Baker McKenzie.

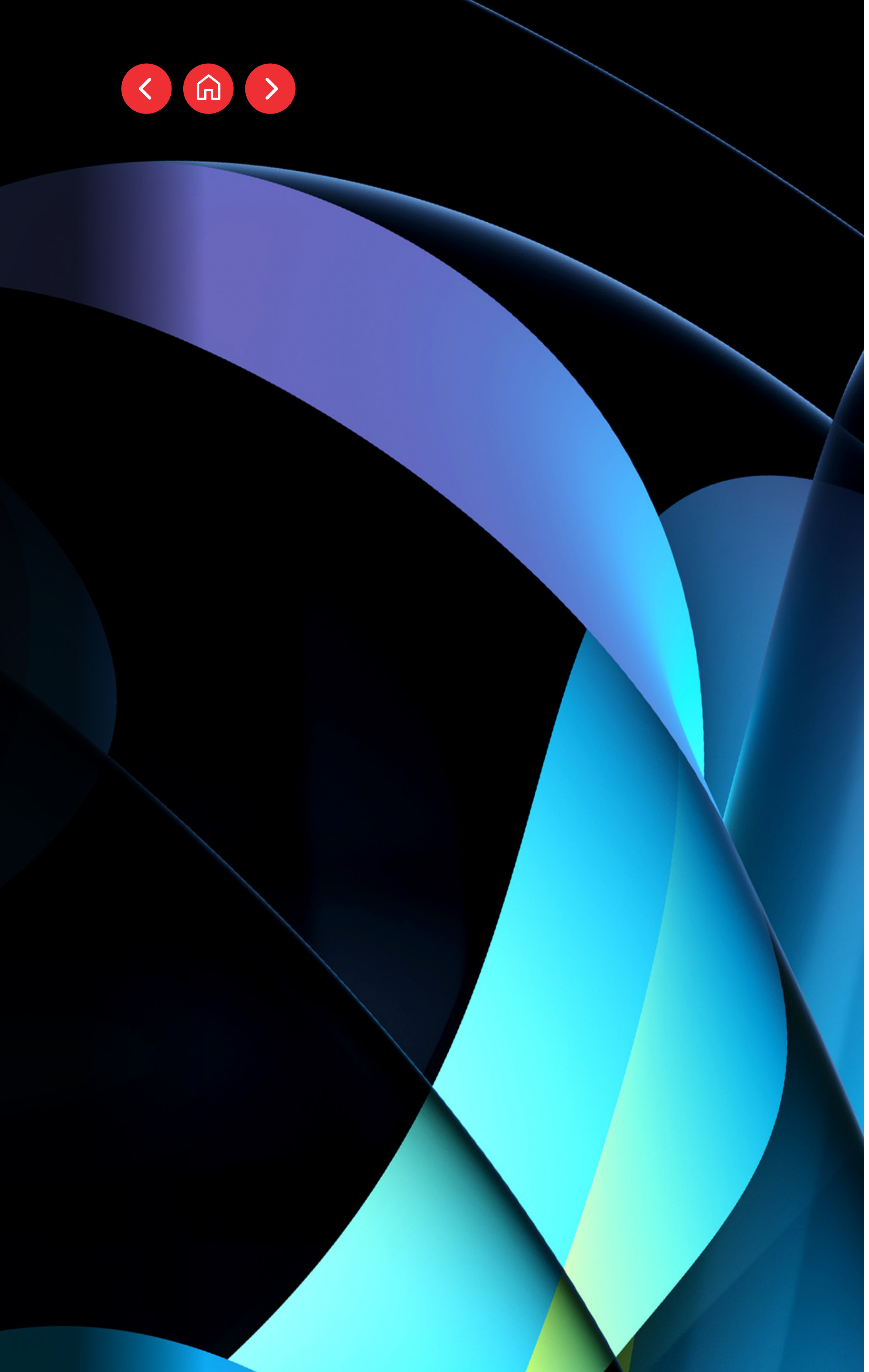
Asia Pacific Guide for Insurance Sales, Advisory and Distribution

TRANSACTIONAL POWERHOUSE

Leading and closing complex deals – every day

Contents

Executive Summary	**3**
Intermediaries and qualifications	**5**
What are the different types of insurance intermediaries in the market, and do they need to hold any licenses and minimum qualification to conduct business?	5
Is it mandatory for insurers to offer customers the option of purchasing insurance products directly from them without going through financial advisers or intermediaries?	8
Do agreements between insurers and their distributors (including appointed agents, brokers or banks) need to take a certain form?	10
Can insurers pay volume-based commission to their distributors (including appointed agents, brokers and banks)?	12
Are insurers liable for any mis-selling of its agents or appointed distributors (including appointed agents, brokers and banks)?	15
Intermediaries and their customers	**18**
Are there rules on the number of insurers that insurance brokers need to present to their customers?	18
Can insurance brokers receive commission from both insurers and their customers? If so, can it be volume-based commission?	20
Can agents or other appointed distributors offer rebates on insurance premiums or other special concessions to the customers?	22
Cross-border activities and offshore products	**25**
Can insurers appoint offshore agents or accept business from offshore brokers?	25
Are there any special requirements in selling policies to offshore customers?	27
Tele and online channels	**30**
Are there specific requirements on selling products through call centers, telemarketing or other distribution channels?	30
Are there specific requirements on selling products through online channels?	33
Can insurers sell products virtually without any intermediaries, and is there any limitation in such digital channel (e.g., a limited scope of products)?	37
Is there a special license for virtual insurers without intermediaries?	40
Data privacy and confidentiality	**43**
Can insurers share client information with insurance agents and brokers and vice versa? What data privacy or confidentiality laws apply?	43
KEY CONTACTS	**47**



01 Executive Summary

The sale and distribution of insurance products have evolved from traditional tied agents and brokerage models, to independent agents and financial advisory models, and in recent years, online distribution and robo-advisory models.

Commission-sharing arrangements and fee models are also becoming more creative. On the other hand, insurers and intermediaries are also facing clients who are increasingly becoming more sophisticated and being exposed to a wide variety of choices.

This guide aims to give an overview of the regulations and issues specific to each jurisdiction that would need to be considered in the sale, distribution and advisory chain, from the appointment of intermediaries to the standard of conducts and disclosure requirements; payment and receipt of commissions and fees; allocation of liabilities between insurers and intermediaries and ownership; and sharing of client data. As we move into the phase of digital revolution in the financial industry, this guide also seeks to highlight how both traditional and new rules would apply to less traditional distribution models.

Asia Pacific Guide for Insurance Sales, Advisory and Distribution

Intermediaries and qualifications

01 Intermediaries and qualifications

What are the different types of insurance intermediaries in the market and do they need to hold any licenses and minimum qualification to conduct business?

CHINA	Currently, there are three categories of insurance intermediaries in China: (1) insurance agents; (2) insurance brokers (also referred to as insurance brokerage institutions); and (3) insurance assessment institutions. Insurance agents include (a) individual insurance agents and (b) institutional insurance agents. Individual insurance agents can only provide agency services for a rather limited range of insurance products. Institutional insurance agents includes two categories: (i) professional insurance agents, and (ii) side-line insurance agents (e.g., commercial banks and travel agents that sell insurances to their respective customers in the course of their main line of business). For the purpose of this China guide, the response to all questions relating to insurance agents may not be applicable to individual insurance agents. Each category of insurance intermediaries should meet the respective qualification requirements. Professional institutional insurance agents should obtain the Insurance Agency Business Operation License issued by the China Banking and Insurance Regulatory Commission (CBIRC), while side-line institutional insurance agents should obtain the Side-line Insurance Agency License issued by CBIRC. Insurance brokers should obtain the Insurance Brokerage Business Operation License issued by CBIRC. Insurance assessment institutions were originally required to obtain the Insurance Assessment Business Operation License issued by CBIRC, but they are now only required to file a recordal of their insurance assessment business with CBIRC or its local counterparts instead of obtaining a license issued by CBIRC.
HONG KONG	Insurance intermediaries in Hong Kong can be classified into insurance agents and insurance brokers. There are five types of licenses: insurance agency license, individual insurance agent license, technical representative (agent) license, insurance broker company license and technical representative (broker) license. All insurance intermediaries must be licensed by the Insurance Authority and satisfy the "Guideline on "Fit and Proper" Criteria for Licensed Insurance Intermediaries under the Insurance Ordinance (Cap 41)" (GL23) issued by the Insurance Authority.
INDONESIA	Third-party intermediaries include insurance brokers and insurance agents. Insurance brokerage companies must obtain a business license from the Financial Services Authority (OJK). Insurance brokers must be registered with the OJK. Insurance agents must be certified and registered with the OJK. In addition, the prevailing regulations provide that agency agreements must be reported.
JAPAN	Insurance intermediaries in Japan are broadly classified as insurance agents (persons or companies acting on behalf of a specific insurance company) and insurance brokers (persons or companies not acting on behalf of any insurance company). Insurance agents and insurance brokers both need to be registered with the Financial Services Agency (FSA). The FSA may reject a registration for reasons such as insolvency, certain criminal record, etc.
MALAYSIA	Third-party intermediaries include insurance brokers, insurance agents (which also includes bancassurance partners) and financial advisers. An insurance agent does not require a license or approval under the Financial Services Act 2013 (FSA), but they must be registered with the Persatuan Insurans Am Malaysia (PIAM) for general insurance and the Life Insurance Association of Malaysia (LIAM) for life insurance. The FSA also provides that any person carrying out an insurance broking business or financial advisory business must be approved by Bank Negara Malaysia (BNM) (i.e., the Central Bank of Malaysia).

