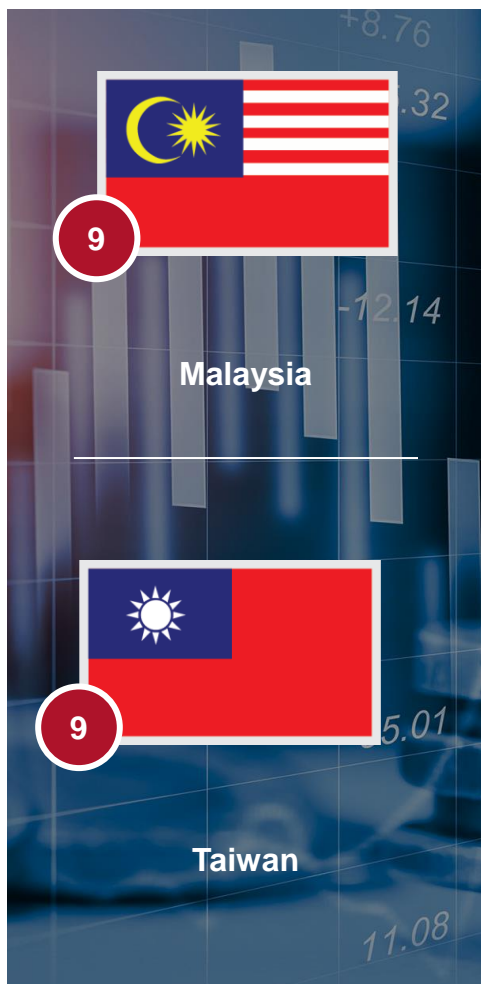
The following are the LASPs that are related to insurance and capital market:

- a. Indonesian Insurance Mediation and Arbitration Body (Badan Mediasi dan Arbitrase Asuransi Indonesia), which is an institution that is authorized to settle disputes relating to any insurance products, by way of mediation and arbitration.
- b. Indonesian Capital Market Arbitration Board (Badan Arbitrase Pasar Modal Indonesia — BAPMI, which is an institution that is authorized to settle disputes relating to capital market disputes, by way of arbitration. The decision of the arbitration is final and binding.

There are no special courts for resolving commercial insurance or capital market product disputes. Commercial insurance disputes are generally resolved in courts.

Alternatively, the financial ADR system introduced in 2010 under the IBA/ the FIEA. ADR institutions have been established with the designation and supervision of the FSA. Under the financial ADR system insurance companies/financial business operators are required to conclude a contract with the designated ADR institution and comply with the procedure of the designated institution for dispute resolution to resolve the disputes arising from insurance or capital market products.

What are the mechanisms in place to deal with complaints or disputes relating to financial consumers of insurance or capital market products?



Financial Ombudsman Scheme

The FSA mandates the BNM to establish a Financial Ombudsman Scheme for the purpose of effective and fair handling of financial complaints and disputes. The Ombudsman for Financial Services ("OFS") is approved under the FSA and acts as an alternative dispute and complaints resolution institution for financial consumers. Decisions made under the OFS are final and are not appealable. However, an aggrieved party can pursue legal proceedings against the other party.

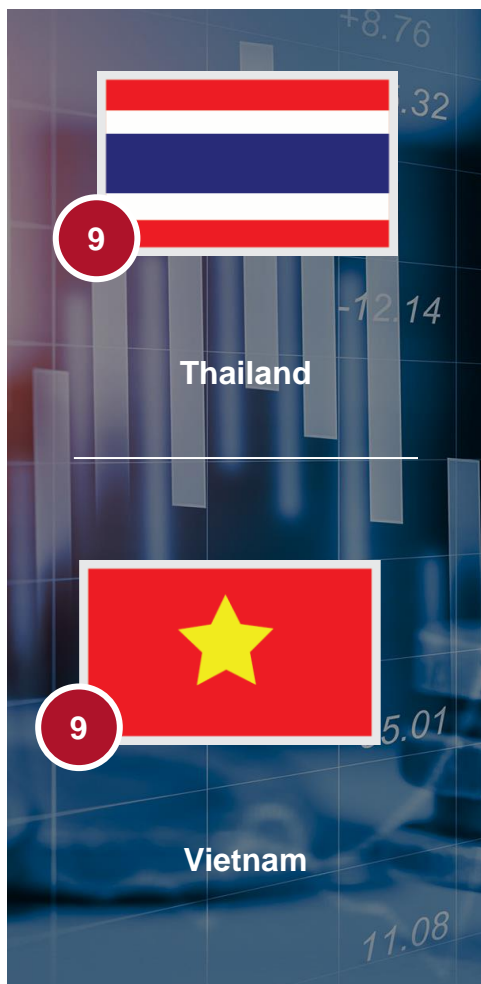
Securities Industry Dispute Resolution Center

The CMSA provides for the establishment of Securities Industry Dispute Resolution Center ("SIDREC") for settlement of disputes relating to capital market services or products between individuals / sole proprietors and providers of capital market products and services who are SIDREC members. As a matter of priority, SIDREC will attempt to mediate the dispute to help the parties communicate and figure out possible solutions. If this does not resolve the issue, the matter will proceed to adjudication, and the members of SIDREC are obliged to comply with the decision of adjudication in the event the claimant accepts the same.

