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McKenzie.**

Insurance Regulatory Landscape and Key Considerations for M&A Transactions 2023

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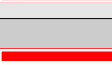

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01









Who is the main regulator with oversight of insurance companies?

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|  CHINA | National Financial Regulatory Administration (NFRA) |
|  HONG KONG | Insurance Authority (IA) |
|  INDONESIA | Financial Services Authority or Otoritas Jasa Keuangan (OJK) |
|  JAPAN | Financial Services Agency (FSA) |
|  MALAYSIA | Bank Negara Malaysia (BNM) |
|  PHILIPPINES | Insurance Commission (IC) |
|  SINGAPORE | Monetary Authority of Singapore (MAS) |
|  TAIWAN | Insurance Bureau of the Financial Supervisory Commission (IB) |
|  THAILAND | Office of Insurance Commission (OIC) |
|  VIETNAM | Insurance Supervisory Authority (ISA) under the Ministry of Finance (MOF) |



02



Are there foreign ownership limitations for insurance companies? Are there shareholding caps on individuals and/or corporate bodies for insurance companies? If in the affirmative, is this encapsulated within statute or a matter of policy?

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|  CHINA | Individuals cannot be shareholders of an insurance company except by means of purchasing stocks of a listed insurance company. Generally, there are no shareholding caps on foreign corporate bodies for a foreign invested insurance company. Such requirements are encapsulated within insurance-related regulations issued by the regulator. |
|  HONG KONG | No. |
|  INDONESIA | There is a maximum foreign ownership of 80%, calculated directly and indirectly. The maximum foreign ownership does not apply to listed insurance companies. Law No. 40 of 2014 on Insurance (" Insurance Law "), which was enacted on 17 October 2014, provides that foreign individuals can only have shares in listed insurance companies. |
|  JAPAN | No. |
|  MALAYSIA | There is a maximum foreign ownership of 70%. A higher foreign equity limit will be considered by BNM on a case-by-case basis. Individuals are subject to a shareholding cap of 10%. The maximum foreign shareholding cap is a policy observed by BNM. The individual shareholding cap is encapsulated within the Financial Services Act (FSA) for conventional insurers, and the Islamic Financial Services Act (IFSA) for takaful operators. |
|  PHILIPPINES | No. |
|  SINGAPORE | There are no foreign ownership limitations or shareholding caps for insurance companies. |
|  TAIWAN | No. However, according to the Insurance Act of Taiwan, any shareholder that wishes to acquire more than a 10%, 25% or 50% share in an insurance company must meet various qualifications and be specifically approved by the IB. |



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Are there foreign ownership limitations for insurance companies? Are there shareholding caps on individuals and/or corporate bodies for insurance companies? If in the affirmative, is this encapsulated within statute or a matter of policy?

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|  THAILAND | <p>There is a maximum foreign ownership of 25%. However, the OIC is empowered to permit a foreign investor to hold up to 49%. With the approval of the Minister of Finance, a foreigner can own more than 49% if:</p> <ul style="list-style-type: none">■ It would improve the insurance company's standing or operation, which exists in such a state that may cause damage to the insured or the public.■ It would enhance the stability of the insurance company.■ It would enhance the stability of the insurance industry as a whole in Thailand. |
|  VIETNAM | <p>No. However, a joint stock insurance company must have at least two corporate shareholders and each of them must hold at least 20% of the total shares of the insurance company, and those shareholders must satisfy the same financial requirements as those applying to corporate investors in an insurance joint venture or limited liability company (LLC). An individual shareholder must not hold more than 10% of the total shares of the insurance company.</p> |



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Can an insurance company carry on a composite business (i.e., life and non-life)? Is this encapsulated in statute or a matter of policy?

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|  CHINA | Generally, no. However, with the regulator's approval, a non-life insurance company may carry on short-term healthy insurance and accident insurance business. This is encapsulated in the law. |
|  HONG KONG | No (a matter of policy) for approval of new licenses, but existing composite insurers may still keep their composite license. |
|  INDONESIA | No (a matter of law). Further, the operation of takaful insurance activities must be undertaken by a separate entity/business unit (i.e., separate from the conventional insurance business). The Insurance Law provides a 10-year transitional period (i.e., 17 October 2014) for conventional insurance companies to divest or spin off their existing syariah units (or otherwise once syariah funds exceed more than 50% of all insurance funds held), and OJK Regulation No. 11 of 2023 on Spin-off of Sharia Units of Insurance Companies and Reinsurance Companies (" OJK Regulation 11 ") further extends the deadline to 31 December 2026. In 2023, all insurance companies that have syariah business must have submitted their respective action plans to comply with the spin-off requirements. |
|  JAPAN | No (a matter of law). The Insurance Business Act of Japan (IBA), however, allows either type of insurance company to operate other insurance business through a subsidiary, i.e., a life insurance company can have a non-life insurance company as its subsidiary and vice versa. |
|  MALAYSIA | No (a matter of law). |
|  PHILIPPINES | Yes (a matter of law), if the insurer has been specifically authorized to do so by the Insurance Commission. |
|  SINGAPORE | Yes (based on precedents). |
|  TAIWAN | No (a matter of law). However, this restriction does not apply where a non-life insurance company is approved by the IB to engage in personal injury insurance or health insurance. |
|  THAILAND | No (a matter of law). |
|  VIETNAM | No (a matter of law). |



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Are there other conditions imposed by the regulator in doing an M&A transaction?

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|  CHINA | <p>Different types of shareholders have to satisfy distinct requirements.</p> <p>Generally, the following aspects shall be considered by the regulator depending on the different types of shareholders (e.g., insurance group company, insurance company and other offshore financial institutions) and shareholding ratio (e.g., financial shareholder I, financial shareholder II, strategic shareholder and controlling shareholder):</p> <ul style="list-style-type: none">■ Total assets of no less than USD 5 billion for an insurance company or insurance group company and USD 2 billion for other financial institutions■ The country or region where it is located has a sound insurance regulatory system, and the foreign insurance company has been effectively supervised by the relevant competent authorities of the country or region where it is located.■ The solvency standards of the country or region where it is located are being met.■ The regulator of the country or region where it is located agrees with its application.■ Consecutive profitability■ Compliance status■ Good tax record■ Good credit records■ Long-term credit rating |
|  HONG KONG | <p>Conditions are on a case-by-case basis. For example, the IA may:</p> <ul style="list-style-type: none">■ Require the parent to give an undertaking on continuous financial support■ Require the insurance company to comply with the guidelines issued by the IA■ Require the insurance company to maintain a solvency margin as may be requested by the IA |



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Are there other conditions imposed by the regulator in doing an M&A transaction?