01 Intermediaries and qualifications

What are the different types of insurance intermediaries in the market and do they need to hold any licenses and minimum qualification to conduct business? (cont'd)

PHILIPPINES	Third-party intermediaries who assist in the solicitation or procurement of admitted insurance products include insurance brokers, insurance agents and general agents licensed by the Insurance Commission (IC). A person (such as an individual, partnership or corporation) must file an application for an insurance broker or insurance agent in the IC and pay the corresponding application fees to be licensed. An insurance broker must comply with the minimum paid-up capital of PHP 20 million for an insurance broker, or PHP 50 million for both an insurance and reinsurance broker. To be issued with a license, a brokerage company must have a qualified and approved soliciting official. On the other hand, an insurance agent must be a resident of the Philippines and pass a qualifying examination conducted by the IC. An insurance agent license issued to an entity authorizes only the individuals named in its IC license. A licensed life insurance agent can represent only one life insurance company and, in case of transfer from one life insurance company to another, the agent is required to submit an application to the IC. A licensed non-life insurance agent can represent up to seven non-life companies. A general agent must also be a resident of the Philippines and pass a qualifying examination conducted by the IC. A licensed general agent cannot represent more than one life insurance company and /or more than one non-life insurance company. However, the limitation on the number of non-life insurance companies a general agent can represent may be dispensed with if the general agent operates, maintains and sells Compulsory Third Party Liability insurance exclusively through an Online Sales Platform. An insurance broker/agent license must be renewed every three years.
TAIWAN	Insurance intermediaries under Taiwanese laws include insurance brokers and insurance agents. Individual insurance brokers and insurance agents should obtain licenses by passing their respective exams. Insurance broker companies and insurance agent companies, as well as banks that would like to conduct insurance broker or agent business, should obtain licenses issued by the Insurance Bureau of the Financial Supervisory Commission (IB).
THAILAND	Insurance intermediaries in Thailand can be classified into agents and brokers. Both types must be licensed by the Office of Insurance Commission (OIC) and are required to take an exam. An insurance agent must be an individual who is domiciled in Thailand, while an insurance broker can be either an individual or a corporate entity. In general, an insurance agent must represent one insurance company exclusively. However, an insurance agent may represent another insurance company, with consent from the insurance company it is already representing.

01 Intermediaries and qualifications

What are the different types of insurance intermediaries in the market and do they need to hold any licenses and minimum qualification to conduct business? (cont'd)

VIETNAM	There are two categories of insurance intermediaries in Vietnam: (i) Insurance broker; and (ii) Insurance agents/agencies. a. An insurance broker provides its brokerage services at the request of its clients being policyholders, except in cases where an insurance broker is authorized by the insurer to collect premiums, pay insurance proceeds or settle indemnification (but in this case, the insurance broker is not permitted to receive any remuneration from the insurer for the broker's performance of the authorized activities). The insurance brokers are licensed under the procedure conducted by the MOF under the Law on Insurance Business. The insurance broker must meet the following requirements: ▪ Contributed charter capital must not be less than the legal capital prescribed under the laws, in particular: (i) VND 4 billion (approximately USD 175,000) for a broker that conducts either insurance brokerage services or reinsurance brokerage services; and (ii) VND 8 billion (USD 350,000) for a broker that conducts both insurance brokerage services and reinsurance brokerage services. Under the October 2022 Draft Decree guiding the New Law on Insurance Business, the legal capital of an insurance broker is proposed at VND 10 billion (approximately USD 437,500) for the former case, and at VND 20 billion (approximately USD 875,000) for the latter case. ▪ The broker's corporate form and charter must comply with regulations under Vietnamese insurance laws and other relevant laws. The broker's managers/executive officers must meet the criteria and qualifications required by Vietnamese insurance business laws. b. An insurance agency provides the introduction, offering and sale of insurance products, arrangement for the conclusion of insurance contracts and other activities aiming to perform the insurance contracts under authorization of insurers. The laws provide for certain requirements and conditions for the conduct of insurance agency activities, as follows: ▪ Individual agents must be Vietnamese citizens who are 18 age or above and reside in Vietnam, and they must be granted with an insurance agency certificate. ▪ The organizational agency's corporate form must comply with the relevant regulations, and they must be licensed by the Department of Planning for their insurance agency services under their licenses. The employees of the organizational agency must satisfy the above requirement applicable to individual agents.
SINGAPORE	Third-party intermediaries in the market include tied agents who distribute insurance products for insurers that they represent, insurance brokers who source insurance products for insureds or policyholders, independent financial advisers who both arrange insurance and provide financial advisory services, and banks that enter into bancassurance with selected insurers/financial advisers to distribute the insurers' products. **Entities that distribute or provide advice concerning life products (whether acting on behalf of insurers or policyholders) will need to hold a financial adviser's license or, if eligible, be registered with the Monetary Authority of Singapore (MAS) as an exempt financial adviser under the Financial Advisers Act (FAA). Insurance brokers (entities) who arrange general and long-term accident and health policies for policyholders will need to be registered as an insurance broker with the MAS under the Insurance Act (IA), or if eligible, be registered as an exempt insurance broker. Insurance agents (both individuals and entities) who only arrange general insurance products on behalf of insurers do not need to hold a license, but they must be registered with the General Insurance Association of Singapore (GIA)'s Agent's Registration Board.** The Life Insurance Association of Singapore (LIAS) and the GIA also issue codes of conduct and guidelines to regulate the conduct of their members that are insurance intermediaries. Individual representatives (e.g., individual insurance agents, broking staff and/or representatives of financial advisers) who are involved in the sale or advice of insurance products will generally be subject to minimum qualifications (including fit and proper requirements) and exam requirements depending on the types of insurance involved.

02 Intermediaries and qualifications

Is it mandatory for insurers to offer customers the option of purchasing insurance products directly from them without going through financial advisers or intermediaries?

CHINA	There is no mandatory requirement in China.
HONG KONG	Certain insurance products may be distributed by insurers directly to customers digitally, without going through licensed intermediaries. For example, digital insurers distribute their products wholly online and do not have licensed intermediaries. However, the scope of these products is limited.
INDONESIA	No. It is not mandatory for insurers to offer customers the option to purchase insurance products directly from them without going through financial advisers or intermediaries.
JAPAN	No. There are no specific rules in this regard.
MALAYSIA	Yes. It is mandatory for licensed life insurers to offer standalone life insurance products with no commission through at least one direct distribution channel, i.e., through either (a) the head office and branch premises of the insurer, or (b) an online platform (whether developed as the insurer's proprietary system or outsourced), where consumers deal directly with the life insurer without the involvement of intermediaries (for example, by way of direct mailing, telemarketing or online distribution) ("**Direct Distribution Requirement**"). Insurers providing life insurance products that are critical illness products or medical and health products are required to comply with the Direct Distribution Requirement starting 1 July 2018. We are not aware of any similar requirement applicable to general insurers.
PHILIPPINES	There is no law or regulation requiring insurers to offer customers the option to purchase insurance products directly from them without going through financial advisers or intermediaries.

02 Intermediaries and qualifications

Is it mandatory for insurers to offer customers the option of purchasing insurance products directly from them without going through financial advisers or intermediaries? (cont'd)

TAIWAN	No. Insurers are not required to offer customers the option to purchase insurance products directly from the insurer.
THAILAND	No.
VIETNAM	No. Vietnamese insurance law generally allows insurers to sell their products through any of the following methods: (a) direct sales to customers; (b) insurance intermediaries; (c) bidding; (d) e-transactions; or (e) other lawful forms.
SINGAPORE	Yes, MAS requires all licensed direct life insurers in Singapore serving the retail market to manufacture and offer simple-term and whole life insurance products with total and permanent disability cover and optional critical illness rider that customers can buy directly from the life insurers, unless it does not offer the specific product line in Singapore to any individual. The prescribed standardized features are set out in detail under MAS Notice 321 on Direct Purchase Insurance Products. While these direct purchase insurance products are generally meant to be sold without financial advice, it is possible for financial advisers to distribute these direct purchase insurance products alone and/or alongside the provision of financial advice, but no commissions or distribution expenses are payable and subject to certain safeguards, as set out in FAA-N19 Notice on the Distribution of Direct Purchase Insurance Products. Additional guidelines apply for the online distribution of direct purchase insurance products without the provision of advice for both direct life insurers and financial advisers, including ensuring that equivalent direct purchase insurance products are made available on the online direct channel before offering a specific life policy online. Please see our responses to questions 11 and 12 below.

03 Intermediaries and qualifications

Do agreements between insurers and their distributors (including appointed agents, brokers or banks) need to take a certain form?

CHINA	As a general principle, insurers should enter into written agency agreements with their appointed agents that should stipulate the parties' respective rights and obligations. There is no specific requirement on the exact form that these agreements should take.
HONG KONG	There is no prescribed or mandatory format on distribution agreements under law.
INDONESIA	Yes. There should be written agreements between the insurers and their appointed agents. Agreements must include, at a minimum, (1) in-agency agreements on ethical principles set by the association in accordance with the business lines; (2) obligations on the insurance agents to comply with the ethical code set by the association, together with applicable sanctions for every violation by the insurance agents; and (3) time periods for the submission of premiums and contributions to the insurers. Agreements should be in the Indonesian language.
JAPAN	No. There are no specific rules in this regard.
MALAYSIA	There should be written agreements between insurers and their agents, but we are not aware of any prescribed form in relation to such agency agreements by PIAM and LIAM.
PHILIPPINES	There is no prescribed form for the written agreement between an insurer and an insurance agent/insurance broker. However, if an insurance agent is a general agent (i.e., an insurance agent who, aside from soliciting and obtaining insurance on behalf of an insurer, is empowered to conduct other business on behalf of an insurer), then a general agency agreement must specify the terms and conditions upon which the general agent may perform acts and conduct business on behalf of the insurer.
TAIWAN	Most local insurers use the insurance agency agreement template promulgated by the Insurance Agency Association of Taiwan (ROC) and recognized by the IB. For cooperation with insurance brokers, the insurers generally use the Cooperation and Promotion Agreement template promulgated by the Non-Life Insurance Association of the ROC and Life Insurance Association of the ROC recognized by the IB.

03 Intermediaries and qualifications

Do agreements between insurers and their distributors (including appointed agents, brokers or banks) need to take a certain form? (cont'd)

THAILAND	No.
VIETNAM	No. Generally, however, there should be written agreements between insurers and their appointed agents. The Law on Insurance Business of Vietnam requires that agreements between insurers and their agents include the following contents: ▪ Name and address of the insurance agent ▪ Name and address of the insurer ▪ Rights and obligations of both the insurer and insurance agent ▪ Contents and scope of operation of the insurance agent ▪ Insurance agency commission ▪ Term of the contract ▪ Principles for settlement of disputes
SINGAPORE	Agreements with GIA-registered insurance agents should follow the form of the written agency agreement prescribed by the GIA (although customization is permitted). Other than this, there is generally no specific requirement with respect to the forms of agreement between insurers and intermediaries, beyond that insurance agents must enter into a written agreement with their insurer that authorizes the insurance agent to arrange the relevant contract or class of contracts of insurance. In practice, terms relating to the appointment of any distributors or agents, remuneration, ownership of and rights to client information, and allocation of liabilities and indemnities arising from any mis-selling or other misconduct should be set out clearly in the agreement.

04 Intermediaries and qualifications

Can insurers pay volume-based commission to their distributors (including appointed agents, brokers and banks)?

