Asia Pacific Insurance - Japan

Guide for Insurance Sales, Advisory and Distribution

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# 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?

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 (the FSA). The FSA may reject a registration for reasons such as insolvency, certain criminal record, etc.

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

No. There are no specific rules in this regard.

# Do agreements between insurers and their agents need to take a certain form?

No. There are no specific rules in this regard.

# Can insurers pay volume-based commission to their appointed agents?

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.

# Are insurers liable for any mis-selling of its agents or appointed distributors?

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 such agent to prevent damage caused to the customers, the insurer will not be liable for the damage.

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

No. There are no specific rules in this regard.

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

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.

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

An insurance agent may not promise to offer or actually offer to customers any discount or rebate on insurance premiums or any other special advantage.

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

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 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.

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

Yes. If an insurer provides information or 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 which 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 educate, manage and supervise insurance  
agents. These measures need to be reviewed and updated and should include the following: (1) that a talk-script which 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.

# Are there specific requirements on selling products through online channels?

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 these 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.

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

The Act on Protection of Personal Information and its Guidelines apply in addition to some other guidelines specific to the financial sector. Once an insurer has acquired personal information, they must promptly notify the data subject of, or publicly announce, the purpose of use of such personal information, unless they have already publicly announced its purpose of use. Subject to certain prescribed exceptions, an insurer must, when they receive 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 they received the personal data, any matter concerning  
said confirmation, and other matters prescribed by the Personal Information Protection Commission.

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