Financial Ombudsman Institution (FOI) is the primary mechanisms to deal with complaints or disputes relating to financial consumers of insurance or capital market products. Consumers may first file a complaint against the financial institution, which is required to handle the complaint within 30 days. If the financial institution fails to respond or the consumer is not satisfied, then the consumer may file for ombudsman case at the FOI to resolve the matter. In general, the decision made by the FOI is binding to the financial institutions if it is below a certain amount.

Consumers may also send complaints to the FSC through its online feedback mailbox. When the FSC receives such complaints, it will refer the complaints to the financial institutions asking them to explain or get back to the consumers.

What are the mechanisms in place to deal with complaints or disputes relating to financial consumers of insurance or capital market products?



The OIC has established the Insurance Complaint Center (ICC) as a main channel to receive and consider complaints submitted by the consumers. The consumers can submit complaints free of charge via OIC's online portal, paper-based submission at the OIC office, and postal channel.

Once the OIC receives the complaint, they will request the insurance company to provide clarifications or summon relevant persons to interview or negotiate with the consumers. The ICC officials include legal professionals who offer their help to deal with the insurance companies on behalf of the consumers, free of charge. The ICC will take care of the consumer case until both parties reach mutual agreement. If the disputing parties cannot settle, the case will be handled by OIC's experts under the formal settlement procedures.

If the case cannot be closed, the consumers are entitled to submit the case to OIC's Arbitrators who will render judgement that can be enforceable equally as a court judgement. The right to choose arbitrator to settle the case other than submitting the case to the court of justice is a legal right of the consumers endorsed by the OIC's regulation. The insurance companies must follow the decision.

Insurance products

The current Law on Insurance Business does not have any specific regulations to govern complaints or dispute relating to consumers of insurance products.

However, the New Law on Insurance Business 2022 has a specific provision on dispute resolution bodies in case a dispute arises. Particularly, if there is any dispute arising from the performance of an insurance policy, the parties to such policy will settle by amicable negotiation. In case of failure to negotiate, the parties can choose either mediation or arbitration or court litigation to settle their dispute in accordance with the insurance contract and the applicable laws.

Capital markets products

Under the Law on Securities, securities-related disputes that occur in Vietnam shall be settled through negotiation and mediation, or by Vietnam's arbitration or court proceeding as prescribed by Vietnamese law.

The entity who violate against the lawful rights and interests of another organization or individual in securities activities and causes damage may be liable to pay compensation and fulfill other civil liabilities under their agreement, the Civil Code and other relevant laws.

What are the mechanisms in place to deal with complaints or disputes relating to financial consumers of insurance or capital market products?



Financial Industry Disputes Resolution Centre ("FIDReC")

FIDReC is an independent and impartial alternative dispute resolution institution which aims to resolve retail disputes between consumers and financial institutions through mediation and adjudication. Consumers can bring claims (not exceeding \$100,000) involving financial products against financial institutions subscribed to FIDReC. These claims can relate to life insurance policies, general insurance products, and investment products. Decisions made by FIDReC are final and binding on financial institutions but not on consumers. Hence, consumers may pursue the complaints through other avenues where necessary such as through the Singapore Mediation Centre.

MAS

The MAS has a [web-form](#) that allows consumers to make complaints about regulatory breaches or misconduct by financial institutions or their representatives. However, any supervisory dealings MAS engages in with the concerned parties are kept confidential to which the consumer will not be privy.

Beyond these, there might be standard procedures (such as initiating court proceedings against the financial institution or representative) that can be pursued. In addition, it should be noted that MAS recommends consumers to contact the financial institution in question to resolve the dispute. Financial institutions will likely have in place policies to resolve disputes and handle complaints. In particular, for insurance products, such mechanisms will likely be available due to LIA / GIA guidelines and codes of practice, by MAS regulation (for instance, see the Financial Advisers (Complaints Handling and Resolution) Regulation 2021 or the MAS Guidelines on the Online Distribution of Life Policies with No Advice [ID 01-17]).

Please provide an example of non-compliance by licensed insurers (e.g., mis-selling of insurance products, data breaches, etc.,) in your jurisdiction and the action(s) taken by the regulator(s) in relation to the same.



