



VIETNAM'S DRAFT LAW ON INSURANCE BUSINESS STRIVES TO KEEP UP WITH MARKET DEVELOPMENTS

Our Legal Update gives some insight about draft Law on Insurance Business, which is expected to replace Law No. 24/2000/QH10 on insurance business issued by the National Assembly on 9 December 2000 as amended.

The insurance industry in Vietnam has been growing significantly in the past few years. More and more enterprises and Vietnamese citizens have changed their mindset about the benefits of insurance products to enhance the protection of their property, quality of life, etc. against any potential risks, as well as investment for the future.

Understanding the development of the insurance industry and taking into account the fact that the Vietnamese regulatory framework for the insurance sector needs to be further developed to keep up with the growth of the burgeoning insurance market, the Department of Insurance Supervisory Authority under the Ministry of Finance is in the process of collecting opinions with respect to the draft Law on Insurance Business (*the Draft Law*), which is expected to replace Law No. 24/2000/QH10 on insurance business issued by the National Assembly on 9 December 2000, and that came into force on 1 January 2001, as amended (collectively, *the Current Law*). It is estimated the Draft Law will be enacted by the National Assembly in late 2021 and will come into force on 1 January 2023.

Although the Draft Law will be subject to numerous changes before it is finalised and issued for implementation, there are a few notable changes in the Draft Law (version 2.4).



Group insurance for personal insurance

Group insurance is not a new concept in the insurance market. Insurance companies have developed group insurance products to meet the demand of enterprises that desire to incorporate a healthcare programme for their employees into their internal policies. With the growth of market demand in relation to group insurance policies, the Draft Law formally introduces the concept of group insurance whereby the insurance purchaser and the insurer will enter into an agreement to secure for insured persons as a group of insurance participants, except for the case a group of insurance participants has been created merely for the purpose of purchasing such insurance product.

Investments and acquisitions by foreign investors in the insurance sector

The Draft Law inherits the provisions of the Current Law in terms of conditions applicable to foreign insurance enterprises, reinsurance enterprises and financial-insurance groups which desire to invest and acquire insurance enterprises, reinsurance enterprises in Vietnam, among other conditions, having total assets of at least USD 2 billion at the time of submitting the application for a licence to establish and operate in Vietnam or a higher level as prescribed by the Government from time to time. Notwithstanding, the Draft Law provides that foreign insurance enterprises, reinsurance enterprises and financial-insurance groups which satisfy regulatory requirements are entitled to authorise subsidiaries specialising in the performance of investment functions to proceed with such investment activities in Vietnam. By this new provision, although a subsidiary itself may not satisfy the regulatory requirements, it is still entitled to invest in insurance and reinsurance enterprises in Vietnam, subject to the satisfaction of regulatory requirements by its parent enterprise.

Business operations

The Draft Law specifically provides that an insurance company/ reinsurance company is entitled to engage a third party to perform part of the process and operations of the insurer/reinsurer, except for the activities of internal control, internal audit, and risk management. Notwithstanding that such services might be outsourced, the insurer/reinsurer is still responsible for these activities.

Bankruptcy

In case an insurer/reinsurer is unable to pay debts when due, and after applying control measures, it still fails to restore its solvency, such insurer/reinsurer is obliged to file a petition to the relevant court to open bankruptcy proceedings in accordance with the Bankruptcy Law. The Ministry of Finance will step in to submit a request for initiation of bankruptcy proceedings for such insurer/reinsurer, if they fail to do so themselves.

Online insurance products and services

With the development of technology, it is unavoidable that increasingly insurers desire to offer their products via an online platform. It is specifically provided in the Draft Law that insurance enterprises and insurance brokerage enterprises which are licensed to establish and operate in Vietnam, and third parties that are partners of insurance enterprises, including banks, electronic trading floors, are entitled to perform part or the whole process of providing insurance products and services via the internet platform to offer their insurance products to organisations and individuals. The Ministry of Finance will further stipulate conditions to offer insurance products via an online platform.

Insurance arbitration

The Draft Law also includes a dispute resolution method by arbitration, in addition to other traditional dispute resolution methods (negotiation, mediation, court litigation).



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