CHINA	Yes. Insurers are permitted to pay volume-based commission to their appointed agents. The PRC law generally allows parties to negotiate and determine the commission amount.
HONG KONG	The commissions offered by an insurer should not provide any incentive or opportunity for the intermediaries to engage in fraudulent or deceptive activities, and the remuneration structure should not create misaligned incentives for the intermediaries to engage in mis-selling, aggressive selling, fraudulent acts or money-laundering activities. Insurers should consider these principles in designing their remuneration structure. Specifically, for insurance brokers, volume-based commissions should not be offered.
INDONESIA	There is no prohibition on paying sales-based commissions to appointed agents. However, there are limits under the OJK Circular Letter No. 6/SEOJK.05/2017 (**"OJK Circular Letter 6"**) for (1) property insurance at a maximum of 15% of the premium tariff or contribution (exclusive of VAT), and (2) for motor vehicle insurance at a maximum of 25% of the premium tariff or contribution (exclusive of VAT).
JAPAN	There is no mandatory prohibition on paying sales-based commissions to insurance agents. The FSA recommends that insurers disclose the commissions they pay to insurance agents dealing with insurance products of multiple insurers.
MALAYSIA	There is no overarching prohibition on insurers paying volume-based commission to agents. However, this is subject to the overall limit on commission payable by insurance companies to their appointed agents, as prescribed by BNM. For general insurance, insurers can pay profit commissions of up to a maximum of 10% of the average underwriting profit for the past three consecutive financial years. These commissions may only be paid after the third year of the agent's service. Profit commissions cannot be paid to bancassurance partners. For life insurance, insurers can pay a production and persistency bonus on an individual policy bonus over and above the maximum commission limits, subject to certain caps. However, BNM has set out a roadmap for the deregulation of operating cost control limits (as well as the removal of limits on commissions payable to agents) that will be implemented over 2018 and 2019 for life insurers. As part of the deregulation of operating cost control limits, life insurers are required to incorporate, in their remuneration policy for intermediaries, the balanced score card (BSC) framework that links intermediaries' remuneration to the quality of service.

04 Intermediaries and qualifications

Can insurers pay volume-based commission to their distributors (including appointed agents, brokers and banks)? (cont'd)

PHILIPPINES	Insurance laws and regulations allow insurers to pay volume-based commission to their appointed agents. Insurance regulations state that insurers may pay commission or other forms of compensation to insurance agents, on the condition that the insurance agents must place with the insurers an equal amount of outside business for the duration of the license.
TAIWAN	Yes. Commission can be based on the volume of the insurance policy sold by the brokers or agents, provided that the calculation of commission be reasonable and the amount of commission is subject to the restrictions set forth in the self-disciplined rules promulgated by the Life Insurance Association and the Non-Life Insurance Association.
THAILAND	Yes. However, there is a limit prescribed by law. In general, the first year's commission of a life insurance agent/broker should not exceed 40% of the first-year premium. The commission for a non-life insurance agent/broker is generally capped at 18% of the premiums received for the sale.
VIETNAM	Yes. There is no overarching prohibition on paying sales-based commissions to appointed agents. However, the following limitations apply: a. Agents' commissions: Insurers must pay agents commission at a maximum rate calculated according to the received insurance premium of each insurance contract. The maximum rate of commission varies depending on the types/classes of products involved. ▪ For non-life insurance, the maximum commission is 5% for compulsory fire and explosion insurance, 20% for motor owner's civil liability insurance, 10% for voluntary fire and explosion insurance, and 0.5% for aviation insurance. ▪ For life insurance, the commission may vary throughout the term of the policy. In the case of individual term life insurance, for instance, the commission should not exceed 40% of the first year's premium, 20% of the second year's premium, and 15% of the premium for succeeding years. For group life insurance policies, the maximum commission rate is half of the corresponding rate applicable to life insurance provided to individuals. ▪ For health insurance, the maximum rate of commission is 20%. Under the current/October 2022 draft circular guiding the New Law on Insurance Business, the cap of 20% applies to insurance contracts having the term of one year or less, and it will vary for longer-term insurance business (i.e., not exceed 40% of the first year's premium, 20% of the second year's premium, and 15% of the premium for succeeding years). b. Brokers' commissions: The maximum rate of the brokerage commission of each insurance operation/class under each insurance policy contract is 15%. This rate is calculated based on the amount of premiums as actually collected by insurers.

04 Intermediaries and qualifications

Can insurers pay volume-based commission to their distributors (including appointed agents, brokers and banks)? (cont'd)

SINGAPORE	Various rules apply with respect to the payment of commissions or other remuneration to appointed agents and other insurance intermediaries, depending on the types of insurance products and insurance intermediaries. Generally, direct life insurers and licensed financial advisers can offer sales or volume-based incentives to their own representatives for the sale of insurance products, subject to tier-structure requirements that aim to align the interests of these representatives with those of clients. Financial advisers are subject to additional remuneration framework requirements ("**Balanced Scorecard Framework**") and an independent and distinct sales audit. Licensed life insurers in Singapore are prohibited from paying, and financial advisers are prohibited from requesting or accepting, sales or volume-based commissions and other remuneration for the provision of financial advice to retail investors with respect to life policies, unless it meets certain criteria. For example, for regular premium life policies, insurers are required to pay out commissions over a minimum period of six years, with commissions paid in the first year capped at 55% of the total commissions agreed. For direct life insurers that are LIAS members, this is extended to, among others, the prohibition against non-monetary incentives and communication of incentive structures. This is to ensure that financial advisers have complete oversight and control over their own representatives. For non-profit commissions, insurers are also prohibited from paying insurance brokers (that arrange general or long-term accident and health policies on behalf of insureds) fixed or variable sales commission based solely on all or any of the following: (a) the number of contracts arranged, (b) total premiums paid that are payable; and (c) total sums insured. Other than the specific rules (some of which are illustrated above), insurers and financial advisers should abide by general principles of upholding fair practices and standards of conduct, managing conflicts or misalignment of interests adequately and avoid running into any conduct that may be construed as fraudulent or deceptive activities, when determining the commission and remuneration terms for their appointed agents and other intermediaries. MAS is also currently considering proposals to introduce new requirements relating to remuneration and tier structure refinement.

05 Intermediaries and qualifications

Are insurers liable for any mis-selling of its agents or appointed distributors (including appointed agents, brokers and banks)?

CHINA	Yes. Insurers would be held liable for the acts of their agents or appointed distributors if these agents or appointed distributors act under the insurers' authorization. In addition, where an agent or appointed distributor signs a contract on behalf of an insurer without the insurer's authorization, beyond the insurer's authorization or after the termination of the insurer's authorization, from which the applicant has good reasons to believe that the agent or appointed distributor has been duly authorized by the insurer, the act of this agency would be deemed effective. However, the insurer may take remedial actions against, and seek indemnification from, this breaching agent or appointed distributor in accordance with the law to limit the insurer.
HONG KONG	Yes. In principle, an insurance company will be liable for damages that an agent causes while acting on its behalf.
INDONESIA	Yes. Generally, insurance companies are liable for mis-selling by the relevant insurance agents.
JAPAN	Yes. An insurer will be liable for any damage caused by its insurance agent in relation to its insurance solicitation. If the insurer uses due care in appointing or employing the insurance agent and has made reasonable efforts in relation to insurance solicitation by the agent to prevent damage caused to the customers, the insurer will not be liable for the damage.
MALAYSIA	Yes. Under the FSA, a statement made, or an act done, by the insurance agent will be deemed to be a statement made, or act done, by the insurer.
PHILIPPINES	The IC has guidelines for selling life and non-life insurance products that insurers must follow. For instance, the IC has adopted Market Conduct Guidelines for the guidance, compliance and implementation of all life insurers and their agents doing business in the Philippines. Non-compliant companies, officers or agents will be subject to discretionary sanctions provided under the Insurance Code and imposed by the IC. Moreover, under the principal-agent principle in Philippine law, a principal is liable to third parties for the acts of its agent. However, the written agreement between the insurer and its agents may provide that the agent will indemnify the principal in cases of liability to third parties due to the agent's acts. Under Philippine law, an agent must act in accordance with the instructions of the principal and answer for damages that the principal may suffer due to the agent's fraud, negligence, or non-performance.

05 Intermediaries and qualifications

Are insurers liable for any mis-selling of its agents or appointed distributors (including appointed agents, brokers and banks)? (cont'd)

TAIWAN	Yes. In principle, an insurer will be jointly liable for any misconduct of its agent. In addition, if the insurer compensates the customer for any loss resulting from any misconduct of the agent, the insurer can claim against the agent for reimbursement. Additionally, insurers should ensure their agents or brokers comply with the Regulations Governing Business Solicitation, Policy Underwriting and Claim Adjusting of Insurance Enterprises that prohibit the mis-selling of the insurance agents and the brokers that have business cooperation with the insurers. As such, an insurer may be separately liable for its agent or brokers' mis-selling because of the non-compliance of the solicitation staff during the process of solicitation, underwriting and claims process.
THAILAND	Yes. In principle, an insurance company will be jointly liable with its insurance agent for the damages that the agent causes when acting for the insurance company.
VIETNAM	Yes. Under the Law on Insurance Business of Vietnam, when an insurance agent breaches the insurance agency contracts, and this breach (that can include mis-selling) causes damage to the legitimate rights and interests of the insured, the insurer must take responsibility for the breach. Accordingly, the agent shall indemnify insurers for the amounts that the insurer has paid to the insured relating to the breach by the agent.
SINGAPORE	Insurers may potentially ring-fence some liabilities arising from any mis-selling of its agents or appointed distributors through seeking appropriate protections (such as the limitation on authorities, exclusion of liabilities or indemnities) in the contract with agents or distributors, and ensuring that the appointed agents or distributors are not seen as an "agent" of the insurer in the legal sense. However, insurers may be separately liable for failing to comply with any related regulatory or compliance requirements, for example, where an insurer has failed to discharge its obligations in ensuring that the appointed agents or distributors' staff are duly registered or licensed, or possess the relevant minimum qualifications. Therefore, it is important for insurers to conduct appropriate due diligence on their appointed agents and distributors, and incorporate appropriate safeguards in the agreements.

Asia Pacific Guide for Insurance Sales, Advisory and Distribution

Intermediaries and their customers

06 Intermediaries and their customers

Are there rules on the number of insurers that insurance brokers need to present to their customers?