We take a punishment decision made by CBIRC in the year of 2021 as an example:

An insurance company was held deceiving the customers of insurance products, misappropriating the premium and it was therefore warned, ordered to rectify this situation, and fined RMB510,000, while the relevant persons, who were responsible for such misconducts, were warned and fined accordingly!

Insurance

Two insurers were reprimanded and fined by the IA for failing to observe certain AML requirements, including maintaining effective procedures to determine whether their customers (or the beneficial owners of its customers) were politically exposed persons (PEPs) prior to entering into business relationships.

Please provide an example of non-compliance by licensed insurers (e.g., mis-selling of insurance products, data breaches, etc.,) in your jurisdiction and the action(s) taken by the regulator(s) in relation to the same.



- a. In 2022, OJK found that PT Asuransi Jiwa Adisarana Wanaartha ("WanaArtha Life") didn't fulfill several applicable insurance requirements, such as the solvability achievement ratio in the amount of 100% and the minimum equity provisions in the amount of IDR 100 Billion (approx USD6.896.551.720). OJK imposed sanctions on WanaArtha Life in the form of restrictions to conduct business activities, whereby WanaArtha Life is prohibited to conduct marketing activities and prevented from accepting premiums from 30 August 2022 until WanaArtha Life remedies the cause of the sanctions.
- b. in 2022, OJK found that PT Asia International Insurance Brokers did not implement the recommendation from the result of an OJK investigation. OJK imposed sanctions on PT Asia International Insurance Brokers in the form of restrictions to conduct its business activities for 3 months.

The FSA issued an administrative action against an insurance company and ordered the improvement of its business operations pursuant to the relevant laws. The administrative action was based on the fact that, among other things, it was attempting to develop a product designed to save tax by changing a policyholder from a legal entity to an individual.

Please provide an example of non-compliance by licensed insurers (e.g., mis-selling of insurance products, data breaches, etc.,) in your jurisdiction and the action(s) taken by the regulator(s) in relation to the same.



Based on publicly available information:

- i. the OFS has assisted to resolve the disputes relating to the mis-selling of insurance products, such as:
The complainant has been a customer of the bank ("Bank") for 10 years and she wanted a savings plan for her children. She was approached by the sales officer of the Bank ("Bank Officer") and was offered a bancassurance product. The complainant specifically told the Bank Officer that she had wanted a savings plan and not an insurance policy. She was informed by the Bank Officer that all savings accounts opened with the bank include insurance coverage. Relying on the Bank Officer's assurance, the complainant deposited money into the savings account monthly for the minimum period of 3 years only to discover that the "savings plan" was in fact a life insurance policy with coverage up to 90 years and that the monthly savings which she had placed in the savings account were used towards payment of the insurance premium.

The Case Manager of OFS found that it cannot be ascertained whether the complainant had been properly informed as the Bank has failed to produce relevant documents, such as the Product Disclosure Sheet (in compliance with BNM's Guidelines on Product Transparency and Disclosure), the Standing Instruction signed by the complainant authorizing the bank to deduct monthly payment for the insurance premium.

The Bank accepted the Case Manager's findings and resolved the matter amicably with the complainant.

- ii. in 2012, BNM discovered mis-selling practices in relation to the sale of insurance products by 3 institutions. BNM took action against these institutions by requiring them to, among others:
 - iii. immediately identify and suspend further sales by the errant agents, review all agent training materials, and strengthen controls over the use of marketing and sales materials by agents; and
 - iv. furnish over 1,400 affected policyholders with accurate product materials and information, and allow policyholders to review their decisions to purchase or retain their policies.

As a result, more than RM 30 million in premiums were refunded to the affected policyholders.

Please provide an example of non-compliance by licensed insurers (e.g., mis-selling of insurance products, data breaches, etc.,) in your jurisdiction and the action(s) taken by the regulator(s) in relation to the same.



The FSC sanctioned a life insurer and a local Taiwanese bank (concurrently engaging in the insurance agency business) for mis-selling investment-linked insurance policy to elderly consumers using the funds rescinded from previous existing insurance policies as the source to pay the premium of the new insurance policy.