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|  INDONESIA | <p>Foreign investors' criteria</p> <p>Foreign insurers must meet certain conditions, including the following:</p> <ul style="list-style-type: none">■ Be either an insurance/reinsurance company that engages in the same line of insurance/reinsurance business as the target company, or a holding company with at least one subsidiary engaging in the same line of insurance/reinsurance business as the target company■ Have a minimum of A rating or equivalent from an internationally recognized rating institution■ Have equity of a minimum of five times its capital participation in the local insurance company■ Must have had audited financial statements for the last two full years reflecting financial soundness■ Submit, among other items, a cooperation agreement between the Indonesian party and the foreign party in Indonesia <p>A foreign shareholder (a), which holds shares in a listed insurance company, or (b), which holds shares in an Indonesian listed company that holds shares in a non-listed insurance company is not subject to the above requirements, provided that in scenario (a), the foreign shareholder is not the listed insurance company's controlling shareholder.</p> <p>Controlling shareholder's fit and proper test</p> <p>Shareholders that own 25% or more, or own less than 25% but control (e.g., control being asserted through a strong shareholders' agreement) the insurance company ("Controlling Shareholder"), must pass a controlling shareholder's fit and proper test by the OJK.</p> <p>Controller</p> <p>The Insurance Law defines a controller as a party that directly or indirectly has the ability to determine the management of an insurance company and/or to influence the action of the management of an insurance company.</p> <p>An insurance/reinsurance company is required to identify at least one controller. The OJK can designate another controller based on its own assessment.</p> <p>Time period to complete a transaction</p> <p>Once approval is given by the OJK, the transaction must be completed generally within 60 days (as approvals require).</p> |
|  JAPAN | <p>There are no conditions imposed by the FSA that are peculiar to a foreign investor in connection with M&A of insurance companies.</p> <p>As a matter of general conditions (not peculiar to a foreign investor) for the approval of investment into an insurance company, the FSA requires the applicant to fulfil the following conditions:</p> <p>Approval for an "insurance major shareholder"</p> <ul style="list-style-type: none">■ No risk of impairing sound and appropriate management of the insurance company in light of the funds for the acquisition, the purpose of the investment, the status of assets and income, and expenditure■ Have a sufficient understanding of the public nature of the insurance business■ Have sufficient social credibility <p>Approval for an "insurance holding company"</p> <ul style="list-style-type: none">■ Have good prospects for income and expenditure■ Have the sufficient knowledge and experience to carry out the business management of the insurance company■ Have sufficient social credibility |



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Are there other conditions imposed by the regulator in doing an M&A transaction?

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|  MALAYSIA | <p>Approval must be obtained to commence negotiations and separately to execute the definitive agreement.</p> <p>In connection with the approval to commence negotiations, BNM generally imposes a time frame to conclude the negotiations. It may also require a local joint venture partner to be identified and the submission of a business plan by the incoming shareholder.</p> <p>The MOF or BNM (as the case may be) may impose further conditions when granting its approval to execute the definitive agreement. These conditions may include the provision of an undertaking in favor of the MOF by the incoming shareholder and/or other operational conditions.</p> |
|  PHILIPPINES | <p>The acquisition of control of a domestic insurer requires the prior approval of the Insurance Commissioner. Moreover, the Insurance Commissioner may refuse to issue a Certificate of Authority to any insurance company if, in its judgment, such refusal will best promote the public interest. No Certificate of Authority is granted to any such company until the Insurance Commissioner has satisfied itself that the company is qualified by law to transact business, that granting such authority appears to be justified in light of economic requirements, and that the direction and administration, as well as integrity and responsibility of the organizers and administrators, the financial organization and the amount of capital reasonably assure the safety of the interests of the policyholders and the public.</p> |
|  SINGAPORE | <p>From a regulatory perspective, MAS approval is required if the M&A transaction results in a person obtaining effective control or substantial shareholding of a licensed insurer incorporated in Singapore, if there is a change in the key executive person, chair or director of a licensed insurer, or a reduction in paid-up capital.</p> <ul style="list-style-type: none"> ■ Control of takeovers of licensed insurers incorporated in Singapore: No person shall obtain effective control of a licensed insurer incorporated in Singapore without the prior written approval of the MAS. "Effective control" is defined to include holding 20% or more of the total issued shares in the insurer, or being in a position to control 20% or more of the voting power in the insurer. ■ Control of substantial shareholdings of licensed insurers licensed in Singapore: No person shall become a substantial shareholder of a licensed insurer incorporated in Singapore without the prior written approval of the MAS. "Substantial shareholding" is defined as interest in one or more voting shares in the company, provided that the total votes attached to the share(s) are not less than 5% of the total votes attached to all the voting shares in the company (Section 81 Companies Act). ■ Change in key executive person, chair or director of licensed insurer: If the M&A transaction will result in a change or appointment of a new key executive person, chair, or director of a licensed insurer, MAS approval is required. ■ Reduction in paid-up capital: In the unlikely event that the M&A transaction results in a reduction in paid-up capital, a locally incorporated insurer will need to seek the approval of the MAS. <p>The insurer should ensure that the M&A transaction will not breach any existing license conditions imposed by the MAS.</p> <p>There may also be broader considerations such as competition law and regulatory approvals that may be relevant depending on the facts.</p> |
|  TAIWAN | <p>If any investor, along or acting in concert with others, plans to acquire more than 50% of the total issued shares of an insurance company, the IB will require the investor(s) to, among other things:</p> <ul style="list-style-type: none"> ■ Issue a letter of long-term commitment for at least 10 years, which shall include at least the following: (i) an undertaking for long-term operation (i.e., holding the shares of the target insurance company for 10 years or more); (ii) the motives and purposes of acquiring the target insurance company shares; (iii) legally binding documents to show how to ensure the suitability and structural stability of shareholders; and (iv) if the investor has affiliates involved in the acquisition, the investment structure of the investor and its affiliates ■ Provide a description of how the investor has sufficient financial capability to meet the capital injection needs of the target insurance company in the next 10 years: based on our experience, the IB may request the investor to deposit a certain amount of funds or assets with an escrow agent or a trustee to show the investor's commitment for capital injection into the target insurance company for the next 10 years |



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Are there other conditions imposed by the regulator in doing an M&A transaction?

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|  THAILAND | <p>This depends on the acquisition structure and whether the acquirer wishes to request a relaxation to have foreign shareholding of more than 25% in the target insurance company. Generally, the OIC promotes market consolidation and, hence, the acquisition by existing insurance players would need to have an ultimate goal in consolidating two insurance companies into one. In granting the approval for the acquisition, the Minister of Finance (MOF) or the OIC (as the case may be) is empowered to impose any conditions it deems appropriate on a case-by-case basis. Common conditions we see are: (i) when integrating two insurance entities, the surviving entity must have a strong financial status, (ii) the integration must not have a negative impact on the policyholders, and (iii) the timeframe for the integration.</p> <p>Where a request for an exemption of foreign shareholding is requested and granted, the MOF or OIC (as the case may be) may prescribe specific conditions on a case-by-case basis.</p> |
|  VIETNAM | <p>A foreign investor of a 100% foreign-invested insurance company or an insurance joint venture company must meet the following requirements, among others:</p> <ul style="list-style-type: none">■ Be licensed by a competent authority of the country of establishment and lawfully operated in the country of establishment■ Have gained profit for three consecutive fiscal years immediately preceding the year in which the application for licensing is submitted■ The source of funds for investment must be legitimate and not be financed by a loan or investment trust in any manner■ Be an offshore life insurer, re-insurer, or offshore financial and/or insurance group■ Have at least seven years of experience of operation in the relevant areas of insurance to be conducted in Vietnam (or have a subsidiary in the group that has experience in the relevant areas of insurance business)■ Have a minimum total value of assets equivalent to USD 2 billion in the year immediately preceding the year in which the application for the issuance of a license is submitted■ Must not have committed any serious violations of the regulations on insurance business activities of the country in which its headquarters are located within three consecutive years immediately preceding the year in which the application for the issuance of a license is submitted |



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Is dispensation given for fulfilment of these conditions and in what circumstances?