CHINA	There are no specific rules in this regard. However, insurance brokers do have the general obligation to introduce the insurer of the recommended insurance product to their customers and make a comprehensive and fair analysis of the insurance products that are similar to the recommended insurance product for their customers.
HONG KONG	A licensed insurance broker should source a sufficient range of available insurance products, suitable to its customer's circumstances, from a sufficient range of different insurers before recommending an insurance product to a customer. A licensed insurance broker should not prejudice its customer's selection of insurers by being unreasonably dependent on any particular insurer. The range of insurance products and insurers (that are "sufficient" for this purpose) will depend on the type of insurance product being sourced and the extent to which it is available in the insurance market.
INDONESIA	No. There are no rules on the number of insurers that insurance brokers need to present to their customers. Banks, however, must offer at least three products if credit linked.
JAPAN	No. There are no specific rules in this regard.
MALAYSIA	There are no specific rules in this regard.
PHILIPPINES	There are no laws or regulations providing for rules on the number of insurers that insurance brokers need to present to their customers. An insurance broker is expected to give independent advice about what insurance products are available from different insurers.
TAIWAN	No. There is no regulation governing the number of insurers that insurance brokers need to present to their customers. Insurance brokers can present one or more insurers to their customers.
THAILAND	No. However, banks acting as insurance brokers should not force customers to purchase insurance from them or from a specific insurance company. Banks should also not force customers to purchase insurance from a specific insurer as a condition for approving loans and should allow customers to purchase insurance from any insurance company or through any broker.

06 Intermediaries and their customers

Are there rules on the number of insurers that insurance brokers need to present to their customers? (cont'd)

VIETNAM	No. Vietnamese laws do not provide for the number of insurers that insurance brokers need to present to their customers. However, Vietnamese business insurance laws provide for certain prohibited acts in the insurance brokerage business. For example, the law prohibits an insurance broker from advising clients on buying insurance from an insurer whose products' terms and conditions are less competitive than those of another insurer to gain a higher brokerage commission.
SINGAPORE	There are no specific minimum requirements. However, insurance brokers and financial advisers who source insurance products for potential policyholders or insureds would be subject to various conduct of business rules, including ensuring fairness and reasonableness, acting in the best interest of the client and where applicable, ensuring the reasonableness or suitability of products offered or recommended to the clients. Therefore, effectively, insurance brokers and financial advisers who act for prospective policyholders or insureds should offer an appropriate comparison of products and/or product providers.

07 Intermediaries and their customers

Can insurance brokers receive commission from both insurers and their customers? If so, can it be volume-based commission?

CHINA	Insurance brokers may receive commission from both insurers and their customers at the same time, pursuant to the contracts concluded by them. The amount of the commission can be negotiated and agreed upon by the relevant parties, so it can be volume-based. Insurance brokers are required to explain to their customers the mechanism and percentage for commission payments, as per the customers' request.
HONG KONG	Yes. It is also market practice that insurance brokers receive commission from the insurer, provided that certain disclosure requirements are satisfied. Insurance brokers may also receive a service fee from the customer, as they are engaged by the customer.
INDONESIA	Insurance brokers may receive fees from both insurers and customers, but the commission paid by insurers are subject to the limitations described in question 4.
JAPAN	Insurance brokers may not receive insurance brokerage commissions from customers and can only receive such from insurers. It is possible for insurance brokers to receive sales-based commissions from insurers. If requested by customers, insurance brokers need to disclose the commissions they receive in relation to insurance brokerage.
MALAYSIA	There is no statutory restriction on insurance brokers receiving commission from both insurers and their customers. For general insurance, commissions paid by insurers will be subject to the overall limit on commissions prescribed by BNM. For general insurance, profit commissions are not payable to brokers. For life insurance, insurers will need to implement the BSC Framework (as previously explained in question 4) for brokers from 1 January 2018.
PHILIPPINES	No law or regulation prohibits brokers from receiving commission (or other forms of incentive) from both insurers and customers, but it is recommended that brokers have appropriate processes and controls in place to address conflicts of interest arising from the arrangement. A volume-based commission arrangement with insurers may compromise an insurance broker's independence to act for the interest of the insured.
TAIWAN	We are not aware of any laws that prohibit insurance brokers from receiving fees from both insurers and customers. However, conflicts of interest should be addressed in this structure and the insured should be informed of the standard commission amount to be paid.

07 Intermediaries and their customers

Can insurance brokers receive commission from both insurers and their customers? If so, can it be volume-based commission? (cont'd)

THAILAND	There is no restriction in this regard. However, only commissions paid by insurers are subject to the prescribed limit explained in question 4.
VIETNAM	The law is silent on this matter and this can be interpreted as there being no restriction. However, the law provides that the insurance brokerage commission may not exceed 15% of the insurance premium that the insurer has collected.
SINGAPORE	Insurance brokers and intermediaries may receive commission from insurers, provided that disclosure requirements are satisfied (including those upon request). Insurance brokers and intermediaries may also receive service fees from their customers. The receipt of commission and other remuneration from insurers are subject to various rules, as explained in our response to question 4 above.

08 Intermediaries and their customers

Can agents or other appointed distributors offer rebates on insurance premiums or other special concessions to the customers?

CHINA	There is no such restriction directly imposed on agents or appointed distributors. However, specific rules prohibit insurers and their employees from offering any discount or rebate on insurance premiums or any special benefit to customers. Since the acts of agents or appointed distributors could be deemed as authorized by insurers, offering rebates on insurance premiums or other special concessions by agents or appointed distributors to customers would implicate vicarious liability for the insurers, and thus should be avoided.
HONG KONG	For long term products, the offer of rebates and other gifts are regulated by the Guideline on Offering of Gifts (GL25) issued by the Insurance Authority. In summary, except for "permitted gifts" (e.g., gifts that are offered for "relationship building" purposes only), the following applies: (i) Insurers and licensed insurance intermediaries should not directly or indirectly offer other gifts to customers when marketing, promoting or distributing Class C products. (ii) Insurers and licensed insurance intermediaries should not directly or indirectly offer other gifts to customers when marketing, promoting or distributing for Class A and Class D products, unless, after a reasonable assessment has been made, the gift would not distract the customer from making an informed decision on whether to purchase the product. Rebates of premiums or commissions should not be offered or paid to customers in relation to long term insurance products, except rebates that are recorded in the contract of insurance, whether in the insurance policy, the policy schedule, the quotation or offer letter, or in any promotional material (the terms of which are incorporated by reference into the contract of insurance).
INDONESIA	There is no restriction on this matter.
JAPAN	An insurance agent may not promise to offer or actually offer any discount or rebate on insurance premiums or any other special advantage to customers.
MALAYSIA	Agents are not allowed to offer rebates on insurance premiums or other special concessions to customers.
PHILIPPINES	The Insurance Code expressly prohibits rebates and inducements by insurers or agents. Insurers and their brokers/agents are not allowed to offer any rebate on the premium that is not specified in the insurance policy, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement of any kind, directly or indirectly that is not specified in the policy or contract of insurance.

08 Intermediaries and their customers

Can agents or other appointed distributors offer rebates on insurance premiums or other special concessions to the customers? (cont'd)

TAIWAN	The offering of rebates on insurance premiums or other special concessions to customers is prohibited under Taiwanese law.
THAILAND	In principle, insurance premiums must be approved by the OIC and cannot be altered except with the OIC's approval. Insurance companies are therefore prohibited from offering rebates and special benefits in addition to those specified in the policy. However, these requirements apply only to insurance companies. Therefore, strictly speaking, there is currently no legal restriction for agents or brokers to offer rebates or give special benefits to customers.
VIETNAM	No. As a general principle, Vietnamese business insurance laws provide that an insurance agent should only conduct activities, including insurance premium collections, with the insurer's authorization. Therefore, agents cannot offer rebates on insurance premiums or other specials without authorization from the insurer.
SINGAPORE	Any rebates of commission or other special concessions offered should not unduly influence the financial decisions of customers, amount to aggressive sale tactics or be relied on as the basis of recommendation of the insurance products. Any alteration of insurance premiums should be authorized by the insurer.

Cross-border activities and offshore products

09 Cross-border activities and offshore products

Can insurers appoint offshore agents or accept business from offshore brokers?

CHINA	The CBIRC does not explicitly prohibit insurers from appointing offshore agents or accepting business from offshore brokers. However, it is a general rule that Chinese insurers must not appoint any individual or institution or that has not obtained the required qualification (applicable license or permit issued by CBIRC) to engage in insurance sales activities, and must not pay any commission or give any other benefit to any institution or individual that has not obtained the required qualification. Offshore agents and brokers are not eligible to obtain the required licenses issued by CBIRC. Therefore, it would not be legally viable for insurers in China to appoint offshore agents, or to pay any commission or give any other benefit to offshore brokers in exchange for the business brought by them.
HONG KONG	An insurer must not accept a referral of insurance business from another person in Hong Kong unless that person is a licensed insurance intermediary. However, the law is silent as to whether an insurer may appoint offshore agents or accept business from offshore brokers. On the other hand, insurers should consider whether there is any issue with respect to the laws of the offshore jurisdiction.
INDONESIA	Under Article 16 of Regulation No. 69/POJK.05/2016 on Business Implementation for Insurance Companies, Sharia Insurance Companies, Reinsurance Companies and Sharia Reinsurance Companies, as amended by No. 38/POJK.05/2020 (OJK Regulation 69), insurance companies must appoint insurance agents registered with the OJK. Insurance companies, therefore, cannot appoint offshore agents. On the other hand, insurance companies may accept business from offshore brokers. Under Article 22 of OJK Regulation 69, insurance companies that accept business from offshore brokers must ensure that the brokers are licensed by offshore insurance regulators.
JAPAN	No express restriction prohibits insurers from appointing offshore agents or brokers. However, it is likely that the insurer will attract licensing or regulatory issues in the offshore jurisdiction and it should therefore consider the laws of the offshore jurisdiction before accepting business from offshore brokers or appointing offshore agents. Unregistered offshore agents and brokers are prohibited from conducting business in Japan.
MALAYSIA	While there is no specific prohibition on Malaysian insurers appointing offshore agents or accepting business from offshore brokers, it is likely that the insurer will attract licensing or regulatory issues in the offshore jurisdiction. Therefore, insurers should consider the laws of the offshore jurisdiction before accepting business from offshore brokers or appointing offshore agents.
PHILIPPINES	No law or regulation under Philippine law prohibits insurers from appointing offshore agents or brokers (to the extent permitted by foreign law). Insurance laws and regulations generally apply to activities and transactions conducted in the Philippines.
TAIWAN	No laws prohibit insurers from appointing offshore agents or brokers. However, insurers should consider whether the arrangements comply with the applicable laws in foreign jurisdictions. Please note that Taiwanese agents and brokers should not solicit insurance business from offshore insurers that are not licensed in Taiwan.