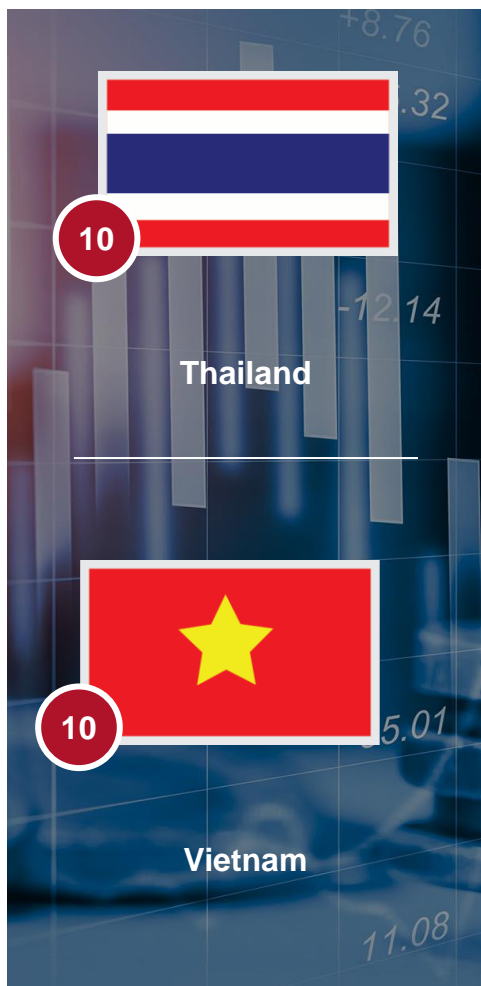
BNP Paribas was fined NTD 1.2 million for violating Financial Consumer Protection Act and Insurance Act:

- Failure to identify errors in solicitation report filed by solicitation staff
- Failure to review the source of funding for payment of premiums
- Failure to supervise solicitation staff to fill out a solicitation report honestly
- Failure to implement underwriting policy

Taishin International Bank was fined NTD 3 million for violating the Financial Consumer Protection Act and Insurance Act:

- Failure to implement know-your-customer
- Failure to implement product suitability policy.

Please provide an example of non-compliance by licensed insurers (e.g., mis-selling of insurance products, data breaches, etc.,) in your jurisdiction and the action(s) taken by the regulator(s) in relation to the same.



Based on publicly available information from the OIC databased that normally publishes insurers' details of non-compliance, cases on insurers' non-compliance related to mis-selling of insurance products or data breaches have not been published.

We understand that this is because the OIC imposes penalty more on persons/entities insurance agents or brokers.

In Vietnam, we have not been aware of or seen any public information on the non-compliance of licensed insurers (e.g., mis-selling of insurance products, data breaches, etc.) in Vietnam, including those from our public search on the website of the regulator (i.e., the MOF) and other available public source. We note that such kind of information is normally not publicized, and it would be a closed process between the MOF and the relevant licensed insurers (if there is any non-compliance issue from any relevant licensed insurers).

Please provide an example of non-compliance by licensed insurers (e.g., mis-selling of insurance products, data breaches, etc.,) in your jurisdiction and the action(s) taken by the regulator(s) in relation to the same.



Information on enforcement actions taken against financial institutions under the IA and FAA and their representatives for non-compliance can be found on the MAS website. The following are examples of the actions taken:

- (A) Three insurance companies in Singapore were reprimanded by the MAS in 2021 for breaching regulatory requirements relating to risk management arrangements and the remuneration of supervisors.
- Insurance Company A: The company had failed to review and assess the performance of three managing directors and assign Balanced Scorecard ("BSC") grades, as well as determine and pay their remuneration in accordance with the BSC. The company also failed to cap and spread the managing directors' variable income in accordance with the MAS' Spreading and Capping of Commissions ("SCC") requirements.
 - Insurance Company B: The company failed to put in place compliance arrangements to monitor a consultant's activities for the company, which contravened the MAS Guidelines on Risk Management Practices – Internal Controls ("RM Guidelines") and the Financial Advisers Regulations respectively. The company had also failed to review and assess said consultant's performance, assign a BSC grade to him, and determine and pay his remuneration in accordance with the BSC, and failed to cap and spread his variable income in accordance with the SCC.
 - Insurance Company C: The company had failed to review and assess the performance of their supervisors, assign BSC grades to them, as well as determine and pay their remuneration in accordance with the BSC requirements. The Company also breached the RM Guidelines as it failed to put in place adequate risk mitigation procedures and compliance arrangements to monitor the supervisors' activities.

Please provide an example of non-compliance by licensed insurers (e.g., mis-selling of insurance products, data breaches, etc.,) in your jurisdiction and the action(s) taken by the regulator(s) in relation to the same.