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|--|--|
|  CHINA | Generally no. |
|  HONG KONG | Generally no. |
|  INDONESIA | <p>No (a matter of law). Further, the operation of takaful insurance activities Generally no, except for (i) a public listed insurance companies as mentioned in our response to number 4 above, and (ii) the A rating requirement where the OJK is willing to give a dispensation on a case-by-case basis.</p> <p>However, it is usually only in the case of a holding company that does not of itself have a rating, but other members of the foreign insurer group have an A rating or an equivalent from an internationally recognized rating institution (this is policy).</p> <p>The OJK is firm about each of the other requirements for the foreign shareholder, even if this will be disruptive to a regional organization, as two full years of accounts may not be available for the holding company.</p> |
|  JAPAN | Generally no. |
|  MALAYSIA | <p>On a case-by-case basis, applications can be submitted to BNM to seek a waiver from having to comply with the conditions. Clear reasons have to be provided. By way of example, BNM may grant an extension of time to parties to negotiate the definitive agreement if it is supported by examples of the efforts made to drive the progress of the discussions.</p> <p>If an undertaking is issued in favor of the MOF, it can only be withdrawn or amended with the consent of the MOF.</p> |
|  PHILIPPINES | Generally no. |
|  SINGAPORE | No, MAS approval is required if the M&A transaction results in a person obtaining effective control or substantial shareholding of a licensed insurer incorporated in Singapore, if there is a change in the key executive person, chair or director of a licensed insurer, or a reduction in paid-up capital. |
|  TAIWAN | Generally no. |



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Is dispensation given for fulfilment of these conditions and in what circumstances?

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|---|---|
|  THAILAND | Generally no. |
|  VIETNAM | Generally, no or on a case-by-case basis. |



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Is there a single presence policy and is it imposed under statute or policy? Is dispensation given and what criteria will the regulator consider?

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|  CHINA | The relevant regulation stipulates that one investor can only be the controlling shareholder of one life or non-life insurance company, and be the controlling shareholder and the strategic shareholder at the same time for two insurance companies. |
|  HONG KONG | No, although the regulator encourages consolidation of life businesses (and non-life businesses). |
|  INDONESIA | Yes. The Insurance Law prohibits a party from being a controlling shareholder in more than one life insurance company; more than one general insurance company; more than one reinsurance company; more than one syariah life insurance company; more than one syariah general insurance company; and more than one syariah reinsurance company. The OJK may give a dispensation on a case-by-case basis on the basis in an acquisition scenario that there is a strong justification as to why a dispensation could be given (e.g., there is a robust compliance action plan to move to a single presence) and whether the transaction assists consolidation in the insurance sector. |
|  JAPAN | No. |
|  MALAYSIA | There is no express provision within the FSA in respect of the single presence policy. However, BNM continues to enforce a single presence policy as a matter of practice. |
|  PHILIPPINES | No. |
|  SINGAPORE | No, there is no express statutory requirement in relation to a single presence policy. However, the Insurance Act provides that MAS approval is required for a person to become a “substantial shareholder” or to obtain “effective control” of a licensed insurer incorporated in Singapore (see definitions in response to question 4). One of the conditions for approval is the “likely influence of the person in relation to whether the insurer will continue to conduct its business prudently.” Therefore, MAS may take into consideration the person’s existing substantial shareholding or effective control of a licensed insurer in determining whether to give approval for obtaining effective control or substantial shareholding in another licensed insurer. |
|  TAIWAN | Yes, under policy. A dispensation is given on a case-by-case basis. Taiwan’s regulators normally grant a dispensation of between six and 12 months. |



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Is there a single presence policy and is it imposed under statute or policy? Is dispensation given and what criteria will the regulator consider?

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|  THAILAND | <p>No statutory requirement. However, the OIC's current position is to encourage mergers and acquisitions among insurance companies.</p> <p>Under the Insurance Acts, the MOF may grant permission to an insurance company allowing foreigner(s) to hold more than 49% (up to 100%) of the total voting shares sold in the company if:</p> <ul style="list-style-type: none">a. It would improve the insurance company's standing or operations, which exist in such a state that may cause damage to the insured or the public.b. It would enhance the stability of the insurance company.c. It would enhance the stability of the insurance industry as a whole in Thailand. <p>According to the MOF's notification, foreigner(s) who had received approval from the MOF under conditions b and c to hold more than 49% of the total voting shares sold or entities under the same group of such foreigner(s) will not be permitted to operate an insurance business in Thailand, either through a branch of a foreign insurer or by holding shares in other licensed insurance companies in Thailand, unless it is an investment in a mutual fund or other forms of business similar to a mutual fund; provided that such investment is not for the purpose of circumventing the single presence rule.</p> |
|  VIETNAM | <p>No.</p> |



07




What approvals are required for a domestic or foreign purchaser to take a stake in an insurer? Will the regulator look at primarily the ultimate parent and is there a difference between a domestic or foreign ultimate parent? Is there a distinction between a share deal and an asset deal?

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|  CHINA | <p>NFRA approval is required for a share deal or an asset deal. The regulator shall look at the direct shareholder, while the ultimate parent and relevant information should be disclosed. There is no difference between a domestic or foreign ultimate parent from the perspective of regulation. Having said that, the attitude and consideration toward a foreign investor may be affected by other elements e.g., political policy. Generally, there is no distinction between a share deal and an asset deal. Actually, the asset deal can be implemented purely under special circumstances from the perspective of practice in China.</p> |
|  HONG KONG | <p>Share deal</p> <p>As at the date of this guide, IA approval is required for the acquisition of 15% or more of a Hong Kong-incorporated insurance company, regardless of whether the purchaser is domestic or foreign.</p> <p>Pursuant to the Insurance (Amendment) Ordinance 2023, any person who wishes to become a minority shareholder controller (i.e., controlling 15% or more but less than 50% of the voting power) of a Hong Kong incorporated insurer or a designated insurer (which means an authorized insurer incorporated outside Hong Kong that carries on a majority of its insurance business in Hong Kong, and is designated by the IA as a “designated insurer”) will require the IA’s prior approval, unless the person is a majority shareholder controller (i.e., controlling 50% or more of the voting power) immediately before becoming a minority shareholder controller.</p> <p>Furthermore, any person who wishes to become a majority shareholder controller of a Hong Kong incorporated insurer or a designated insurer will also require the IA’s prior approval, even if such person is its minority shareholder controller before becoming its majority shareholder controller.</p> <p>The Amendment Ordinance has been enacted in July 2023 and will become effective on a date to be announced.</p> <p>In other cases, there is only a notification requirement. However, in practice, a submission to the IA for pre-vetting is highly recommended to ensure that the IA is satisfied with the new shareholder.</p> <p>All direct and indirect shareholder controllers holding 15% or more of the authorized insurer must satisfy the fitness and properness requirements, and be able to provide continuous financial support to the insurance company. The same requirements apply to domestic and foreign ultimate parents.</p> <p>Asset deal</p> <p>IA approval is required. For a life business, there is an additional requirement of court approval. Court approval is not required for the transfer of a non-life business.</p> |
|  INDONESIA | <p>Share deal</p> <p>The approval of the OJK is required for a share deal (both for domestic and foreign purchaser), even if there is only one share transferred, and controlling shareholders must pass a fit and proper test as the insurance company’s new controlling shareholder. With respect to the approval for a share deal, the OJK will only look at the direct shareholding level. However, in addition to this, the OJK will also look at the ultimate parent level (both domestic and foreign) with respect to the approval for a controller (please see question 4 above). This includes any acquisition involving a controlling stake in a listed insurance company.</p> <p>Approval for the share acquisition itself is not required if a non-controlling stake is taken in a listed insurance company.</p> <p>The process under the Company Law for a change in control of a company, including public announcements, waiting periods and settlement of creditor claims, and announcement to employees, would also apply. In addition, under the Labor Law, employees can demand to be terminated and paid out if there is “change of control” followed by an adverse change in their employment terms.</p> <p>Asset deal</p> <p>The transfer of an insurance portfolio requires prior approval from the OJK, and announcements to the company’s policyholders need to be made.</p> <p>The transferee/purchaser of an insurance business must, prior to completion of the acquisition, be duly licensed as an insurer and must have the same line of business as the transferor (life to life, or general to general).</p> <p>As it currently stands, the OJK is only issuing new licenses on a selective basis. In any event, the OJK will not issue an insurance license to an entity that is not incorporated in Indonesia.</p> |



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What approvals are required for a domestic or foreign purchaser to take a stake in an insurer? Will the regulator look at primarily the ultimate parent and is there a difference between a domestic or foreign ultimate parent? Is there a distinction between a share deal and an asset deal?