09 Cross-border activities and offshore products

Can insurers appoint offshore agents or accept business from offshore brokers? (cont'd)

THAILAND	No express restriction prohibits insurers from appointing offshore agents or brokers. Therefore, to the extent permissible by foreign law, insurance companies are generally allowed to appoint offshore licensed agents and accept business from offshore brokers if insurance companies have no active role in securing the business. In other words, they must only be approached by offshore brokers/agents at the brokers' or agents' own initiative. This matter is subject to further analysis from the applicable laws of the jurisdictions where the offshore agents or brokers perform solicitation activities.
VIETNAM	In relation to agents, no express restriction prohibits insurers from appointing offshore agents. However, insurers cannot appoint offshore individual agents, given that these entities must be Vietnamese citizens residing in Vietnam to be able to apply for individual agents. Further, the law requires that staff members of organizational agents who directly conduct agency activities must meet the same requirements as individual insurance agents (i.e., a Vietnamese citizen residing in Vietnam). To meet this requirement, the organizational agency needs to be an onshore agent. In relation to brokers, no express restriction prohibits insurers from accepting business from offshore brokers. However, Vietnamese law imposes strict limitations on these cross-border brokerage insurance services. a. The offshore broker must meet the requirements under Vietnamese business insurance laws to provide cross-border insurance brokerage service, including the following: ▪ Having a license granted by the foreign state management agency in charge of insurance in the locality where the offshore insurer's head office is located to conduct insurance brokerage operations. The offshore broker must have operated for at least 10 years by the time of provision of cross-border insurance services in Vietnam. ▪ Obtaining a document from the foreign state management agency in charge of insurance in the locality where the offshore broker's head office is located permitting the provision of cross-border insurance brokerage services in Vietnam, and certifying that the offshore broker has not violated the regulations on insurance brokerage activities and other relevant foreign regulations for three years prior to the year of the provision of cross-border insurance brokerage services in Vietnam. ▪ Having total assets worth at least USD 100 million in the fiscal year prior to the year of the provision of cross-border insurance services in Vietnam. ▪ Having conducted profitable business for three fiscal years prior to the year of the provision of cross-border insurance services in Vietnam. ▪ The foreign insurance brokerage business must purchase professional liability insurance for the cross-border insurance brokerage services it provides in Vietnam. b. The users of the cross-border insurance brokerage services are limited to enterprises established in Vietnam of which foreign investors hold over 49% of charter capital, as well as foreigners working in Vietnam.
SINGAPORE	While there is no specific prohibition on Singapore insurers appointing offshore agents or accepting business from offshore brokers, it is likely that the insurer will attract licensing or regulatory issues in the offshore jurisdiction. Therefore, insurers should consider the laws of the offshore jurisdiction before accepting business from offshore brokers or appointing offshore agents. In the reverse, Singapore agents and brokers are restricted from soliciting insurance business for offshore insurers who are not licensed in Singapore. However, if an insurance broker is approached by clients to advise on or arrange life policies with offshore insurers on a reversed-inquiry basis, the broker may do so if it relates to offshore risks. For onshore risks, the broker cannot negotiate the life policies on behalf of the clients even if it is made at the request of the client, unless MAS approval is obtained.

10 Cross-border activities and offshore products

Are there any special requirements in selling policies to offshore customers?

CHINA	Yes. According to the Notice of State Administration of Foreign Exchange on Promulgation of the Guidelines on Foreign Exchange Businesses under Current Account (2020) (Hui Fa [2020] No.14) ("**Notice**"), the operation of the foreign exchange insurance business by insurance companies will be approved by the local branches and offices of the State Administration of Foreign Exchange. For life insurance, according to the Notice, foreign exchange life insurance includes selling policies of short-term health insurance and accident insurance to customers who are located outside of China.
HONG KONG	For mainland Chinese customers, insurers should ensure that they are in Hong Kong during the insurance solicitation process, and the applications should be signed while they are in Hong Kong. Insurers should also consider whether the issue of policies to offshore customers would be in contravention of the law of the offshore jurisdictions and whether it is in the best interest of the customers. Otherwise, it may potentially affect the fitness and properness of the insurers.
INDONESIA	The regulations are silent, other than requiring the insurance companies that accept business from offshore brokers to ensure that the brokers are licensed by offshore insurance regulators.
JAPAN	No express restriction prohibits insurers from selling policies to offshore customers. However, as it is likely that the insurer will attract licensing or regulatory issues in the offshore jurisdiction, Japanese insurers are not very confident in doing so.
MALAYSIA	The FSA does not have extra-territorial application, and thus applies only to activities carried out in or into Malaysia. We are not aware of any special requirements applicable to the sale of insurance policies to offshore customers (i.e., where the effecting of the insurance policy, the soliciting of business and marketing of policies are conducted outside of Malaysia). Notwithstanding the foregoing, it is likely that the insurer will attract licensing or regulatory requirements in the relevant offshore jurisdiction. Therefore, insurers should consider the laws of the offshore jurisdiction before selling policies to offshore customers.
PHILIPPINES	Insurance laws and regulations generally apply to activities and transactions conducted in the Philippines. As clarified by the IC in Insurance Legal Opinion No. 2021-03, the selling of insurance products abroad shall be subject to the laws of the offshore jurisdiction. Therefore, although the IC allows the selling of insurance products online or through remote selling initiatives, the authority granted by the IC only covers the sale of insurance products in the Philippines. Moreover, under Insurance Circular Letter No. 2020-109, insurers are expressly prohibited from using remote selling initiatives in cross-border selling. Remote selling initiatives include the use of information and communication technologies such as teleconferencing, videoconferencing, computer conferencing, or audio conferencing. Moreover, under Insurance Circular Letter No. 2018-07, mobile application insurance shall only be accessible and used within Philippine territory.

10 Cross-border activities and offshore products

Are there any special requirements in selling policies to offshore customers? (cont'd)

TAIWAN	Yes. If an insurer wishes to sell policies (life or non-life) to offshore customers, it must apply for prior regulatory approval to set up an offshore insurance unit (OIU) to engage in offshore insurance business. The insurers engaging in the offshore insurance business should not refer their onshore customers to agencies that assist in setting up offshore companies, or induce or assist onshore customers in switching their identity to non-resident status to enter into an insurance contract and do business at the OIU. Also, the insurer should enhance its understanding of the purpose of a customer entering into an insurance contract and engaging in business dealings and planned transaction activities, and the situation, if applicable, where the shareholders, directors or beneficial owners of an offshore legal entity customer include onshore individuals or legal persons, and obtain a customer statement declaring that it did not switch to non-resident status under inducement or for investment in specific products. (Regulations Governing Offshore Insurance Units)
THAILAND	No. There are no special requirements in selling policies to offshore customers. Insurance companies and intermediaries need to comply with standard market conduct regulations when dealing with all customers.
VIETNAM	Under the Law on Insurance Business, there is no specific requirement in selling policies to offshore customers. In general, insurers must satisfy the conditions stipulated under the international treaty(ies) to which Vietnam and the country of which the offshore customers have the nationality are parties. The government is assigned, under the Law on Insurance Business, to provide detailed regulations on the cross-border sale of insurance in accordance with the national treaties to which Vietnam is a party. The government is currently in the process of working on the draft of the decree guiding the new Law on Insurance Business. Under the draft decree, there is no requirement for Vietnamese insurance service providers in selling policies to offshore customers.
SINGAPORE	We are not aware of special requirements in selling insurance product to offshore customers from a Singapore perspective. Insofar as the insurance intermediary is appropriately licensed/exempted under the existing regimes (IA, FAA) and based on the relevant insurance product as discussed in our response to question 1 above, these insurance intermediaries should be able to also sell to offshore customers. However, the laws (including extra-territorial scopes) of the relevant overseas jurisdictions in relation to the sale of insurance contracts, and any consequent cross-border considerations, should also be considered.

Tele and online channels

11 Tele and online channels

Are there specific requirements on selling products through call centers, telemarketing or other distribution channels?

CHINA	Yes. The CBIRC has issued certain regulations on insurance sales activities through call centers, telemarketing or other distribution channels to ensure that these sales activities are traceable (i.e., to ensure that sales activities can be replayed, important information can be retrieved and liabilities can be confirmed). Insurers and insurance intermediaries should record key steps in the process of sales of insurance products in the form of audio or audiovisual materials and electronic data, by means of sound recording, video recording, etc. When insurers and insurance intermediaries carry out sales activities via telephone, they should record entire telephone conversations and archive audio recordings. These regulations are mandatorily applicable to sales of insurance products when the customers are individuals, except for group insurance products. The CBIRC has also issued certain more detailed regulations on telemarketing that are specifically applicable to life insurance products and property insurance products, respectively. For example, for telemarketing of both life insurance products and property insurance products, insurance institutions should establish a list of phone numbers that they should not call back in the future, following the receipt of express or implied rejection to avoid cold call harassment.
HONG KONG	If an insurer wishes to sell products through call centers, telemarketing or other distribution channels, the call center company and its staff will need to be licensed, as a licensed insurance agency and as technical representatives (agent), respectively. Particular attention will need to be paid to the requirements under the Personal Data (Privacy) Ordinance.
INDONESIA	Yes. Based on Articles 45 (1) and Article 47 (1) of Regulation 23/POJK.05/2015 on Insurance Product and Marketing of Insurance Products (OJK Regulation 23), insurance companies may market insurance products using long-distance communication media such as mail, telephone (telemarketing), internet, television, radio or short message services. OJK Regulation 23 provides that marketing materials for insurance products offered through remote selling must contain information on the identity of the insurance company, the offered insurance products, and the terms and conditions of the insurance policy. For investment-linked products, a face-to-face meeting must be held as a follow-up to the remote sale.
JAPAN	Yes. If an insurer provides information or an explanation on insurance products through non-face-to-face channels such as telephone, mail or the internet, the insurer must establish a system that enables the insurer to provide information or explanation at the same level as face-to-face channels. To protect customers, an insurer that sells products through telemarketing needs to establish and implement insurance solicitation methods and measures that contribute to the prevention and early detection of troubles, as well as properly educating, managing and supervising insurance agents. These measures need to be reviewed and updated and should include the following: (1) that a talk-script that contains the matters to be explained is prepared and widely disseminated; (2) that telemarketing will not be conducted if a customer shows any intention to reject further telemarketing efforts; (3) that the content of a call is recorded and stored; (4) that a root-cause analysis of complaints is made and that a recurrence prevention measure is established and disseminated; and (5) that the content of a call is assessed by another person, and measures that consider the result of the assessment are adopted.
MALAYSIA	Yes. Specific requirements apply to third-party call centers and telemarketing providers to ensure that professional services are provided to potential policy owners. These requirements are issued by LIAM and PIAM via circulars to insurers, and these circulars are not publicly available.

