Asia Pacific Insurance - Philippines

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?

Third-party intermediaries who assist in the solicitation or procurement of admitted insurance products include insurance brokers and insurance agents licensed by the Insurance Commission (IC). A person (such as an individual, partnership or corporation) must file an application for an insurance broker or insurance agent in the IC and pay the corresponding application fees in order to be licensed.

An insurance broker must comply with the minimum paid-up capital of PHP 20 million for an insurance broker, or PHP 50 million for both an insurance and reinsurance broker. In order to be issued a license, a brokerage company must have a qualified and approved soliciting official.

On the other hand, an insurance agent must be a resident of the Philippines and pass a qualifying examination conducted by the IC. An insurance agent license issued to an entity authorizes only the individuals named in its IC license. A licensed life insurance agent can represent only one life insurance company and, in case of transfer from one life insurance company to another, the agent is required to submit an application to the IC. A licensed non-life insurance agent can represent up to seven non-life companies.

An insurance broker/agent license must be renewed every three years.

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

There is no law or regulation requiring insurers to offer customers the option to purchase insurance products directly from them without going through financial advisers or intermediaries.

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

There is no prescribed form for the written agreement between an insurer and an insurance agent/insurance broker. However, if an insurance agent is a general agent (ie, an insurance agent who, aside from soliciting and obtaining insurance on behalf of an insurer, is empowered to conduct other business on behalf of an insurer), then a general agency agreement must specify the terms and conditions upon which the general agent may perform acts and conduct business on behalf of the insurer.

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

Insurance laws and regulations allow insurers to pay volume-based commission to their appointed agents. Insurance regulations provide that insurers may pay commission or other forms of compensation to insurance agents, on the condition that such insurance agents must place with the insurers an equal amount of outside business for the duration of the license.

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

The IC has guidelines for selling life and non-life insurance products that insurers must follow. For instance, the IC has adopted Market Conduct Guidelines for the guidance, compliance and implementation of all life insurers and their agents doing business in the Philippines. Non-compliant companies, officers or agents shall be subject to discretionary sanctions provided under the Insurance Code and imposed by the IC.

Moreover, under the principal-agent principle in Philippine law, a principal is liable to third parties for the acts of its agent. However, the written agreement between the insurer and its agents may provide that the agent will indemnify the principal in case of liability to third parties due to the agent's acts. Under Philippine law, an agent must act in accordance with the instructions of the principal and answer for damages that the principal may suffer due to the agent's fraud, negligence, or non-performance.

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

There are no laws or regulations providing for rules on the number of insurers that insurance brokers need to present to their customers. An insurance broker is expected to give independent advice about what insurance products are available from different insurers.

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

No law or regulation prohibits brokers from receiving commission (or other forms of incentive) from both insurers and customers, but it is recommended that brokers have appropriate processes and controls in place in order to address conflict of interest arising from such arrangement. A volume-based commission arrangement with insurers may compromise an insurance broker's independence to act for the
interest of the insured.

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

The Insurance Code expressly prohibits rebates and inducements by insurers or agents. Insurers and their brokers/agents are not allowed to offer any rebate on the premium that is not specified in the insurance policy, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement of any kind, directly or indirectly, which is not specified in the policy or contract of insurance.

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

No law or regulation under Philippine law prohibits insurers from appointing offshore agents or brokers (to the extent permitted by foreign law). Insurance laws and regulations generally apply to activities and transactions conducted in the Philippines.

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

Under IC Circular Letter No. 2016-61, insurance companies and their brokers/agents are allowed to introduce, present and sell insurance products via telemarketing subject to the guidelines and requirements of the IC. Telemarketers engaged by insurance companies may or may not be IC-licensed insurance agents. A telemarketer that is an IC-licensed agent may solicit and/or sell insurance product/s and receive appropriate commission for such sale. On the other hand, a telemarketer that is not an IC-licensed insurance agent is allowed to conduct only preliminary introduction and presentation of insurance products. Telemarketers engaged by insurance brokers shall only be
allowed to conduct preliminary introduction and presentation of insurance products.

Under a bancassurance arrangement, an insurance company is allowed to present and sell insurance products to bank customers within the premises of local banks. The bancassurance agreement must be approved by the IC, and the bank must be authorized by the Philippine Central Bank to engage in cross-selling.

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

Insurers may engage in electronic commerce (ie, buying, selling or providing insurance products and services online) in accordance with IC Circular Letter No. 2014-47 and 2016-60. The IC requires insurers to, among others, (1) make available online: sufficient, accurate and current information regarding the insurer and the insurance policy/ies; (2) highlight the exclusions and limitations of a policy and ask customers to confirm that they have read and understood such exclusions and limitations; (3) in case of variable life insurance products, refer the customer to a licensed agent or intermediary for servicing and product advice prior to the execution or issuance of the variable life contract online; and (4) provide a summary of the application form for further validation, prior to requesting a customer to signify consent.

The use of a mobile application requires prior approval of the IC. The mobile application should be registered with a major digital platform (eg, Apple lnc. App Store, Google lnc. Google Play, and Microsoft Windows Marketplace).

An insurance policy issued online must comply with the pertinent provisions of the Electronic Commerce Act and IC regulations.

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

Insurers can share information with insurance agents/brokers and vice versa, with the consent of customers.

lnsurers and their agents/brokers must comply with the relevant provisions of the Data Privacy Act of 2012 and its implementing rules and regulations. Further, in IC Circular Letter No. 2016-20, the IC expressly grants policyholders the right to confidentiality of information. Specific to electronic commerce, insurers and their agents/brokers must comply with privacy requirements in online transactions as provided in IC Circular Letter No. 2014-47, including properly disclosing the terms of use of personal information of customers and providing clearly worded opt-in processes.

It is recommended that insurers obtain the consent of their customers or to ensure compliance with the regulations for processing of "personal information" and/or "sensitive personal information" under the Data Privacy Act, before data collected from customers is shared with other entities (eg, insurance agents/brokers).

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