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|  <p>JAPAN</p> | <p>Share deal</p> <p>If the investor is to constitute an “insurance major shareholder” for the purpose of the IBA, it must obtain the FSA’s approval prior to investing in a Japanese insurance company. Ownership of 20% (or 15% in certain circumstances) voting shareholding in an insurance company is the trigger threshold for an insurance major shareholder.</p> <p>If the investor is to acquire the majority shares in the insurance company, and if the value of the acquired shares in the insurance company, together with any other Japanese subsidiaries, exceeds 50% of the total assets of the investor, it must obtain the FSA’s approval to become an “insurance holding company” for the purpose of the IBA prior to the change of control.</p> <p>In both cases, the IBA requires the investor to submit documents that contain certain information about its shareholders in connection with the application for the FSA’s approval. Information about the ultimate parent of the investor is not specifically required under the IBA, but in practice it is possible for the FSA to request that the investor provide such information in the course of its approval process.</p> <p>Asset deal</p> <p>If the investor is to acquire the business from an insurance company, it must obtain the FSA’s approval in order to effect the acquisition of the business.</p> |
|  <p>MALAYSIA</p> | <p>Share deal</p> <p>BNM approval is required if an incoming shareholder (foreign or local) is proposing to acquire 5% or more shareholding.</p> <p>Thereafter, approval must be sought if further acquisitions would result in the shareholder holding more than any multiple of 5%, or if the acquisition would result in a foreign entity, triggering a mandatory general offer.</p> <p>MOF approval is required if the incoming shareholder (or existing shareholder) is intending to acquire control of an insurer.</p> <p>In the assessment of a foreign incoming shareholder, the MOF and/or BNM will review the direct and indirect (i.e., ultimate) shareholder(s) of the applicant.</p> <p>Asset deal</p> <p>Generally, only a Malaysian company can acquire an insurance business.</p> <p>Approval will have to be sought from BNM (and BNM will in turn liaise with the MOF for approval). The transfer scheme is also subject to confirmation from the high court.</p> |
|  <p>PHILIPPINES</p> | <p>Prior written approval of the Insurance Commissioner is required for a share deal or an asset deal resulting in the acquisition of control of a domestic insurer. In a share deal, approval is required to acquire 40% or more of the voting stock of a domestic insurer.</p> <p>The Insurance Commissioner will primarily look at the purchaser in evaluating the application for approval. Nevertheless, there are certain disclosure requirements applicable to the resulting ultimate parent or ultimate beneficial owner of the insurer. The same requirements apply to a domestic and foreign purchaser or ultimate beneficial owner.</p> |



07



What approvals are required for a domestic or foreign purchaser to take a stake in an insurer? Will the regulator look at primarily the ultimate parent and is there a difference between a domestic or foreign ultimate parent? Is there a distinction between a share deal and an asset deal?

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|---|---|
|  <p>SINGAPORE</p> | <p>Share deal</p> <p>MAS approval is required for a share deal if it will result in the acquirer having a substantial shareholding (i.e., an interest in 5% or more of voting shares) or obtaining effective control (i.e., holding 20% or more of the total issued shares, or being in a position to control 20% or more of the voting power) of a licensed insurer incorporated in Singapore.</p> <p>Asset deal</p> <p>For an asset deal involving a transfer of the whole or part of an insurance business, MAS approval must be obtained and the transfer must be effected by way of a court-approved scheme.</p> <p>Both requirements do not apply to the transfer of the whole or part of any insurance business of a company established or incorporated outside Singapore, except insofar as it relates to Singapore policies and offshore policies.</p> <p>The requirement that the transfer must be effected by a court-approved scheme also does not apply to the transfer of any insurance business of a licensed insurer where it relates to the reinsurance business or a captive insurer.</p> <p>[see findings in comment for revised question]</p> <p>There is no difference between a foreign and domestic ultimate parent.</p> |
|  <p>TAIWAN</p> | <p>Share deal</p> <p>IB approval is required when an investor will acquire more than 10% shares in the target insurance company. When reviewing an application, the IB will look at the qualifications of the applicant's ultimate parent no matter whether it is a domestic or foreign ultimate parent. On the other hand, the IB would, based on the shareholding to be acquired, examine the applicant's honesty, integrity, legality, financial conditions, operation, and management experience and capabilities, as well as the applicant's interest relationship with the insurance company, and whether the proposed business plan will benefit the long-term and sound development of the insurance company.</p> <p>The approval of the Investment Commission is required if: (i) the investor is a foreigner and the target insurance company is not a listed company; or (ii) the target insurance company is a listed company and a foreign investor will acquire more 10% or more shares in this insurance company.</p> <p>Asset deal</p> <p>IB approval is required. Only a licensed insurance company in Taiwan can acquire insurance-related assets.</p> <p>The Investment Commission is required if: (i) the asset deal will change the investment plan previously submitted by a foreign investor to the Investment Commission; or (ii) any foreign investor will inject capital into a local entity to complete the transaction.</p> |



07







What approvals are required for a domestic or foreign purchaser to take a stake in an insurer? Will the regulator look at primarily the ultimate parent and is there a difference between a domestic or foreign ultimate parent? Is there a distinction between a share deal and an asset deal?

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|  <p>THAILAND</p> | <p>Share deal</p> <p>If a foreigner's stake is not more than 25% of the insurance company, no approval is required. Therefore, whether the ultimate parent is a domestic or foreign entity would not be relevant.</p> <p>If the foreigner's shareholding is more than 25% or 49%, prior approval from the OIC or MOF is required (as the case may be). In such case, the OIC or the MOF would also look into qualification of the ultimate parent of the acquirer, and also other holding entities involved between the acquirer and the ultimate parent. Generally, the ultimate parent must have expertise and experience in the insurance-related field.</p> <p>If the foreigner's shareholding is more than 49%, the foreigner will be subject to the single presence policy.</p> <p>Asset deal</p> <p>A transfer of business, either in whole or in part, must be approved by the OIC. The board of directors of the acquiring company and the transferring company must jointly prepare and submit the project plan to the OIC. When granting approval, the OIC may prescribe any conditions to protect the insured's interest and to ensure the stability of the company. If the transferee needs funding from its foreign shareholder in acquiring assets of the target company, the transferee may consider applying for the OIC or MOF approval to have foreign shareholding of more than 25% or 49%, as explained in the section concerning share deals above.</p> |
|  <p>VIETNAM</p> | <p>Share deal</p> <p>The MOF's approval is required for a stake of 10% or more of a Vietnamese insurance company. This requirement applies to both a domestic and a foreign purchaser who will be the direct purchaser of shares of the Vietnamese insurance company.</p> <p>Asset deal</p> <p>Asset deals are not common in Vietnam. For an asset deal, the transfer of insurance policies from the seller to the purchaser will be required. The transfer of insurance policies from one insurer to another is only made in certain circumstances, but the transfer of insurance policies per agreement between parties is not one of those circumstances.</p> |



08





How long will regulatory approvals typically take for a share deal versus an asset deal?