11 Tele and online channels

Are there specific requirements on selling products through call centers, telemarketing or other distribution channels? (cont'd)

PHILIPPINES	Under IC Circular Letter No. 2016-61, insurance companies and their brokers/agents are allowed to introduce, present and sell insurance products via telemarketing subject to the guidelines and requirements of the IC. Telemarketers engaged by insurance companies may or may not be IC-licensed insurance agents. A telemarketer that is an IC-licensed agent may solicit and/or sell insurance product/s and receive appropriate commission for the sale. On the other hand, a telemarketer that is not an IC-licensed insurance agent is only allowed to conduct a preliminary introduction and presentation of insurance products. Telemarketers engaged by insurance brokers will only be allowed to conduct a preliminary introduction and presentation of insurance products. Under a bancassurance arrangement, an insurance company is allowed to present and sell insurance products to bank customers within the premises of local banks. The bancassurance agreement must be approved by the IC, and the bank must be authorized by the Philippine Central Bank to engage in cross-selling.
TAIWAN	Offering an insurance policy via telephone is subject to the Guideline for Handling the Telemarketing Business for Insurance Sectors ("**Guideline**"). According to the Guideline, only traditional life insurance, health insurance, pension insurance and injury insurance (with the total sum insured limited to TWD 6 million, approximately USD 189,260) can be offered through solicitation by telemarketing. With respect to non-life insurance, only insurance policies whose yearly insurance premiums do not exceed TWD 50,000 (approximately USD 1,666) can be offered through telemarketing as specified in the Guideline. Insurance companies are required to obtain the consent of customers prior to recording a conversation. The recorded conversation needs to include the identity of the insurance policy holder, the intention and confirmation to enter into the insurance contract, the scope of the insurance, the items for insurance payment, the term of the insurance, the insured amount and the insurance premium.
THAILAND	Yes. In offering an insurance policy for sale via telephone, an insurance company must manage the people offering insurance for sale via telephone to act or omit to act according to legal requirements under the telemarketing regulations. If the prospect does not want to be insured or contacted, the insurance agent must stop the conversation immediately. If the prospect wants to know the source of their details, the insurance agent must inform the prospect of the source before finishing the conversation. When being permitted by the prospect to offer insurance for sale, the sellers must ask for permission to record the conversation. The recording must continue throughout the conversation and it must be maintained as evidence for the same period as the contract. If prohibited, the sellers are barred from recording any conversation and must end the sale process immediately.
VIETNAM	Generally, insurers are entitled to sell insurance products via electronic transactions and other methods in accordance with the law. However, the law does not provide for any detailed guidelines or further elaborate on any specific requirements on selling products through call centers, telemarketing or other similar distribution channels. That said, selling products through call centers, telemarketing or other similar distribution channels must be in accordance with general requirements on selling insurance products, anti-spamming and other regulations where relevant.

11 Tele and online channels

Are there specific requirements on selling products through call centers, telemarketing or other distribution channels? (cont'd)

SINGAPORE	Yes, the various modes of prospecting, referring to the process of searching for clients, are subject to personal data and privacy rules and MAS conduct requirements. Customers (individuals or entities) may register with "Do Not Call" Registers, established under the Singapore Personal Data Protection Act 2012 (PDPA), to opt out of receiving specified messages (either via voice or video calls, and/or text messages). The purpose of the call or text should be considered —if it is to advertise, promote, or offer to supply or provide services or an investment opportunity, then the text or the call is a specified message. Before making these calls or sending these texts to a Singapore telephone number, the person who intends to send a specified message, whether obtained directly or through third party sources, must first check (either personally or through a checker) with the DNC Registry to confirm that the number is not listed on a DNC Register or obtain the recipient's clear and unambiguous consent to receive the specified message or specified text message. Additionally, all organizations or individuals making telemarketing voice calls are not allowed to conceal their telephone numbers (for example, they cannot make telemarketing calls using private numbers displayed as "unknown") when making outbound calls, such as for marketing, servicing, claims or renewals. Specific MAS conduct rules also apply to the telemarketing of accident and health policies under MAS 120 Notice on Disclosure and Advisory Process Requirements for Accident and Health Policies, such as offering the call recipient to seek advice on the product or to consider whether the policy is suitable for them, and keeping records of the tele-conversation. Sale of Medisave-approved products that are sold via telemarketing cannot be concluded over telephone. In-person marketing and distribution of insurance products at retailers and public places to retail customers must be conducted in a responsible and professional manner and are subject to guidelines and market conduct standards imposed by MAS FSG-G02 Guidelines on Standards of Conduct for Marketing and Distribution Activities by Financial Institutions. For example, financial institutions are required to conduct call backs and surveys for all customers prospected at retailers and public places before or within the free-look period, conduct regular mystery shopping and site visits to monitor the sales and marketing practices of their representatives, and ensure that remuneration and incentives paid to representatives do not lead to aggressive sale tactics and gifts offered to customers do not unduly influence their decision to purchase the product. Direct life insurers and financial advisers using online distribution channels offering life policies with no advice provided must comply with MAS ID 01/17 Guidelines on the Online Distribution of Life Policies with No Advice and/or FAA G-15 Guidelines on the Online Distribution of Life Policies with No Advice and must meet all of MAS' expectations on the safeguards to be put in place (see our response to question 12).

12 Tele and online channels

Are there specific requirements on selling products through online channels?

CHINA	Yes. The CBIRC has issued Regulatory Measures of Internet Insurance Business, stipulating the basic requirements for the insurance institutions carrying out internet insurance business, such as the requirements for internet platforms, sales management, service management, operation management, special business principles, etc.
HONG KONG	When selling products through online channels, an insurer should comply with the Guideline on the Use of the Internet for Insurance Activities, which requires, among other things, that insurers have appropriate security policies in place, that the customer's personal information is protected and that customers are provided with all the necessary information regarding the insurer and the insurance policy. Insurers may also work with the Insurance Authority under the "sandbox" regime, in addressing any issues that may arise in selling products online, such as virtual on-boarding.
INDONESIA	Yes. Under OJK Regulation 23, insurance product marketing materials offered through remote selling (as defined in question 10) must contain information on the identity of the insurance company, offered insurance products and the terms and conditions of the insurance policy. In addition, the insurers must also obtain prior approval from the OJK if they wish to enter into any insurance distribution agreements with: (1) banks; (2) branchless banks; or (3) non-bank distribution partners, through the relevant distribution partners' online channels. Lastly, insurers that offer and market insurance products through their own websites and/or applications (e.g., mobile apps) must be registered as electronic system operators with the Ministry of Communication and Informatics.
JAPAN	Yes. When the FSA examines for approval the statement of business procedures containing sales of insurance products through the internet, the following matters will be considered: (1) whether the insurer makes sure that an applicant for an insurance contract is a legitimate party to sign a contract; (2) whether the insurer has taken measures to prevent deficiencies and alterations to information concerning applications for contracts and other information concerning contracts, and to ensure the protection of policyholders even if deficiencies occur; (3) whether the insurer has taken security measures to prevent information concerning contracts and policyholders from being leaked on the internet; (4) whether the insurer has taken measures to enable applicants to check the specifics of procedures concerning applications for contracts and other contract-related matters, the contents and important items of the contract, and stores this data through secure means; and (5) whether the insurer has taken measures to prevent the use of the internet from constituting a constraint on its future interactions with the applicant in relation to the contract. Please also see section 10.
MALAYSIA	Yes. Specific requirements apply to insurers that carry out internet insurance activities, including the sale of products through online channels. Insurers are required to identify, quantify and manage internet insurance risks, including security risks, operations risks and reputation risks. In setting up a sound and secure insurance business on the internet, the insurer must have a written security policy that comprehensively draws up and puts in place adequate measures to address both critical customer and the insurer's concerns over security and privacy in using the internet insurance system.

12 Tele and online channels

Are there specific requirements on selling products through online channels? (cont'd)

PHILIPPINES	Insurers may engage in electronic commerce (i.e., buying, selling or providing insurance products and services online) in accordance with IC Circular Letter No. 2014-47 and 2016-60. The IC requires insurers to, among others, (1) make available online sufficient, accurate and current information regarding the insurer and the insurance policy/ies; (2) highlight the exclusions and limitations of a policy and ask customers to confirm that they have read and understood the exclusions and limitations; (3) in case of variable life insurance products, refer the customer to a licensed agent or intermediary for servicing and product advice, prior to the execution or issuance of the variable life contract online; and (4) provide a summary of the application form for further validation, prior to requesting a customer to signify consent. The use of a mobile application requires prior approval of the IC. The mobile application should be registered with a major digital platform (e.g., Apple Inc. App Store, Google Inc. Google Play, and Microsoft Windows Marketplace). Intermediaries who have a website for electronic commerce of insurance products are not allowed to approve policies or endorsements or issue such electronic documents through their website. This prohibition does not apply when the intermediary is provided access to the system which the insurer administratively owned and controlled and the insurance company allows to extend its facilities to an intermediary. Only general agents may operate an Online Sales Platform (**OSP**). OSPs are electronic software programs used for ecommerce which allow sellers or merchants to build, manage, and operate an online website or mobile applications where consumers may directly buy their product/s and avail their service/s. An insurance policy issued online must comply with the pertinent provisions of the Electronic Commerce Act and IC regulations.
TAIWAN	The offering of insurance policy online is subject to the Guideline for Handling the Electronic Commerce for Insurance Sectors. Only the types of insurance specified in the Guideline can be offered online. Insurance companies need to provide on their websites explanations on the insurance products offered online, as well as terms and conditions for customers to review. Insurance companies are also required to obtain customers' confirmation that they have reviewed and agreed to the insurance terms and conditions disclosed on the web page. With respect to supplemental verification, customers who signed up online for the first time, have gone through identity verification online and have bought insurance products online can only use their credit cards, bank accounts, or electronic payment accounts to pay for insurance premiums.
THAILAND	Yes. The OIC has announced specific notifications that aim to regulate insurance activities undertaken via electronic channels. The notifications stipulate that all activities conducted through electronic means must be carried out in accordance with the OIC's regulations, including regulations on market conduct and advertising, and must comply with the Electronic Transactions Act, B.E. 2544 (2001) in terms of the level of security procedures and the requirements for a reliable electronic signature under the said act. The offering of insurance products via electronic channels may only be conducted by an insurer, broker company and/or bank (with the insurer's consent in the case of a broker company or bank). An insurer must provide proper information on the method of claiming a compensation payment, and there must be a process for the insured/beneficiary to identify themselves via electronic channels before any compensation is paid. All compensation must be paid to the insured or their beneficiary's account (as the case may be). Insurers, brokers and banks must have in place procedures to manage personal data privacy, arrange for independent audits to assess the information technology systems, and register with the OIC before implementing the regulated electronic activities. Any outsourcing of services to third parties requires the approval of the OIC to ensure that the service provider complies with these requirements under the notifications.