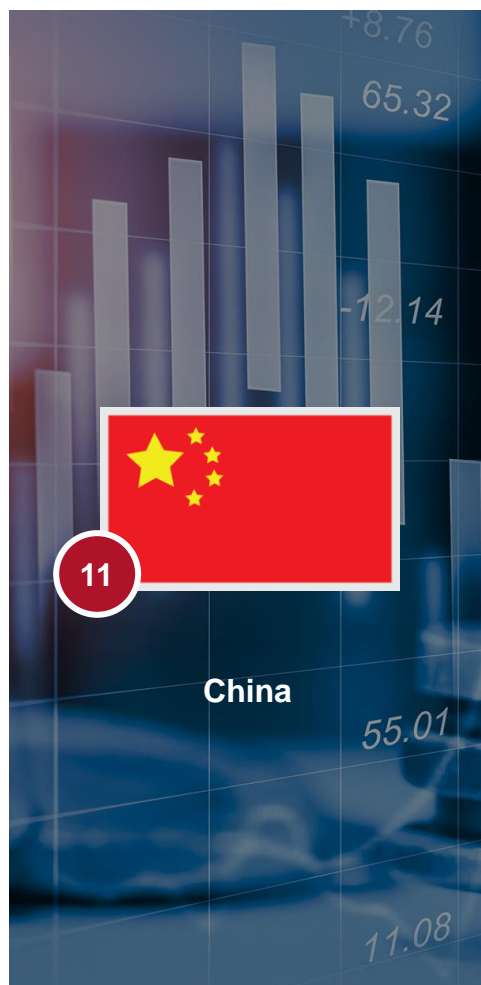
(B) MAS issues prohibition orders against two former insurance agents for dishonest conduct.

- One of the agents was subject with a 4-year prohibition order, prohibiting him from (i) providing any financial advisory service, or taking part in the management of, acting as a director of, or becoming a substantial shareholder of any financial advisory firm under the FAA and (ii) carrying on business as, or taking part in the management of, any insurance intermediary under the IA, for wilfully misleading policyholders into believing that they could hold more than one integrated shield policy, when their applications for the new integrated shield policies would in fact result in the termination of their previous policies. The policyholders could have lost insurance cover for medical conditions that they had developed since the purchase of their policies. He also intentionally provided false information in the application of three policyholders to prevent them from being identified as vulnerable clients which would provide them with greater safeguards.
- The other agent was prohibited for a period of two years from (i) providing any financial advisory service, or taking part in the management of, acting as a director of, or becoming a substantial shareholder of any financial advisory firm under the FAA; and (ii) carrying on business as, or taking part in the management of, any insurance intermediary under the IA, for declaring in an application form that the policyholder did not have any pre-existing medical conditions without checking if this was true, and for forging the signature of one policyholder in an application for the purchase of an integrated shield plan. The former could have resulted in the policy being rendered invalid, and the policyholder denied insurance cover, due to the non-disclosure of material information to the insurer.

Further, there may be other actions taken by other agencies. For instance:

- (C) A Singapore-based insurance company was fined SG\$10,000 by the Personal Data Protection Commission for a data breach where they mistakenly sent insurance plan notices to certain customers which contained the personal information of other customers.

Describe generally any disclosure requirements on sustainability, for insurance / financial products.



In 2021, the People's Bank of China issued the Guidelines for Financial Institutions Environmental Information Disclosure (JR/T 0227—2021) ("Guidelines") to clarify the principles, forms, frequency, and contents of environmental information disclosure and encourage financial institutions make disclosure in accordance with the Guidelines.

Insurance

According to the Guidelines, it's suggested to disclose the environmental information at least once a year for financial institutions.

As for an insurance company, the disclosure of the environmental impact of insurance business includes but not limited to the information related to:

1. integrating environmental factors into risk management, continuously study climate change and other related risks;
2. the overview of green insurance products and services;
3. green investment strategy and its implementation effect;
4. investment of insurance assets in green products;
5. underwriting of environmental pollution liability insurance;
6. assisting the insured of environmental pollution liability insurance to improve their environmental risk management;
7. changes in green insurance products and services compared with the previous year; etc.

Capital Market

CSRC requires that if a company or its main subsidiaries are considered as key pollutant discharging entities, the company shall disclose the major environmental information, such as pollutant discharge information, the construction and operation of pollution prevention and control facilities, the environmental self-monitoring plans, etc.

Both Shanghai Stock Exchange and Shenzhen Stock Exchange require listed companies to implement the principle of sustainable development in practice, voluntarily assume social responsibilities, safeguard the public interest, and attach importance to ecological and environmental protection. In the event of a breach of social responsibility or any other material matter, the company shall fully assess and disclose the potential impact, and elaborate the reasons and solutions in a timely manner.

Describe generally any disclosure requirements on sustainability, for insurance / financial products.



Insurance

There are various requirements for life products:

During the product design stage, an insurer should carry out a diligent review to ensure that the product meets the "fair treatment of customers" principle, including sustainability of the product.

Insurers should monitor the non-guaranteed benefits under life policies regularly (at least annually) and check the sustainability of the non-guaranteed benefits based on the actual experience and investment outlook, based on which insurers should make relevant disclosures to policyholders.

If the product offers a range of premium payment terms, the authorized insurer should mention the shorter premium term options only as an alternative. Customers should be warned that the sustainability of premium offset depends on future dividend declaration, which is not guaranteed.

For the withdrawal illustration option, disclosure should be made to ensure that the customers fully understand the risk involved. For example, illustrated withdrawal amounts, which depend on non-guaranteed dividends, might not be sustainable.

