

Client Alert

December 2019

Fourth Amendments to the Life and Non-Life Insurance Acts have come into effect

Background and rationale

The fourth amendments to the Life insurance Act, B.E. 2535 (1992) and the Non-Life Insurance Act, B.E. 2535 (1992) (the "**Insurance Acts**"), relating to qualifications of insurance agents, brokers, and loss adjusters (the "**Fourth Amendments**"), were published in the Royal Gazette on 25 June 2019 and came into force on 21 November 2019.

In line with the Fourth Amendments, the Office of Insurance Commission (OIC) published the relevant sub-regulations which replace the previous ones, including:

- the OIC's Notifications (both life and non-life) Re: Criteria, Procedures and Conditions on the Application and Renewal of Insurance Agent License and Insurance Broker License, B.E. 2562 (2019); and
- the OIC's Notification Re: Criteria, Procedures and Conditions on the Application and Renewal of Loss Adjuster License, B.E. 2562 (2019).

Key concepts

The Fourth Amendments are intended to afford better protection to the insured and the general public. They cover the following areas.

Insurance agents and brokers

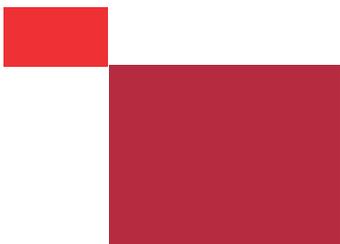
a) Qualifications

In the Fourth Amendments, the qualifications and prohibited characteristics of insurance agents and brokers are addressed separately, and some are stricter than previously prescribed.

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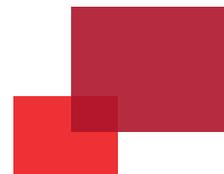


Types	Qualifications	
Agent	Having studied life or non-life or life insurance in accordance with the OIC's notification.	
Broker	Juristic persons	Individuals
	<ul style="list-style-type: none"> No longer required to have its headquarters in Thailand. More types of juristic persons can apply for an insurance brokerage license (subject to future regulations issued by the OIC). 	Having completed training with the OIC or other courses specified by the OIC.

b) Additional requirements of juristic insurance brokers

Requirements	Liabilities
<p>A juristic insurance broker must:</p> <ul style="list-style-type: none"> be ready to operate the insurance brokerage business; appoint only individuals having knowledge or experience in this business and holding an insurance broker license to perform activities related to insurance brokerage; and maintain a system for supervising the performance of the individuals it appoints. 	<ul style="list-style-type: none"> A juristic insurance broker is jointly liable for damages caused by individuals it appoints to act as insurance brokers, whether or not the individuals hold an insurance license. Any of its directors, managers, and responsible persons could be held jointly liable with it.

c) The OIC's increased supervisory powers



Brokers and agents are no longer required to present their licenses and powers of attorney from the insurance company. However, the Fourth Amendments authorize the OIC to issue subordinated regulations to regulate agents and brokers' insurance offers and sales, including those which specify sanctions for non-compliance.

d) More stringent restrictions on agents and brokers' insurance sales

Brokers and agents are not allowed to use any advertising text or picture, or prospectus, unless the insurance company has approved them.

e) Sanctions

The Fourth Amendments introduce injunctions and suspension and remedy orders as administrative sanctions, in addition to license revocation, giving the OIC the power to impose these sanctions immediately. In addition, some criminal sanctions have been revised to carry more severe penalties.

Loss adjusters (for non-life insurance)

a) Qualifications

A loss adjuster must be a juristic person that has a headquarters or a branch in Thailand, and must have an objective of operating a loss adjustment business. Further, a corporate loss adjuster must have an experienced non-life insurance inspector and loss adjuster. Its agent or brokerage license must not have been suspended or revoked within the past five years. The loss adjuster cannot have interest in an insurance company, whether directly or indirectly, nor can it have a history of causing damage or a record that would indicate irresponsibility.

b) Licensing

A loss adjuster license will now have a term of five years. Under the previous acts, the license was only valid for two years. Individuals can act as a non-life insurance inspector and loss adjuster on behalf of a corporate loss adjuster without having to obtain a license.

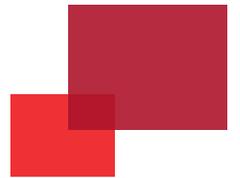
c) Sanctions

Both criminal and administrative sanctions apply to violations by loss adjusters.

Insurance fraud

For the first time in Thailand, insurance fraud will be introduced in the Insurance Acts and will also be treated separately as a non-compoundable (public) offense.

Digitized insurance operations



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The Fourth Amendments make it clear that any electronic transactions in relation to the Insurance Acts (partially or wholly), unless specific OIC regulations exist, must be conducted in accordance with the electronic transactions laws and other related laws.

Conclusion

Brokers, agents, and loss adjusters whose licenses were still valid as of 21 November 2019 are deemed in compliance with the Insurance Acts. However, brokers, agents, loss adjusters as well as insurers should ensure that they comply with the more stringent requirements under the Fourth Amendments going forward, especially considering the OIC's authority to impose administrative sanctions. Given the OIC's increased supervisory powers, sub-regulations to supplement the Fourth Amendments can be expected.