Asia Pacific Insurance - Singapore

Regulatory Landscape and Issues in Bancassurance

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# Who is the main regulator with oversight of bancassurance matters?

The Monetary Authority of Singapore (**MAS**).

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

Yes.

Bancassurance partnerships are generally divided into the following arrangements:

exclusive arrangements;

preferred partner arrangements; and

conventional/open architecture arrangements (i.e., bank will distribute the insurance products of insurer without preferential treatment).

# What are the main parameters in negotiating a distribution agreement?

The salient terms are:

type of bancassurance partnership;

term and renewal;

products and products development;

commission, incentives and timing for such payment;

distribution methodology and operating procedures; and

the mining of the bank’s customer data.

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

Yes, insurance companies and the banks must be respectively licensed (or exempted from licensing) under the Insurance Act (Cap. 142 of the Republic of Singapore), the Banking Act (Cap. 19 of the Republic of Singapore) and the Financial Advisers Act (Cap. 110 of the Republic of Singapore) to carry on insurance business and the booking of general insurance policies, banking business or the marketing/arrangement of life policies (as the case may be) in Singapore.  
  
Representatives or personnel of the banks or insurance companies carrying out such activity must also be appropriately registered (see Question 22 below).

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

Exclusivity, and its term or duration, is a matter of negotiation between the parties. Parties must also be aware of competition law considerations.

# Assuming full exclusivity is not possible for legal or regulatory reasons, would the bank be able to grant the insurance company preferential treatment? If yes, under what conditions?

Yes, preferential treatment, or preferred partner arrangement, is common in instances where a bank resists an exclusive arrangement. The form of the preferential treatment is a matter of negotiation.

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

No regulatory approval is necessary but a bank which intends to arrange any contract of insurance in respect of life and non-life policies (other than a contract of reinsurance) in the course of its bancassurance activities is obliged to notify the MAS of the commencement of such business.

# Would the insurance company and/or the bank be required to submit the distribution agreements (and any ancillary documents) to the regulators as part of any notification/approval process? If yes, do the regulators require any specific terms to be included in the distribution agreements?

No, unless the MAS requests for it.

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

Not applicable.

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

It would be prudent to undertake a competition analysis given the broad application of, and significant penalties for breach under, the Competition Act (Cap. 50B of the Republic of Singapore).

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

None in particular. The concern is in determining whether the distribution agreement has any anti-competitive object or effect, and if any exclusions apply.

# Under applicable laws and regulations, would the insurance company be allowed to use customer information (consisting of certain personal and demographic data) possessed by the bank to: (a) develop new products and refine marketing strategies, among others; (b) conduct its own telemarketing or direct mail activities; and (c) cross-sell products?

Any customer information possessed by the bank is subject to banking secrecy provisions under the Banking Act, and such disclosure may only be made if one of the exemptions to banking secrecy applies or the information is processed such that it is not referable to a customer or group of customers.  
  
Further, the collection, use and disclosure of personal data will under the Personal Data Protection Act (No. 26 of 2012) (**PDPA**) require the consent or deemed consent of the individual concerned, unless an exemption applies. Unless consent has been obtained or there is an applicable exemption, the insurance company will not be allowed to use customer information other than for the original purpose for which the insurance company received the information.  
  
The PDPA has also established a Do Not Call Registry, and introduced obligations and restrictions that apply in relation to persons sending specified messages (in the form of voice calls, text or fax messages) to Singapore telephone numbers.

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

Yes, the PDPA prohibits the dissemination of customer information without the customers’ consent. Appropriate consent should be obtained from customers, and where relevant, notifications should be issued to customers. The banking secrecy provisions under the Banking Act also provide an exception to allow disclosure where the customer’s prior written consent is obtained.

# Are there any other prohibitions or limitations resulting from applicable privacy laws relating to the sharing of customer information for purposes of marketing and distribution of insurance products?

Common-law duty of confidentiality may apply.

# Are there any prohibitions or limitations in respect of compensation arrangements for bancassurance transactions (up-front/staggered payments, commission payments, bonus payment schemes)?

Parties should consider the rules in place concerning commission payments for regular premium life policies paid by manufacturers to banks.

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

Currently not applicable, but under the draft Financial Advisers (Remuneration and Incentive) Regulations, a contravention of the proposed compensation limitations and product-related incentives will be regarded as an offense. However, the precise penalties for such contravention has not been prescribed or announced yet.

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

In our past experience, typically no. However, based on the new requirements proposed (as discussed in Questions 15 and 16 above) this may change.

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

No, but depending on the class of product, there may be an obligation to hold a separate license or notify the MAS (see our response to Question 7 above). Different ongoing conduct of business requirements may also apply to different classes of insurance products.

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

None, but subject to compliance requirements.

# Would the policy forms used by the insurance company have to be approved by any regulator? Would the insurance company own the intellectual property rights relating to such policy forms?

New policies or policies with features that do not appear in the insurance company’s existing business portfolio need to be approved by the MAS. The approval request requires submission of the policy form, proposal form, product summary and benefit illustration (among others).  
  
Yes, insurance companies own the IP rights to such policy forms.

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

No, there is no specific regulatory prohibition or limitations on co-branding provided that the bank does not assume any risk or undertake any liability under the relevant policies and provided that it is not false, misleading or deceptive.

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

The bank would generally exercise care regarding the level of access to its customer data to preserve confidentiality and banking secrecy.

# If the sales person is employed by the bank: (a) is the insurance company required to have oversight or provide special training; and (b) are there applicable laws and regulations allowing the insurance company to compensate the bank for the service provided by its sales personnel?

There is no statutory requirement for training or oversight responsibility by the insurer. However, it is common for the insurer to provide training to the bank personnel.

This is contractual. The bank would be compensated based on the consideration set out within the distribution agreement.

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

The bank would generally exercise care regarding the level of access to its customer data to preserve confidentiality and banking secrecy.

# Are banks allowed to lease space to insurance companies to market its products in the bank’s branches?

This may be subject to regulatory notifications or approvals, and subject thereto banks are allowed to lease space to insurance companies, provided there are adequate safeguards in segregating information and maintaining confidentiality and banking secrecy.

# Are there any investment requirements (e.g., minimum stake to be held by the insurance company in its distribution partner) or any other similar legal or regulatory obligations that may affect the insurance company’s ability to enter into the distribution agreements?

None.

# Are there any recent (or pending) developments in laws and regulations that may be relevant to the negotiation and/or the entering into of the distribution agreements (or the provision of services by the insurance company and/or the bank pursuant thereto)?

Draft amendments to legislation and the regulatory regime for financial advisory services (including the arranging of life insurance contracts) have been proposed pursuant to the Financial Advisers Industry Review. The key thrusts introduced by the Financial Advisers Industry Review were: (i) raising the quality of financial advisory firms; (ii) lowering distribution costs in respect of distributing life policies; and (iii) promoting a culture of fair dealing.

# Are there any other issues that may affect the insurance company’s ability to enter into the distribution agreements and provide bancassurance services on an ongoing basis to the bank?

None.

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