12 Tele and online channels

Are there specific requirements on selling products through online channels? (cont'd)

VIETNAM	There are no detailed guidelines or requirements on selling insurance products through online channels under the current Law on Insurance Business and its guiding regulations. Online transactions must be performed in accordance with the general requirements on selling insurance products and electronic transactions (particularly those governed not only by the Law on Insurance Business but also the Law on E-Transactions, IT Law, etc.). The New Law on Insurance Business (taking effect from 1 January 2023) has certain provisions on the application of technology in the distribution of insurance products in insurance business and the distribution of insurance products on online channels. Under the October 2022 Draft Circular guiding the New Law on Insurance Business, insurers that wish to provide insurance products via online channels must obtain approval from the MOF and satisfy certain conditions on the services/products to be provided, the IT system, requirements on information confidentiality and storage and requirements on customers' verification.
SINGAPORE	The standards applicable to the sale and advisory process will also apply equally to sales through online channels. Insurance companies are required to comply with technology risk management guidelines when offering financial services through online platforms, and ensure that they formulate security controls, system availability and recovery capabilities commensurate with the level of risk exposure for online services. Examples include implementing two-factor authentication to avoid unauthorized access, implementing security controls to ensure confidentiality and integrity of data, and maintaining high resiliency and availability of online systems. There are also specific maximum unscheduled downtime and recovery time objective that insurers and financial intermediaries will need to comply with. Recent updates to the technology risk management guidelines to keep pace with recent trends in technology development and deployment include, among others, (a) increased emphasis on requisite expertise and experience, both among board and senior management, and appointed senior managers, (b) more stringent assessments of third-party vendors (that extend beyond outsourcing arrangements — such as IT forensics, penetration testing and online marketing services), (c) implementing processes to monitor cyber-related information and threats, and (d) better managing cyber risks (including from information assets and emerging technologies such as IoT devices). Specific rules apply to direct purchase insurance products sold online, the specifics of which will depend on whether recommendation or advice is provided alongside. Where financial advice is provided alongside, the applicable general safeguards (not specific to online channels) should be considered — for example, Notice FAA-N16 Recommendations on Investment Products and/or FAA-N19 Notice on the Distribution of Direct Purchase Insurance Products (as applicable) for financial advisers, and Notice 120 Disclosure and Advisory Process Requirements for Accident and Health Insurance Products should be borne in mind.

12 Tele and online channels

Are there specific requirements on selling products through online channels? (cont'd)

SINGAPORE (cont'd)

Where a direct life insurer or financial adviser provides direct purchase insurance products online without financial advice, they should bear in mind the safeguards set out under the ID 01/17 Guidelines on the Online Distribution of Life Policies with No Advice and/or FAA G-15 Guidelines on the Online Distribution of Life Policies with No Advice respectively that includes, the following, among others:

a) Ensuring all equivalent direct purchase insurance products are available online if the life insurer or financial adviser offers a specific life policy online

b) Having in place the safeguards including the following:

   i. Providing the client with prescribed information before the client completes the purchase of a life policy and obtaining client's acknowledgement

   ii. Highlighting any conditional acceptances in the case of a client's pre-existing medical condition and obtaining client's acknowledgement

   iii. Incorporating prominent statements to alert the client before the completion of the purchase of a life policy to the following:

   - The fact that a life policy is not a savings account or deposit
   - The client may not get back the premiums paid (partially or in full) if the client terminates or surrenders the policy early
   - Some benefits of a life policy are not guaranteed (only if applicable)
   - There is a 14-day free-look period
   - The client can request the financial adviser to explain the product features
   - The client may wish to separately seek advice on the suitability of the life policy
   - In the event that the client chooses not to seek advice on the suitability of the life policy, the client should consider if the life policy is suitable for their financial circumstances and needs

   iv. Encourage clients to go through prescribed tools, calculators and considerations of other types of life policies before purchasing the life policy (if applicable)

   v. Set up appropriate revenues to address general queries relating to the online distributed direct purchase insurance products (including via telephone or email helplines)

   vi. Clearly provide information on the claims process and complaints filing process online

13 Tele and online channels

Can insurers sell products virtually without any intermediaries, and is there any limitation in such digital channel (e.g., a limited scope of products)?

CHINA	An insurer can sell products through the internet without any intermediaries in China. The head office of the insurance company will implement unified and vertical management of the internet insurance business. The scope of the internet life insurance products is limited to accident insurance, health insurance (except for nursing insurance), term life insurance, ordinary life insurance with an insurance period of more than 10 years (except for the term life insurance), ordinary annuity insurance with an insurance period of more than 10 years and other life insurance products stipulated by the CBIRC.
HONG KONG	Yes, for certain products insurers may distribute them digitally without any intermediaries. The scope of products is also limited.
INDONESIA	OJK Circular Letter No. 19 of 2020 on Marketing of Insurance Products permits the sale of insurance products through digital channels, including a third party's online channels. However, specifically for investment-linked products, the closing for the sale must be accompanied with the customers' wet signatures (physical signing).
JAPAN	Insurers can sell products virtually without any intermediaries. There is no particular limitation on such digital channel.
MALAYSIA	We are not aware of any specific rules in this regard. Please note that the Direct Distribution Requirement as stipulated in question 2 above would remain applicable, which requires licensed life insurers to offer standalone life insurance products to consumers directly without any intermediaries.

13 Tele and online channels

Can insurers sell products virtually without any intermediaries, and is there any limitation in such digital channel (e.g., a limited scope of products)? (cont'd)

PHILIPPINES	Generally, insurers are allowed to sell products online without an intermediary. However, prior to or after submission of an electronic application, insurers must determine whether, due to the level of complexity of the product, it becomes necessary for consumers to be referred to the insurer's insurance agent or intermediary for servicing or availability of product advice. The IC may also make its own determination whether consumers must be referred to the insurer's insurance agent or intermediary due to the complexity of the product. Under Insurance Circular Letter No. 047-14, with respect to variable life insurance products, the insurers shall refer the consumer to a licensed agent or intermediary for servicing and product advice prior to the execution or issuance of the variable life contract online. This was later amended by Insurance Circular Letter No. 2016-15 which makes the referral at the option of the consumer for variable life insurance products with certain features determined by the Insurance Commission.
TAIWAN	Yes. For example, insurers can sell products virtually without any intermediaries after obtaining the regulatory approval under the Guideline for Handling the Electronic Commerce for Insurance Sectors, which sets a limitation on the scope of products via this digital channel. For example, the life insurance products permitted to be sold via this digital channel are limited to the following 15 types of insurance products: (1) travel insurance and pay-as-you-go medical payment coverage; (2) injury insurance and pay-as-you-go medical payment coverage (injury insurance); (3) term life insurance; (4) pay-as-you-go medical payment coverage (injury insurance); (5) traditional pension insurance; (6) interest-sensitive annuity insurance; (7) endowment insurance (where the policy term is limited to 20 years and would expire when the insured is 75 years old); (8) small amount whole life insurance; (9) microinsurance; (10) long-term care insurance; (11) insurance with in-kind benefits; (12) health management insurance; (13) investment-linked annuity; (14) critical illness insurance sold on the portal designated by the regulator; and (15) hospitalization insurance in allowance.
THAILAND	Yes. There are two types of virtual sales of insurance policies by insurers. The first type is virtual sale conducted by the insurers' staff or employees (via electronic means). This kind of virtual sale is permitted if a face-to-face sale cannot be conducted, provided that the client's consent is obtained. Certain requirements must also be followed such as availability of conversation recording, authentication of sellers' identity and the issuance of premium receipt. Another type of virtual sales is the one explained in question 12. It is the sales of insurance policies without the involvement of individual sellers. In other words, the whole process of sale must be completed electronically. Only insurance products specifically approved by the OIC can be sold electronically via this channel. Please refer for more details to question 12 above.

13 Tele and online channels

Can insurers sell products virtually without any intermediaries, and is there any limitation in such digital channel (e.g., a limited scope of products)? (cont'd)

VIETNAM	Under the Law on Insurance Business, there are no provisions that prohibit insurers from selling products virtually without intermediaries. For the scope of products sold virtually, there is no specific legal regulation on this matter. However, in principle, an insurer may not be permitted to provide products that are not within the scope of services stipulated under its establishment and operation license. Additionally, the draft circular guiding the New Law on Insurance Business requires that insurers that wish to provide insurance products via online channels must obtain approval from the MOF for the sale via online channels.
SINGAPORE	Insurance providers in the market include direct life insurers and financial advisers, that are able to directly sell their relevant insurance products without the need for intermediaries. **Entities that arrange life products or provide advice concerning life products will need to hold a financial adviser's license or, if eligible, be registered with the MAS as an exempt financial adviser under the FAA. Entities that arrange general and long-term accident and health policies will need to hold a direct insurer license (or reinsurer or captive insurer) under the IA.** We are not aware of any general restrictions on appropriately licensed insurers selling the relevant insurance products virtually without any intermediaries. However, please do note the certain specific requirements in relation to distribution by way of online direct channels, as discussed above under question 12. However, please note that where any financial adviser also qualifies as a Tier 1 life insurer, it must, at minimum, also distribute direct purchase insurance products either through its representative or customer service officers at its principal place of business or branch office (not being a mobile branch), to also distribute direct purchase insurance products by way of an online direct channel. This would effectively prevent Tier 1 life insurers from having a virtual-only distribution channel, as the MAS is concerned with the need to still cater for the less sophisticated and less IT-savvy consumer groups who may prefer face-to-face interactions.

14 Tele and online channels

Is there a special license for virtual insurers without intermediaries?