Capital Market Products

At the product level, there are sustainability disclosure requirements on management companies of SFC authorized ESG funds. Also, Hong Kong licensed fund managers are subject to the climate disclosure requirements under the Fund Manager Code of Conduct.

The relevant Indonesian regulations do not have specific disclosure requirements for insurance or financial products in respect of sustainability.

Describe generally any disclosure requirements on sustainability, for insurance / financial products.



From the perspective that it is important for investors to correctly understand the content of investment products without misunderstanding and to make appropriate investment decisions in comparison with other products, JFSA consistently promotes appropriate information provision and disclosure consistent with the investment process, and established a working group to develop disclosure obligations.

The working group was discussing disclosure guidelines for sustainability and governance-related factors and published a report that suggested the mandatory disclosure of sustainability information and corporate governance information in statutory annual securities reports in June 2022. In response to such suggestion, the JFSA is expected to amend the disclosure regulations under the Financial Instruments Exchange Act in 2023.

In addition, in June 2022, the FSA proposed the draft Code of Conduct for ESG Evaluation and Data Providers, which responds to issues pointed out by the Technical Committee including transparency and fairness of evaluation, as the expected role of ESG evaluation and data provider is increasing. The Code of Conduct provides principles (ie, (i) Securing Quality, (ii) Human Resources Development, (iii) Ensuring Independence and Managing Conflicts of Interest, (iv) Ensuring Transparency, (v) Confidentiality, (vi) Communication with Companies) and guidelines with aim to ensure that ESG evaluation and data can be relied on by investors. This Code of Conduct will be finalized within 2022.

We note that there are disclosure requirements on sustainability for investment-linked insurance products. Based on the Policy Document on Investment-Linked Business issued by BNM, BNM has introduced mandatory testing and disclosure requirements in relation to the sustainability of coverage of investment-linked insurance policies offered and sold by insurers.

Briefly, licensed insurers are required to actively manage the sustainability of investment-linked insurance policies by performing regular sustainability tests annually. The sustainability test includes, among others, ensuring that all information used is sufficiently up to date and specific to the individual policy owner, and that all relevant future inflows and outflows pertaining to the unit account are considered. Licensed insurers must therefore disclose the outcome of the sustainability test to policy owners to facilitate timely and informed decision-making for them.

Further, licensed insurers must ensure that all disclosures to policy owners are clear and not misleading, particularly in relation to the outcome of the sustainability test. This includes ensuring that the technical components of the communication and disclosures should not be overly complex or excessively detailed such that there is room for misrepresentation or misinterpretation, and that the limitations to the sustainability test must be clearly highlighted.

Licensed insurers must also ensure that it discloses sufficient information to investment-linked insurance policy owners on how the volatility associated with the different investment funds may impact expectations on sustainability.

Describe generally any disclosure requirements on sustainability, for insurance / financial products.



In July 2021, the FSC announced the "Disclosure Rule for ESG funds issued by Securities Investment Trust Enterprise (SITE)." The rule requires newly established or existing ESG funds to disclose information ESG-related in the prospectus. The main points of disclosure are as the following:

- I. When a SITE raises and issues a ESG fund, at least the following contents must be disclosed in the fund issuance plan and prospectus in the SITE's application:
 - i. Investment objectives and measurement standards: The main sustainable investment focus and objectives of the ESG fund, and the relation between the ESG principle adopted and investment focus must be explained. The fund must set one or more sustainable investment objectives and specify the assessment criteria to measure the degree of realization of the sustainable investment objectives.
 - ii. Investment strategy and method: The investment strategy type adopted by the SITE to achieve sustainable investment objectives, the specific method of integrating ESG factors into the investment process, the process of considering relevant ESG factors, and the assessment and measurement methods for these factors must be explained.
 - iii. Allocation of investment proportion: The minimum proportion of the fund's net asset value which is invested in ESG related priority targets, and how the overall use of the fund assets can be ensured not to cause significant damage to the sustainable investment objectives must be explained.
 - iv. Reference performance benchmark: If the fund has set a benchmark for ESG performance, the characteristics of the benchmark and whether the benchmark is consistent with the relevant ESG investment priorities of the ESG fund must be explained.

Describe generally any disclosure requirements on sustainability, for insurance / financial products.



- v. Exclusion policy: Whether there are exclusion policies for the ESG fund investment and the types of exclusion must be explained.
- vi. Risk: The risk description of the fund's ESG investment priorities must be included.
- vii. Stewardship report: The applicable stewardship policy and implementation method of the ESG fund, and the methods or ways of inquiring the SITE's stewardship report must be explained.
- viii. Periodic assessment and reporting: After raising and issuing the ESG fund, the SITE must disclose the regular assessment information to investors on the company's website two months after each year end.

II. For an existing fund with an ESG theme, if the contents above are not completely disclosed in the prospectus, the improvement must be completed within six months after the release of these disclosure rule.

