Asia Pacific Insurance - Vietnam

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?

An insurance broker provides its brokerage services at the request of its clients being policyholders, except for the case where an insurance broker is authorized by the insurer to collect premiums, pay insurance proceeds or settle indemnification (but in such case, the insurance broker is not permitted to receive any remuneration from such insurer for the broker's performance of such authorized activities). The insurance brokers are licensed under procedure conducted by the MOF under the Law on Insurance Business. The insurance broker must meet the following requirements:

Contributed charter capital must not be less than the legal capital prescribed under the laws, in particular: (i) VND 4 billion (approximately USD 175,000) for a broker that conducts one of insurance brokerage services or reinsurance brokerage services; and (ii) VND 8 billion (USD 350,000) for a broker that conducts both insurance brokerage services and reinsurance brokerage services.

The broker's corporate form and charter must be licensed by the State Bank of Vietnam for their insurance agency services under their licenses.

The broker's managers/executive officers must meet the criteria and qualifications required by Vietnamese insurance business laws.

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The broker's corporate form and charter must comply with regulations under Vietnamese insurance laws and other relevant laws.

The broker's managers/executive officers must meet the criteria and qualifications required by Vietnamese insurance business laws.

# 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. Vietnamese insurance law generally allows insurers to sell their products through any of the following methods: (a) direct sales to customers; (b) insurance intermediaries; (c) bidding; (d) e-transactions; or (e) other lawful forms.

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

No. Generally, however, there should be written agreements between insurers and their appointed agents. The Law on Insurance Business of Vietnam requires that agreements between insurers and their agents include the following contents:

Name and address of the insurance agent

Name and address of the insurer

Rights and obligations of both the insurer and insurance agent

Contents and scope of operation of the insurance agent

Insurance agency commission

Term of the contract

Principles for settlement of disputes

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

Yes. There is no overarching prohibition on paying sales-based commissions to appointed agents. However, the following limitations apply:

a. Agents' commissions: Insurers must pay agents commission at a maximum rate calculated according to the received insurance premium of each insurance contract. The maximum rate of commission varies depending on the types/classes of products involved.

For non-life insurance, the maximum commission is 5% for compulsory fire and explosion insurance, 20% for motor owner's civil liability insurance, 10% for voluntary fire and explosion insurance, and 0.5% for aviation insurance.

For life insurance, the commission may vary throughout the term of the policy. In the case of individual term life insurance, for instance, the commission shall not exceed 40% of the first year's premium, 20% of the second year's premium, and 15% of the premium for succeeding years. For group life insurance policies, the maximum commission rate is half of the corresponding rate applicable to life insurance provided to individuals.

For health insurance, the maximum rate of commission is 20%.

b. Brokers' commissions: The maximum rate of brokerage commission of each insurance operation/class under each insurance policy contract is 15%. This rate is calculated based on the amount of premiums as actually collected by insurers.

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

Yes. Under the Law on Insurance Business of Vietnam, when an insurance agent breaches the insurance agency contracts, and this breach (which can include mis-selling) causes damage to the legitimate rights and interests of the insured, the insurer must take responsibility for the breach. Accordingly, the agent shall indemnify to the insurers the amounts that the insurer has paid to the insured relating to the breach by the agent.

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

No. Vietnamese laws do not provide for the number of insurers that insurance brokers need to present to their customers.

However, Vietnamese business insurance laws provide for certain prohibited acts in the insurance brokerage business. For example, the law prohibits an insurance broker from advising clients to buy insurance from an insurer whose products' terms and conditions are less competitive than those of another insurer in order to gain a higher brokerage commission.

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

The law is silent on this matter, which can be interpreted as there being no restriction. However, the law provides that the insurance brokerage commission may not exceed 15% of the insurance premium that the insurer has collected.

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

No. As a general principle, Vietnamese business insurance laws provide that an insurance agent should only conduct activities, including insurance premium collections, with the insurer's authorization. Therefore, agents cannot offer rebates on insurance premiums or other specials without authorization from the insurer.

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

In relation to agents, no express restriction prohibits insurers from appointing offshore agents. However, insurers cannot appoint offshore individual agents given that such entities must be Vietnamese citizens residing in Vietnam to be able to apply for individual agents. Further, the law requires that staff members of organizational agents who directly conduct agency activities must meet the same requirements as individual insurance agents (ie, a Vietnamese citizen residing in Vietnam). In order to meet this requirement, the organizational agency needs to be an onshore agent.

In relation to brokers, no express restriction prohibits insurers from accepting business from offshore brokers. However, Vietnamese law imposes strict limitations on such cross-border brokerage insurance services.

a. The offshore broker must meet the requirements under Vietnamese business insurance laws to provide cross-border insurance brokerage service, including:

Having a license granted by the foreign state management agency in charge of insurance in the locality where the offshore insurer’s head office is located to conduct insurance brokerage operations. The offshore broker must have operated for at least 10 years by the time of provision of cross-border insurance services in Vietnam.

Obtaining a document from the foreign state management agency in charge of insurance in the locality where the offshore broker’s head office is located permitting the provision of cross-border insurance brokerage services in Vietnam and certifying that the offshore broker has not violated the regulations on insurance brokerage activities and other relevant foreign regulations for three years prior to the year of provision of cross-border insurance brokerage services in Vietnam

Having total assets worth at least USD 100 million in the fiscal year prior to the year of provision of cross-border insurance services in Vietnam.

Having conducted profitable business for three fiscal years prior to the year of provision of cross-border insurance services in Vietnam.

Such foreign insurance brokerage business must purchase professional liability insurance for the cross-border insurance brokerage
services it provides in Vietnam.

b. The users of the cross-border insurance brokerage services are limited to enterprises established in Vietnam of which foreign investors hold over 49% of charter capital as well as foreigners working in Vietnam.

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

Generally, insurers are entitled to sell insurance products via electronic transactions and other methods in accordance with the law. However, the law does not provide for any detailed guidelines or further elaborate on any specific requirements on selling products through call centers, telemarketing or other similar distribution channels. That said, selling products through call centers, telemarketing or other similar distribution
channels must be in accordance with general requirements on selling insurance products, anti-spamming and other regulations where relevant.

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

There are no detailed guidelines or requirements on selling insurance products through online channels under Vietnamese law. That said, online transactions must be performed in accordance with the general requirements on selling insurance products and electronic transactions (particularly those governed not only by the Law on Insurance Business but also the Law on E-Transactions, IT Law, etc.).

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

Vietnam has no single comprehensive law that addresses individual and organizational privacy rights. Instead, relevant provisions are found in the Constitution, the Civil Code, the Penal Code, Consumer Protection Law, E-Transaction Law, IT Law, and the Law on Cyber Information Security and certain implementing regulations. The laws and regulations do not employ consistent definitions of what information constitutes personal data and vary depending upon the sector to which the regulation/law applies. At a minimum, information that would enable the identification of an individual should be considered subject to protection. As a general principle, individuals must grant their prior informed consent to the collection, use and transfer of their personal data. Data controllers must not share or disperse the collected, accessed or controlled personal data to any third party, unless it is agreed by the data subjects or requested by a competent state body. If personal data is transferred to a third party, proper consent must be obtained for this transfer.

Thus, if client information contains personal details, insurers must obtain consent from the client before sharing such information with insurance agents and brokers, and vice versa.

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