CHINA	Per the internet insurance companies that specialize in the internet insurance business, they need approval from CBIRC to carry out the internet insurance business. Per ordinary insurance companies that would like to carry out the internet insurance business, they need to fulfill some requirements. For example, for a life insurance company, its comprehensive solvency adequacy ratio need to reach 120% for four consecutive quarters, and the core solvency ratio is no less than 75%, etc.
HONG KONG	Yes, virtual insurers are separately licensed by the Insurance Authority, and they are only permitted to distribute products digitally. The scope of products is also limited.
INDONESIA	No. Other than the main insurance business license issued by the OJK.
JAPAN	No, there is no such special license in this regard.
MALAYSIA	We are not aware of any specific rules in this regard. We note that a discussion paper was issued by BNM in January 2022 to gather feedback on a proposed licensing framework for digital insurers and takaful operators (DITO) ("**DITO Discussion Paper**"). The framework sets out BNM's intention to apply a specific licensing requirement to DITOs carrying on insurance businesses wholly or almost wholly through digital or electronic means. Notwithstanding, the DITO Discussion Paper does not impose any requirements on DITOs acting without intermediaries.
PHILIPPINES	There is no special license for virtual insurers without intermediaries.
TAIWAN	Yes. If a virtual insurer wishes to enter into the Taiwan insurance market, it has to first apply to the regulator for establishment approval within the timeframe set by the regulator (e.g., for the 2022 applications, the timeframe for applicants to apply for establishment approval is from 1 August to 31 October 2022) and complete the company incorporation registration. Then, such virtual insurer should apply to the regulator for the issuance of a business license within three months after completing the company incorporation registration. (Regulations for Establishment and Administration of Insurance Enterprises)

14 Tele and online channels

Is there a special license for virtual insurers without intermediaries? (cont'd)

THAILAND	No. There is currently no special license for virtual insurers. However, the OIC is exploring the possibility in issuing this type of new license for new players, but this is still in the very initial stage. Nevertheless, insurers are currently allowed to sell insurance products virtually without intermediaries.
VIETNAM	Under the Law on Insurance Business, there is no provision on the required license for the virtual provision of insurance products, including provision without intermediaries. The MOF is assigned to provide detailed regulations on this matter. Currently, the MOF is working on the draft circular guiding the Law on Insurance Business. Under the September 2022 draft of this circular, insurers must obtain prior approval from the MOF for the sale of products via online channels.
SINGAPORE	We are not aware of any additional licensing requirements that need to be met if virtual insurers are to operate without intermediaries, beyond those discussed in our response to question 13 above.

Data privacy and confidentiality

15 Data privacy and confidentiality

Can insurers share client information with insurance agents and brokers and vice versa? What data privacy or confidentiality laws apply?

CHINA	Because, generally, it is not possible for Chinese insurers to engage foreign insurance agents and brokers, we do not envisage that cross-border sharing of client information will be entailed. Insurance agents and brokers should be allowed to share client information with insurers because insurers are ultimately responsible for writing the insurance products purchased by clients. However, insurance agents and brokers must obtain the prior consent of their clients for insurance agents and brokers' necessary and reasonable collection, use and provision of their personal data and/or trade secrets in accordance with the PRC Law for Personal Information Protection Law, the Protection of Consumers' Rights and Interests, the PRC Cybersecurity Law, the PRC Anti-unfair Competition Law, etc. In cases where clients purchase insurance policies directly from insurers without any involvement of insurance agents and brokers, insurers should not share such clients' information with insurance agents and brokers for the reason that insurers and their sales persons and other staff have the statutory obligation to keep clients' information in strict confidence, and must not disclose trade secrets and personal information of policy holders and insured persons to other parties.
HONG KONG	Insurers, agents and brokers owe a general common law duty to their clients and third parties to ensure that confidential client information is not subject to unauthorized disclosure. In addition, the handling of personal data is subject to the Personal Data (Privacy) Ordinance. Insurers, agents and brokers must notify clients of the purpose for which their personal data is collected and obtain consent from clients to use and disclose their personal data.
INDONESIA	Insurance companies can only share client information with insurance agents and brokers and vice versa if the customer has provided written consent to the use (defined broadly) and purpose of dealing with personal data. Insurance companies must also ensure that third parties use data strictly for the purpose agreed by the third parties and the insurance companies. Minister of Communication and Informatics (MOCI) Regulation No. 20 of 2016 on Personal Data Protection in Electronic Systems regulates the following requirements for displaying, announcing, transmitting, disseminating and/or providing access: a. The display, announcement, transmission, dissemination and/or accessibility of personal data are limited to the extent data is disclosed to and given consent by the data owners. b. Personal data used in these processes must be verified to ensure its accuracy. c. Offshore data transfers may only be conducted after proper coordination with the MOCI (which involves reporting the plan and results of the transfer and seeking advocacy, though the advocacy is unclear). The MOCI will need to further clarify this process. Access to personal data can be provided for law enforcement purposes based on a valid request from the law enforcement agency.

15 Data privacy and confidentiality

Can insurers share client information with insurance agents and brokers and vice versa? What data privacy or confidentiality laws apply? (cont'd)

INDONESIA	As an update, the Indonesian government just recently approved the draft of the Indonesian Personal Data Protection Law ("**PDP Law**") on 20 September 2022 to become law. The latest draft PDP Law is leaning toward the EU's GDPR and has extensive provisions on personal data protection and indicates that it will apply to every person, entity, public institution and international organization that processes personal data in Indonesia, or outside of Indonesia but with a legal impact in Indonesia and/or on Indonesian data subjects outside of Indonesia. The PDP Law is currently waiting to be passed by the president (when it will also be allocated a law number) and then issued to the public. Theoretically, if the president does not sign the PDP Law within 30 days after it is approved by the Indonesian Parliament, the PDP Law will automatically be enacted and will be in force. In addition, the PDP Law will have a transitional period of two years (after it is enacted), within which all parties that process personal data must adjust their personal data processing practice in line with the PDP Law. As such, it can be assumed that the two-year transitional period applies to almost all the provisions of the PDP Law. We will need to wait and see after the law is enacted whether any part or provision of the PDP Law is immediately enforced by the government despite the transitional period.
JAPAN	The Act on Protection of Personal Information and its Guidelines apply in addition to other guidelines specific to the financial sector. Once an insurer has acquired personal information, it must promptly notify the data subject of, or publicly announce, the purpose of use of such personal information, unless it has already publicly announced its purpose of use. Subject to certain prescribed exceptions, an insurer must, when it receives personal data from third parties, confirm the following matters: (1) the name or appellation and address of the third party and, for a corporate body, the name of its representative; and (2) circumstances under which the personal data was acquired by the third party. The guidelines further recommend that the insurer assess legal compliance by third parties concerning purpose of use, disclosure procedure and disclosure of inquiry or complaint counter. The insurer must also record the date when it received the personal data, any matter concerning that confirmation and other matters prescribed by the Personal Information Protection Commission.
MALAYSIA	The handling of personal data in Malaysia is governed by the Malaysian Personal Data Protection Act 2010 (PDPA). Insurers can share client information with agents and brokers and vice versa, if clients are notified of the purpose for which their personal data is collected and have consented to the use and disclosure of their personal data. The PDPA does not specify the form or nature of the consent and whether consent can be implied by conduct. However, 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). However, the transfer of personal data outside Malaysia is generally prohibited unless certain conditions are satisfied. These include the insurer/agent/broker having obtained the client's consent in respect of the cross-border transfer or having ensured that the receiving jurisdiction has privacy safeguards of equivalent standards.

15 Data privacy and confidentiality

Can insurers share client information with insurance agents and brokers and vice versa? What data privacy or confidentiality laws apply? (cont'd)

PHILIPPINES	Insurers can share information with insurance agents/brokers and vice versa, with the consent of customers. Insurers and their agents/brokers must comply with the relevant provisions of the Data Privacy Act of 2012 and its implementing rules and regulations. Further, in IC Circular Letter No. 2016-30, the IC expressly grants policyholders the right to confidentiality of information. Specific to electronic commerce, insurers and their agents/brokers must comply with privacy requirements in online transactions as provided in IC Circular Letter No. 2014-47, including properly disclosing the terms of use of personal information of customers and providing clearly worded opt-in processes. It is recommended that insurers obtain the consent of their customers to ensure compliance with the regulations for processing of "personal information" and/or "sensitive personal information" under the Data Privacy Act, before data collected from customers is shared with other entities (e.g., insurance agents/brokers).
TAIWAN	The law governing personal data protection and privacy in Taiwan is the Personal Data Protection Law (PDPL). Insurers, agents and brokers must notify clients of the specific purpose for which their personal data is collected and obtain consent from the clients for the use of their personal data within the specific purpose. The cross-border transfer of personal data is generally permitted, but the Taiwanese government can prohibit cross-border transfers under one of the following circumstances: (1) where substantial national interests are involved; (2) where international treaties or agreements specify otherwise; (3) where the rights and interests of the data subject are likely to be affected adversely because the country where the data recipient is located does not have appropriate laws and regulations to protect personal data; or (4) where the PDPL may be avoided because the personal data is transmitted or used by way of indirect transmission to a third country or area.
THAILAND	Thailand has already published the Personal Data Protection Act B.E. 2562 (2019) (PDPA), which came into effect on 1 June 2022. The collection, use or disclosure of personal data (e.g., sharing client information) of the clients by the data controllers (e.g., insurers, brokers and agents) must rely on one of the bases recognized by the PDPA (e.g., consent). In addition, the data controllers are obliged to provide the clients with a privacy notice prior to or at the time of the collection of personal data, addressing certain details, including purposes of collection for using or disclosing the personal data and the legal bases that the data controllers choose to rely on. Cross-border transfer of personal data is permitted with conditions. The PDPA provides that the destination country receiving the personal data must have adequate personal data protection standards, but this requirement will be exempted in certain circumstances, including where data subjects give their consents (with their acknowledgements that the destination country may have inadequate personal data protection standards).

15 Data privacy and confidentiality

Can insurers share client information with insurance agents and brokers and vice versa? What data privacy or confidentiality laws apply? (cont'd)

VIETNAM	Vietnam has no single comprehensive law that addresses individual and organizational privacy rights. Instead, relevant provisions are found in the Constitution, the Civil Code, the Penal Code, the Consumer Protection Law, the E-Transaction Law, the IT Law and the Law on Cyber Information Security and certain implementing regulations. The laws and regulations do not employ consistent definitions of what information constitutes personal data and vary depending upon the sector to which the regulation/law applies. At a minimum, information that would enable the identification of an individual should be considered subject to protection. As a general principle, individuals must grant their prior informed consent to the collection, use and transfer of their personal data. Data controllers must not share or disperse the collected, accessed or controlled personal data to any third party, unless it is agreed by the data subjects or requested by a competent state body. If personal data is transferred to a third party, proper consent must be obtained for this transfer. Thus, if client information contains personal details, insurers must obtain consent from the client before sharing such information with insurance agents and brokers, and vice versa.
SINGAPORE	Insurers, agents and brokers owe a general common law duty to their clients and third parties to ensure that confidential client information is not subject to unauthorized disclosure. In addition, the handling of personal data is subject to the PDPA. Generally, insurers, agents and brokers must notify clients of the purpose for which their personal data is collected for and obtain consent from the clients for the use and disclosure of their personal data. The transfer of personal data outside the jurisdiction of Singapore is also subject to additional requirements, such as ensuring that the receiving jurisdiction has privacy safeguards of equivalent standards. To the extent that an insurer is receiving client's personal data through a data intermediary and vice versa, the recipient should take steps to ensure that notification to and consent from the client has been obtained for the disclosure of personal data and the purposes contemplated. The PDPA recognizes that an organization that is part of a corporate group of organizations may act as a data intermediary for other members of the group.

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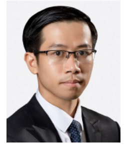

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