Currently, there are no requirements for disclosing information on sustainability for insurance products. However, please note that the FSC published "Guidelines on Climate-related Financial Disclosures of Insurance Companies (保險業氣候相關風險財務揭露指引)" in November 2021 applicable to the insurers. The Guidelines are expected to be implemented starting from 2022 and the insurers are required to disclose climate-related financial information for the previous year before the end of June each year starting from 2023.

Describe generally any disclosure requirements on sustainability, for insurance / financial products.



Although there is no specific disclosure requirements on sustainability for insurance products, the OIC has vowed that it will proactively promote sustainable insurance business development. This is recorded in the OIC's Fourth Insurance Development Plan, 2021–2025 — a five-year national plan drafted by the OIC together with the private sector to which provides a strategic framework for the development of the Thai insurance industry — emphasizes the importance of the insurance sector's contribution to the sustainable development.

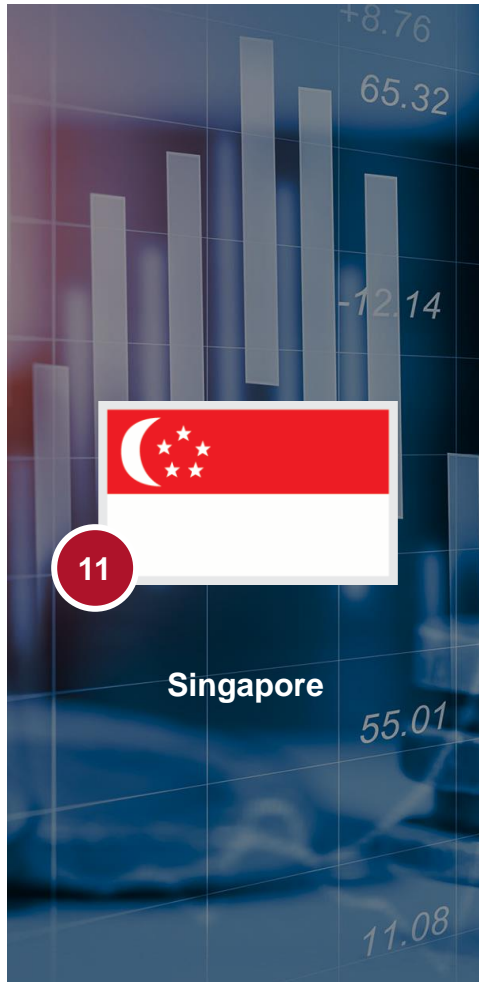
The Fourth Insurance Development Plan, 2021–2025 highlights the promotion of insurance products that benefit the environment (such as tree insurance to encourage tree planting), reduction of premiums for green businesses and electric vehicles, and positive reinforcements through tax measures and rewards to ESG-compliant insurance companies.

Sustainability initiatives noted in the plan can be divided into these four critical areas:

1. Incorporating sustainability into the OIC's strategic plan, which includes the adoption of measures regulating insurance companies on sustainability-related issues
2. Facilitating the development of sustainable insurance products, particularly those that aid in the managing of economic risks or agricultural output and providing equal access to life and nonlife insurance products for all members of society.
3. Allowing insurance companies to invest in environmentally-friendly financial products such as investment-grade green bonds or stocks of Thai or foreign listed companies with sound ESG practices, including responsible investment funds.
4. Providing capacity building to raise awareness and educate the insurance industry about the importance and significance of environmental and social impacts.

Vietnamese insurance business laws do not have disclosure requirements specifically on sustainability for insurance or financial products.

Describe generally any disclosure requirements on sustainability, for insurance / financial products.



Generally for financial products, listed companies will be required from 2023 onwards to disclose their climate-related risks pursuant to recommendations by the Task Force on Climate-Related Financial Disclosures ("TCFD"). MAS also intends to impose mandatory climate-related disclosures for major financial institutions based on International Sustainability Standards Board's standards once such standards have been finalised. In the meantime, mandatory disclosures will extend to Environmental, Social and Governance ("ESG") fund products sold to retail investors under the CFC 02/2022 Disclosure and Reporting Guidelines for Retail ESG Funds effective from 1 January 2023, in efforts to mitigate greenwashing.

Specifically for insurance products, there are no mandatory sustainability requirements. However, the MAS has issued Guidelines on Environmental Risk Management for Insurers ("ERM Guidelines") which sets out MAS' expectations on licensed insurers to disclose environmental risk information. This applies to insurers' underwriting activities, investment activities, and other activities that create exposure to material environmental risk. Additionally, it sets out the expectation that the board and senior management of the insurer should maintain effective oversight of the insurer's environmental risk management and disclosure, including the policies and processes to assess, monitor and report such risk. For more information on the ambit of the ERM Guidelines, please refer to the Information Paper on Environmental Risk Management - Insurers.