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|  CHINA | <p>That will take six months upon the regulator accepting the relevant documents according to the new guidance issued by the NFRA. Having said that, it may take some time (from months to more than a year depending on the different cases) for the NFRA to accept such documents.</p> |
|  HONG KONG | <p>Share deal These take around six to eight months, or one year if the buyer is not already a controller of an authorized insurer in Hong Kong, from signing to the IA's approval (assuming no complicated issues arise).</p> <p>Asset deal For a life business, approval could take 9-10 months or more. For a non-life business, it could take up to six to eight months. This is based on the assumption that the buyer is already an authorized insurer in Hong Kong.</p> |
|  INDONESIA | <p>Much will depend on circumstances and how the OJK is approached. In many transactions, the OJK is briefed prior to an application being submitted and the transaction is outlined. The OJK's approval (whether for a share transfer or a transfer of an insurance portfolio) can take around 8-12 weeks (including the fit and proper test, which can be processed in parallel), depending on circumstances (or longer if the target company is under OJK monitoring or if the foreign acquirer is not known to the OJK).</p> <p>No distinction is made between share and assets deals, but an asset deal generally takes longer as the OJK is concerned about how policyholders are dealt with and the OJK conducts an audit before it declares that an asset deal is complete to ensure that there are no outstanding liabilities/claims (particularly long-tail liabilities) left with the transferor.</p> |
|  JAPAN | <p>Share deal This varies on a case-by-case basis. Under the IBA, the FSA should issue an approval for a share transfer, which results in the investor being an "insurance major shareholder," within 30 days.</p> <p>Asset deal This varies on a case-by-case basis. The IBA and the enforcement ordinance do not stipulate any standard review period. Practically, it could take several months from submission to the FSA to obtain approval.</p> |
|  MALAYSIA | <p>Share deal Generally, a share deal takes between four and eight weeks for approval to negotiate, and between six to eight months for final approval.</p> <p>Asset deal Asset deals are typically more protracted (i.e., six to nine months), given the need to obtain regulatory and court approval. The court process takes between two and three months.</p> |
|  PHILIPPINES | <p>Regulatory approvals range from one to six months, depending on the availability of supporting documents. No distinction is made between share and asset deals.</p> |



08







How long will regulatory approvals typically take for a share deal versus an asset deal?

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|  SINGAPORE | <p>Share deal</p> <p>In a share deal resulting in the acquirer having a substantial shareholding or obtaining effective control of a licensed insurer incorporated in Singapore, obtaining regulatory approval will take approximately three to four months.</p> <p>Asset deal</p> <p>In an asset deal resulting in a transfer of the whole or part of an insurance business, obtaining both MAS and court approvals will take approximately 9-12 months.</p> |
|  TAIWAN | <p>This will take 4-12 months (the estimated time frame does not differ between a share deal and an asset deal).</p> |
|  THAILAND | <p>Share deal</p> <p>The approval to increase foreign shareholding limit up to 49% takes approximately three to four months, whereas the approval to increase the foreign shareholding limit to 100% takes approximately 9-12 months.</p> <p>Asset deal</p> <p>Approval takes approximately three to four months.</p> |
|  VIETNAM | <p>Share deal</p> <p>By law, the timelines combined are around three months, but in reality from three to six months, depending on the size of the stake and the negotiations of parties involved.</p> <p>For the establishment of a new insurance company, by law, the combined timelines are around three months, but in reality the entire process may take 6-12 months or more, depending on whether there are multiple investors/shareholders and the negotiations of parties involved.</p> <p>Asset deal</p> <p>For an asset deal, the transfer of insurance policies from the seller to the purchaser will be required. The transfer of insurance policies from one insurer to another is only made in certain circumstances, but the transfer of insurance policies per agreement between parties is not one of those circumstances.</p> |



09





In acquiring an existing insurer, are there any threshold requirements for the investor, e.g., whether it should have insurance/financial service experience? How open is the regulator to private equity participation in an insurer?

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|  CHINA | <p>Yes. The foreign investor should be an insurance group, insurance company or other financial institution. A foreign investor in an insurer cannot be private equity.</p> |
|  HONG KONG | <p>The IA will look at each individual case, and the new investor should preferably have financial services or insurance experience, and also be a regulated entity in the financial sector.</p> <p>There is no statutory prohibition on private equity investors, but various factors will need to be considered, such as those mentioned above, the structure of the acquiring entity and whether they can demonstrate their long-term commitment.</p> <p>In any case, the holding company must be fit and proper — see question 7 above.</p> |
|  INDONESIA | <p>Please see question 4 for the requirements to acquire an existing insurer.</p> <p>There is no statutory prohibition but, generally, private equity players will not meet the foreign shareholder criteria set out above (unless they have made other insurance investments and use one of those entities or they invest in a public listed insurance entity).</p> |
|  JAPAN | <p>Please see our response to question 4 above for the threshold requirements for the approval in respect of an “insurance major shareholder” and “insurance holding company.”</p> <p>There is no statutory restriction in respect of the private equity participation in an insurer, but it may attract additional scrutiny.</p> <p>Although the IBA does not stipulate any special rules for reviewing private equity participation, the FSA’s supervisory guidelines for banks mention certain points they will carefully review on an acquisition of shares in a bank by a private equity fund, such as the impact on the soundness and sustainability of the bank’s business operations. The FSA may take a similar approach to private equity participation in an insurance company.</p> |
|  MALAYSIA | <p>There is no statutory requirement. However, it is likely that, BNM will consider, among others, the investor’s experience in the financial services sector, the sufficiency of the financial resources of the investor and whether it will be in the best interest of Malaysia. MOF and/or BNM will regard an application more favorably if a shareholder that will acquire control of an insurer is a corporation that is regulated by a financial regulator in its home jurisdiction.</p> <p>There is no statutory restriction. As a matter of policy, BNM would generally favor a strategic investor over a private equity investor since strategic investors generally focus on long-term investments as opposed to private equity investors, who are perceived to have short investment horizons.</p> |
|  PHILIPPINES | <p>Generally, it is open to private equity participation, given the government’s thrust to attract foreign direct investment, and because of its policy not to impose limits on foreign equity ownership in a domestic insurance company. However, the Insurance Commission will also look into the investor’s business plan for the insurer, and the investor’s track record in the insurance business may help expedite the approval process.</p> |








09

In acquiring an existing insurer, are there any threshold requirements for the investor, e.g., whether it should have insurance/financial service experience? How open is the regulator to private equity participation in an insurer?






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|  SINGAPORE | <p>The Insurance Act provides that MAS approval for a person to obtain “effective control” of a licensed insurer incorporated in Singapore (see definitions in response to question 4) will only be granted if the MAS is satisfied that the person is a fit and proper person, and that the licensed insurer concerned will continue to conduct its business prudently and comply with the provisions of the act, having regard to the likely influence of the person.</p> <p>There is no statutory prohibition. Empirically, we note that most insurance companies in Singapore are wholly owned subsidiaries of foreign parent companies or are branches of foreign head offices. However, there are also insurers that are held by multiple private investors. It is likely that private equity investors will be subject to more extensive review in the regulatory approval process of becoming a substantial shareholder of an insurer.</p> |
|  TAIWAN | <p>There is no statutory restriction. However, the IB would generally favor a strategic investor who has insurance/financial service experience over a private equity investor because the former may provide more resources and capital to the local insurance companies. In 2010, the IB (via the Investment Commission) rejected an application filed by a private equity investor.</p> <p>When reviewing an application, the IB would, based on the shareholding to be acquired (10%, 25% or 50%), examine the applicant’s honesty, integrity, legality, financial conditions, operation, and management experience and capabilities, as well as the applicant’s interest relationship with the insurance company, and whether the proposed business plan will benefit the long-term and sound development of the insurance company. If an investor, along or acting in concert with others, plans to acquire more than 50% of the total issued shares of an insurance company, the IB will require the investor to, among other things, issue an undertaking for long-term operation (i.e., holding the shares of the target insurance company for 10 years or more). This undertaking may not be acceptable to a private equity investor.</p> |
|  THAILAND | <p>This depends on the percentage in which the investor wishes to hold in the insurance company. If the foreign investor’s shareholding will be more than 25% or 49% post-acquisition, prior approval from the OIC or MOF is required (as the case may be). In such case, the OIC would also look into qualification of the ultimate parent of the acquirer, and also other holding entities involved between the acquirer and the ultimate parent. Generally, the ultimate parent must have expertise and experience in the insurance-related field.</p> <p>With respect to private equity participation in an insurer, there is no statutory prohibition. However, as a general observation, it may be challenging for private equity participation to qualify under the OIC or MOF’s requirement as mentioned above unless it has a solid record of investing in the insurance markets, particularly if such private equity will request for approval from the OIC or MOF to hold more than 25% or 49% as the case may be.</p> |
|  VIETNAM | <p>There are certain threshold requirements applicable to the investors in acquiring an existing insurer, including the following:</p> <ul style="list-style-type: none"> ■ Have gained profit for three consecutive fiscal years immediately preceding the year that the application for licensing is submitted ■ Have at least seven years of experience of operation in the relevant areas of insurance to be conducted in Vietnam (or have a subsidiary in the group that has experience in the relevant area of insurance business) ■ Have a minimum total value of assets equivalent to USD 2 billion in the year immediately preceding the year the application for issuance of a license is submitted <p>The laws are open to an investor that may not be an insurer but a subsidiary in an offshore financial and/or insurance group, which may include a private equity investor. However, the MOF would generally favor a strategic investor over a private equity investor.</p> |



10 Is there a financial holding company concept (FHC) or other equivalent status? What are the implications?

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|  CHINA | <p>There is no FHC concept for insurance companies.</p> <p>A foreign insurer must satisfy the entry requirements before it can set up a JV or a wholly owned subsidiary in China. Such requirements include capital, insurance experience and having a representative office in China for two years.</p> |
|  HONG KONG | <p>In general, there is no FHC concept or similar concepts for insurance companies in Hong Kong. However, in the context of an insurance, the IA may designate a Hong Kong-incorporated holding company of an authorized insurer as the designated insurance holding company if it considers appropriate to do so, for the purpose of group-wide supervision.</p> <p>The designated insurance holding company will be subject to various regulatory requirements, such as a restriction on major acquisitions, reporting and disclosure requirements, and group capital requirements.</p> |
|  INDONESIA | <p>There is currently no FHC concept for insurance companies.</p> <p>However, the OJK has issued OJK Regulation No. 45/POJK.03/2020 ("POJK 45/2020") on Financial Conglomerates. Based on POJK 45/2020, a "financial conglomerate" has the following criteria: (i) having total group assets of IDR 100 trillion or more, and (ii) having business activities in more than one type of financial services institutions (e.g., banks, insurance, reinsurance, finance and/or securities companies). Nevertheless, the OJK may also designate two or more financial institutions in one group as a financial conglomerate even though they do not meet the criteria set out above.</p> |
|  JAPAN | <p>Yes, there is an "insurance holding company" concept under the IBA. A company that intends to become an insurance holding company must obtain approval from the FSA. Also, an insurance holding company is subject to various regulations under the IBA as well as supervision by and reporting to the FSA.</p> <p>Regulations applicable to an insurance holding company include, among others, a limitation on the scope of business (generally management of its subsidiaries) and the submission of a business report and other materials regarding the status of the business and assets to the FSA.</p> |
|  MALAYSIA | <p>Yes, there is a concept of FHC. The following companies will have to apply for a FHC status or approval:</p> <ul style="list-style-type: none"> ■ A company currently holding more than 50% of the interest in shares in an insurer ■ A company proposing to acquire more than 50% interest in shares in an insurer <p>Prudential requirements (e.g., restrictions on the payment of dividends, the business that is carried out, etc.) set out in the FSA or the IFSA (as the case may be) apply to the FHC and its subsidiaries.</p> |











10 Is there a financial holding company concept (FHC) or other equivalent status? What are the implications?

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|  PHILIPPINES | <p>Yes, there is a “holding company system” concept under the Amended Insurance Code. An insurer controlled directly or indirectly by a holding company is subject to registration, reporting and other requirements imposed by the Insurance Commission. “Control” means power to direct or cause the direction of the management and policies of the domestic insurer, and is presumed to exist when one person/entity owns, controls or holds, directly or indirectly, 40% or more of the voting shares of the domestic insurer.</p> <p>The Insurance Commissioner will consider the following:</p> <ul style="list-style-type: none"> ■ The financial condition of the acquiring person and the insurer ■ The trustworthiness of the acquiring person or any of its officers or directors ■ A plan for the proper and effective conduct of the insurer’s operations ■ The source of the funds or assets for the acquisition ■ The fairness of any exchange of stock, assets, cash or other consideration for the stock or assets to be received ■ Whether the acquisition will substantially lessen competition in any line of commerce in insurance or tend to create a monopoly therein ■ Whether the acquisition is likely to be hazardous or prejudicial to the insurer’s policyholders or stockholders |
|  SINGAPORE | <p>FHCs are regulated under the Financial Holding Companies Act 2013 (FHCA).</p> <p>The FHCA empowers the MAS to regulate FHCs of financial groups, by designating a financial holding company as a designated financial holding company. If the FHC is the ultimate parent of a financial group with a bank and/or insurance subsidiary in Singapore, the MAS will be the home supervisor of the FHC and its financial group. If the FHC is an intermediate holding company, the MAS will evaluate the significance of its bank and/or insurance subsidiary in Singapore to the Singapore financial system, or to the intermediate FHC group.</p> <p>Designated FHCs will have to comply with the FHCA requirements, including obtaining MAS approval for shareholders with substantial or controlling interests in the FHCs, complying with corporate governance regulations on the roles and responsibilities of directors, and appointing key persons such as the chief executive officer of the FHC.</p> |
|  TAIWAN | <p>Yes. The Financial Holding Company Act permits an FHC to concurrently own bank, securities and insurance subsidiaries (at least two of them). If the total assets of the target insurance company exceed NTD 300 million (approximately USD 10 million), the acquirer must be an FHC established under the Financial Holding Company Act or recognized by the Financial Supervisory Commission as a foreign financial holding company.</p> <p>More stringent requirements (such as related parties’ transactions) set out in the Financial Holding Company Act apply to the FHC and its subsidiaries.</p> |
|  THAILAND | <p>There is no FHC concept for insurance companies. Investor who wishes to directly hold shares in an insurance company, as a regulated entity, more than 25% or 49% must obtain a prior approval from the OIC or MOF, as the case may be. In doing so, certain qualifications must be met.</p> |
|  VIETNAM | <p>There is no FHC concept for insurance companies.</p> |



11




What are the typical modes of distribution for insurance companies?