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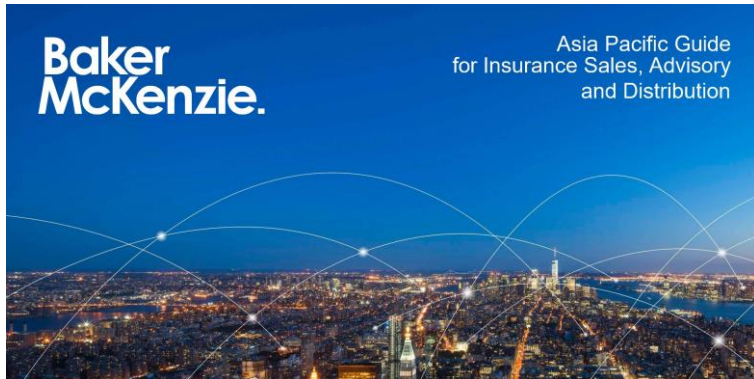


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Financial consumer protection in the insurance industry

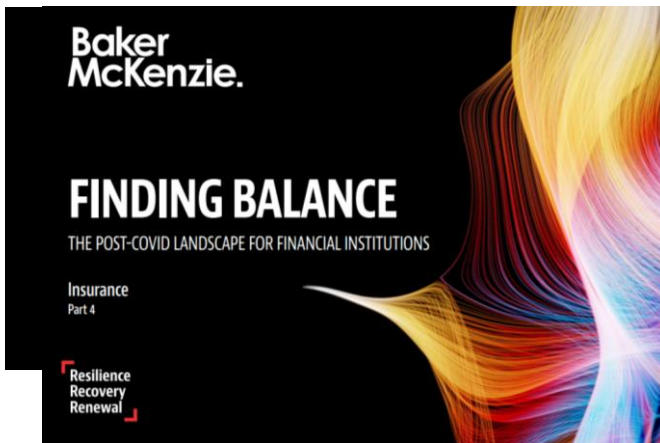
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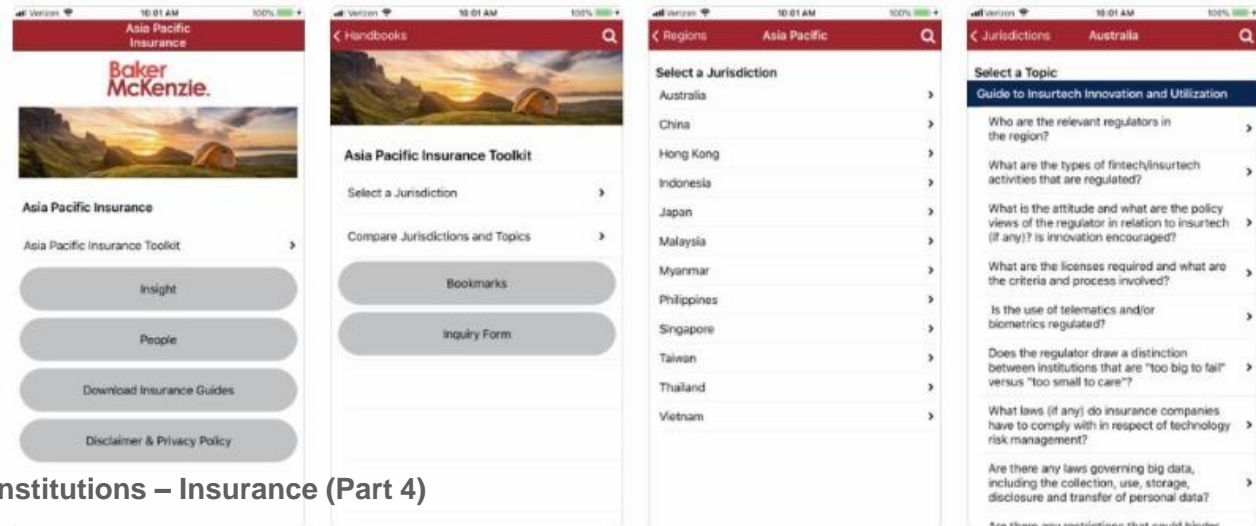


Our AP Insurance Toolkit summarizes current trends across jurisdictions in Asia concerning a range of issues that typically arise in the insurance industry. Download our app [here](#).



Finding Balance: The Post-COVID Landscape for Financial Institutions – Insurance (Part 4) 2021

Our fourth briefing on how COVID-19 is affecting financial institutions focuses on the insurance sector. Despite fears early on in the crisis that COVID-19 could be the most expensive insurance event ever, insurers encountered relatively moderate business disruption and travel insurance claims, although there is scope for higher payouts and litigation in the future. [View report](#)



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