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|  CHINA | Bancassurance, agency force, brokers, telemarketing, direct marketing and direct sales through the internet. |
|  HONG KONG | Bancassurance, agency force, brokers, telemarketing, direct marketing and digital distribution through apps and other digital platforms. |
|  INDONESIA | Agency force, bancassurance, brokers, non-bank distribution channels and telemarketing. |
|  JAPAN | Sales employees, agency force, direct sales through the Internet, bancassurance and brokers. |
|  MALAYSIA | Agency force, bancassurance and walk-in customers. |
|  PHILIPPINES | Agency force, brokers and digital distribution. |
|  SINGAPORE | Financial advisors, bancassurance, agency force, brokerage arrangements, and direct and indirect distribution through digital platforms. |
|  TAIWAN | Agency force, insurance brokers, insurance agents, telemarketing, e-commerce platforms, permitted collaborating partners (such as mobile device manufacturers and online travel agencies) and bancassurance. |
|  THAILAND | Agency force, brokers, telemarketing, bancassurance, and online channel. |
|  VIETNAM | Agencies, bancassurance (as a special form of agencies), brokers' direct sales and digital channels |



12




Bancassurance: Is bancassurance a popular mode of distribution? What approvals are required? What are the main parameters in negotiating a bancassurance agreement?

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|  CHINA | <p>Yes, bancassurance is a popular mode of distribution. The bank should acquire the approval as an insurance agency from NFRA.</p> <p>The salient terms are:</p> <ul style="list-style-type: none"> ■ Exclusivity ■ Products ■ Fees and commissions ■ Remuneration ■ Risk allocation |
|  HONG KONG | <p>Yes, bancassurance is a popular mode of distribution. The bank should be registered as an insurance agency. The salient terms are:</p> <ul style="list-style-type: none"> ■ Exclusivity and exceptions ■ Term and renewal ■ Products ■ Co-branding/white label products ■ Remuneration (upfront fees, commissions, marketing and other allowances, etc.) ■ Mining of the bank's customer data |
|  INDONESIA | <p>Yes, bancassurance is a popular mode of distribution.</p> <p>OJK insurance and OJK banking prior approvals are required before entering into a bancassurance arrangement. The salient terms are:</p> <ul style="list-style-type: none"> ■ The scope of partnership (exclusive, strategic partnership, etc.) ■ Remuneration (upfront fees, commissions, marketing allowances, etc.) ■ Term and renewal ■ Products (including overlap products) ■ The bank's distribution channels' growth ■ Claw-back or penalty ■ Termination of partnership ■ Business plans and sales targets ■ Mining of the bank's customer data and use of common customer data |



12



Bancassurance: Is bancassurance a popular mode of distribution? What approvals are required? What are the main parameters in negotiating a bancassurance agreement?

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|  JAPAN | <p>Yes, bancassurance is a popular mode of distribution.</p> <p>A bank serving as an insurance agent must be registered with the regional financial bureau. The salient terms are:</p> <ul style="list-style-type: none"> ■ Remuneration ■ Products ■ Term and renewal ■ Risk allocation |
|  MALAYSIA | <p>Yes, bancassurance is a popular mode of distribution.</p> <p>No regulatory approval is required. However, insurers are required to notify BNM of the arrangement before the agreement comes into effect.</p> <p>The salient terms are:</p> <ul style="list-style-type: none"> ■ Exclusivity ■ Term and renewal ■ Products to be distributed, and the channels for distribution ■ Fees and timing for such payment ■ The mining of the bank's customer data |
|  PHILIPPINES | <p>Yes, bancassurance is a popular mode of distribution.</p> <p>Prior approval of the monetary board is required before banks may be used as outlets for the presentation and sale of insurance products. The insurance products to be cross-sold must have been previously approved by the Insurance Commissioner.</p> <p>Moreover, the bank and the insurer must belong to the same financial conglomerate (i.e., a group of interrelated entities promoting significant services in at least two of the following financial services: banking, securities, and insurance).</p> <p>The salient terms are:</p> <ul style="list-style-type: none"> ■ Exclusivity ■ Term and renewal ■ Presentation and sale of products ■ Remuneration ■ Grievance mechanism ■ Consumer protection requirements ■ Limited role of bank employees ■ Risk allocation |



12



Bancassurance: Is bancassurance a popular mode of distribution? What approvals are required? What are the main parameters in negotiating a bancassurance agreement?

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|  SINGAPORE | <p>Yes, bancassurance is a popular mode of distribution.</p> <p>There are no specific approvals from the MAS, although the bank may need to notify the MAS depending on the scope of the bancassurance arrangements (i.e., banking representatives will need to be appropriately licensed/approved).</p> <p>The salient terms are:</p> <ul style="list-style-type: none">■ Exclusivity (and any exclusions to exclusivity)■ Products■ Co-branding/white label products■ Remuneration and risk allocation■ Mining of the bank's customer data■ Termination provisions |
|  TAIWAN | <p>Yes, bancassurance is a popular mode of distribution. Banks conducting a bancassurance business must obtain an insurance agency or brokerage license from the IB and approval from the Banking Bureau. In addition, a person who sells insurance products must be a bank employee who holds an individual insurance solicitor license.</p> <p>The salient terms are:</p> <ul style="list-style-type: none">■ Exclusivity (and any exclusions to exclusivity)■ Fees and commissions■ Products■ Term and renewal■ Risk allocation■ Use of the bank's customer data |






12

Bancassurance: Is bancassurance a popular mode of distribution? What approvals are required? What are the main parameters in negotiating a bancassurance agreement?

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|  THAILAND | <p>Yes, bancassurance is a popular mode of distribution, particularly for life insurance sector. Banks conducting bancassurance business must obtain an insurance brokerage license from the OIC. In addition, the person who sells must be a bank officer who holds an individual insurance brokerage license.</p> <p>The salient terms are:</p> <ul style="list-style-type: none">■ Fees and commissions■ Products scope■ Products development■ Bank and insurer obligations■ Term and renewal■ Risk allocation■ Exclusivity■ The mining of the bank's customer data■ Digital channel |
|  VIETNAM | <p>Yes, bancassurance is a popular mode of distribution. The bank must obtain the approval from the State Bank of Vietnam for its insurance agency business. The bank's employees who directly conduct insurance agent activities must be trained and issued insurance agent certificates. The bank needs to satisfy certain regulatory requirements in order to provide the insurance agency services, including among other things:</p> <ul style="list-style-type: none">■ The credit institutions must set up a specialized department to conduct their insurance agency activities;■ The head of the specialized department must have at least three years of work experience in the finance, banking or insurance sectors, and must hold a bachelor's degree (or higher) in the insurance major;■ The credit institutions must maintain information technology system to ensure the full, accurate and prompt provision of information related to insurance policies distributed via the credit institutions. <p>The salient terms are:</p> <ul style="list-style-type: none">■ Exclusivity■ Term and termination of the agreement■ Products to be distributed■ Commissions and other payments■ Confidentiality■ Data privacy and data provision between the parties for the bank's customer data■ The insurer's training for the bank's sales staff |







13 What are the top challenges in closing an insurance M&A transaction (share deal versus asset deal)?

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|  CHINA | <p>Share and asset deals</p> <ul style="list-style-type: none">■ Regulatory approval■ Price■ MAC clause <p>Asset deal, in practice, only occur where the insurance company are taken over by the regulator so far. Under such circumstance, the company which purchase the asset has to accept:</p> <ul style="list-style-type: none">■ all the relevant employees■ the assets as they are no matter if they are consistent with the status disclosed in relevant instruments. |
|  HONG KONG | <p>Share and asset deals</p> <ul style="list-style-type: none">■ Regulatory approval■ Price■ MAC clause <p>Asset deal</p> <ul style="list-style-type: none">■ Transfer of all other business undertakings■ Transfer of employees |
|  INDONESIA | <p>Share and asset deals</p> <ul style="list-style-type: none">■ Availability of quality target companies and valuation gap on pricing of deals■ Quality of offered distribution channels (if the deal involves a strategic distribution partnership with the selling shareholder's group)■ Approval from OJK■ Strict requirements for foreign shareholder■ Fit and proper test for board members■ The "controller" concept which essentially will lift the corporate veils concept in an insurance company.■ If the seller is a bank, regulatory approval■ The 80% cap on foreign shareholding and identifying a local joint venture partner <p>Asset deal</p> <ul style="list-style-type: none">■ Approval from OJK■ Transfer of insurance portfolios■ Transfer of employees |






13 What are the top challenges in closing an insurance M&A transaction (share deal versus asset deal)?

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|  JAPAN | <p>Share and asset deals</p> <ul style="list-style-type: none">■ Approval from the FSA■ Compliance review of the target company■ Change of control clause in material agreements (e.g., reinsurance) <p>Asset deal</p> <ul style="list-style-type: none">■ Approval from the FSA■ Transfer of all other business undertakings■ Transfer of employees |
|  MALAYSIA | <p>Share and asset deals</p> <ul style="list-style-type: none">■ The two-stage approval process, which gives rise to the issues of securing exclusivity and preserving the value of the target's business in the interim■ The 70% cap on foreign shareholding and identifying a local joint venture partner (a foreign entity making its maiden entry into Malaysian insurance sector would not have any contacts with local investors)■ Transfer of all other business undertakings■ Transfer of employees |
|  PHILIPPINES | <p>Share and asset deals</p> <ul style="list-style-type: none">■ Compliance with documentary and other submissions may be required by the Insurance Commission■ Obtaining a tax clearance in order for the share or asset deal to be consummated■ Valuation of the assets in an asset deal could be time-consuming and needs to be vetted by the Securities and Exchange Commission |
|  SINGAPORE | <p>Share and asset deals</p> <ul style="list-style-type: none">■ Obtaining the requisite court and MAS approvals■ Legal issues relating to the sharing of customer information, especially for foreign insurers considering integration strategies that involve cross-border transfer of information <p>Asset deal</p> <ul style="list-style-type: none">■ Issuing notices of assignment to all policyholders■ Transfer of contracts, policies and other business undertakings |










13 What are the top challenges in closing an insurance M&A transaction (share deal versus asset deal)?

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|  TAIWAN | <p>Share deal</p> <ul style="list-style-type: none">■ Approval from the IB if acquiring more than 10%■ Compliance with documentary, long-term commitment, source of future capital increase funding, and other submissions that may be required <p>Asset deal</p> <ul style="list-style-type: none">■ Obtaining an insurance license■ Issuing notices of assignment to all policyholders■ Transfer of contracts, policies and other business undertakings |
|  THAILAND | <p>Share deal</p> <ul style="list-style-type: none">■ Quality of assets■ Approval from the OIC or MOF if acquiring more than 25% or 49% (as the case may be)■ Stringent shareholding requirements■ Price■ Qualified employees■ Transitional service arrangement <p>Asset deal</p> <ul style="list-style-type: none">■ Quality of assets■ Approval from the OIC■ Practical obstacle in obtaining consent of insured for the transfer of insurance policies■ Communication with customers and regulator■ Transitional service arrangement■ Redundancy |
|  VIETNAM | <p>Share and asset deals</p> <ul style="list-style-type: none">■ Identifying the right target, which can be difficult or time-consuming given that publicly available and reliable sources of information are limited■ Obtaining regulatory approvals by the MOF as the insurance regulator for completion of deals can be time-consuming, especially when acquiring a 10% stake or more■ Conditions and requirements applicable to acquirers can be cumbersome |



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Is there a special license for virtual insurer, and will the regulatory process for acquiring a virtual insurer simpler and less onerous?

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|  CHINA | <p>Yes, internet insurance company which can purely sell the insurance products online. The regulatory process for acquiring an internet insurer will not be simpler and less onerous. To the contrary, the regulator is quite prudent and strict when granting such approval.</p> |
|  HONG KONG | <p>The IA has launched the pilot scheme of “fast track for applications for authorizations of new insurers owning and operating solely digital distribution channels” (“Fast Track”). Under the Fast Track, virtual insurers which own and operate solely digital distribution channels, without using any conventional channels (such as agents, banks or brokers), can enjoy an expedited and streamlined process in applying for authorization compared to other insurance license applications.</p> <p>However, please note that despite the Fast Track, the regulatory requirements on the virtual insurers will not be less onerous, because all solvency, capital and local assets requirements applicable to traditional insurers still apply to the virtual insurers. The IA will also impose certain restrictions or conditions on the products that can be sold online. Furthermore, the virtual insurers will only be allowed to carry on business through digital distribution channels.</p> |
|  INDONESIA | <p>No. Currently, the regulatory framework for digital insurer still follows the conventional insurance regulatory framework.</p> |
|  JAPAN | <p>There is no special license for a virtual insurer, and the conditions for the approval in respect of an “insurance major shareholder” and “insurance holding company” of a virtual insurer under the IBA are the same as those applied when acquiring a traditional insurer. However, in practice it is possible that the FSA takes into consideration features peculiar to a virtual insurer in its assessment of each of such conditions in the approval process.</p> |
|  MALAYSIA | <p>There is no express provision within the FSA in respect of the single presence BNM is currently finalizing the licensing and regulatory framework for digital insurers and digital operators (DITOs). Prospective shareholders of DITOs would be subject to the same process and requirements for acquisition of non-digital insurers.</p> |
|  PHILIPPINES | <p>No.</p> |
|  SINGAPORE | <p>There is no special license required for virtual insurers. Virtual insurers would have to apply for a license under one of the three categories as set out by MAS – direct insurers, reinsurers or captive insurers.</p> |



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Is there a special license for virtual insurer, and will the regulatory process for acquiring a virtual insurer simpler and less onerous?

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|  TAIWAN | <p>Yes. For a virtual insurer wishes to enter the Taiwan insurance market, it has to first apply to the IB for establishment approval within the timeframe set by the IB (e.g., for the 2022 applications, the timeframe for applicants to apply the establishment approval is from 1 August to 31 October 2022) and complete the company incorporation registration. Then, such a virtual insurer should apply to the IB for the issuance of a business license within three months after completing the company incorporation registration. (Regulations for Establishment and Administration of Insurance Enterprises).</p> <p>The regulatory process for acquiring a virtual insurer license is more complicated because the IB will form a special committee to review (i) the feasibility of the proposed business operating model, the innovation of the proposed insurance products, the appropriateness of the proposed management mechanism and whether the proposed responsible persons are fit and proper etc. In the 2022 applications, both applicants' applications were rejected by the IB because one failed to meet the legal qualifications and the other's proposed business model and insurance product were not satisfied by the review committee members.</p> |
|  THAILAND | <p>Currently, no. However, the OIC has been active in studying potential opportunity for virtual insurance license.</p> |
|  VIETNAM | <p>Vietnamese regulations do not have or recognize the concept of virtual insurer.</p> |



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