

Client Alert

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New regulations on insurance auxiliary services

To implement the CPTPP in relation to insurance auxiliary services, the Government of Vietnam has recently issued a set of new regulations featuring amendments and implementation under the Insurance Business Law.¹

Specifically, following the adoption of Law No. 42 on amendments to the Insurance Business Law in June 2019,² the Government of Vietnam has now issued Decree No. 80 on the implementation of Law No. 42, so to provide new guidelines on insurance auxiliary services provided by insurers and financial services providers to the Vietnam market.³

Additionally, the Ministry of Finance has separately issued Circular No. 65 to provide detailed guidelines specifically on training, examination, issuance and recognition of insurance auxiliary certificates.⁴

As these documents took effect from 1 November 2019, we set out the key points of these new regulations as below:

1. Scope of insurance auxiliary services

Under Law No. 42, insurance auxiliary services are defined as part of an insurance business' operations which are performed by insurance companies, insurance brokerage companies and other individuals or organizations for business (profit-making) purposes. These services include the following:

- **Insurance consultancy:** consultancy on insurance programs, insurance products, insurance risk management and damage prevention and mitigation;
- **Insurance risk assessment:** identification, classification, evaluation of risk properties and level, assess risk management on lives, properties, civil obligations as the basis for insurance participation;
- **Insurance actuarial calculation:** collection, analyzation of statistics, calculation of insurance premiums, professional reserves, capital, solvency margin assessment of business operation results, determine the value of enterprises to ensure the financial security of an insurer;

¹ Law on Insurance Business No. 24/2000/QH10 dated 09 December 2000, as amended by Law on amendments and supplementation of a number of provisions of Law on Insurance Business No. 61/2010/QH12 dated 24 November 2011 ("**Insurance Business Law**").

² Law No. 42/2019/QH14 dated 14 June 2019 on amendment and supplement to certain provisions of Law on Insurance Business and Law on Intellectual Property ("**Law No. 42**").

³ Decree No. 80/2019/ND-CP dated 01 November on amendment and supplement to certain provisions of Decree No. 73/2016/ND-CP dated 01 July 2016 of the Government on detailed regulation on the implementation of Insurance Business Law ("**Decree No. 80**").

⁴ Circular No. 65/2019/TT-BTC dated 16 September 2019 regulating the content of training, examination, issuance and recognition of Insurance Auxiliary Certificate ("**Circular No. 65**").





- **Insurance loss assessment:** determination of status quo, cause, loss level, calculate the allocation of loss compensation obligations as the basis to resolve insurance indemnification; and
- **Insurance claim assistance:** assistance for insurance buyers, insured parties, insurance beneficiary or insurance companies to conduct procedures for settlement of insurance proceeds/indemnification.

2. Conditions to provide insurance auxiliary services

Under Law No. 42, Insurance Auxiliary Services is specified as a conditional business line. Accordingly, certain business conditions are required for insurance auxiliary service providers in the Vietnam market, specifically:

a) For individuals providing insurance consultancy

- Being at least 18 years old with full civil capacity;
- Having a bachelor degree or a higher degree in an insurance major; or alternatively: a bachelor degree from another major **and** a certificate on insurance consultancy issued by a domestic or international institution which is established and operating legally in Vietnam.

b) For organizations

- Being judicial persons, established and operating legally;
- Individuals who directly perform insurance auxiliary services in such organizations must be at least 18 years old with full civil capacity as well as obtain relevant degrees, certifications on insurance auxiliary appropriate with the form of auxiliary services to be performed, which is issued by domestic or international institution established and operating legally;
- The individuals who directly perform insurance loss assessment activities are also required to satisfy the standards on expert assessor in accordance with the Commercial Law;
- The individuals who directly perform insurance actuarial calculation activities are also required to meet the standards on upholding the laws, morals, professional qualification, experience in insurance actuarial calculation, fellow membership as an Associate of International Actuarial Association.

To implement Law No. 42, Decree No. 80 stipulates that individuals, organizations performing insurance auxiliary services must have professional liability insurance. Decree No. 80 also sets out detailed conditions on certification, degrees and qualification of individuals directly perform insurance auxiliary services in an organization as follows:

- For insurance consultancy: Bachelor's Degree (or higher) in an Insurance Major; or Bachelor's Degree (or higher) in other major **and** Insurance Consultancy Certificate;



- For risk assessment: Bachelor's Degree (or higher) in an Insurance Major; or Bachelor's Degree (or higher) in other major **and** Risk Assessment Certificate;
- For Actuarial calculation in life/health insurance companies: 10 years of experience of insurance actuarial calculation in life and health insurance; fellow membership in an internationally recognized Actuarial Association or an Association which is currently a full member of the International Actuarial Association; fully abide by the Actuaries Moral Rules of Professional Conduct;
- For Actuarial calculation in non-life insurance/reinsurance companies: Associate of an Actuarial Association which is currently a full member of the International Actuarial Association; fully abide by the Actuaries Moral Rules of Professional Conduct;
- For Loss assessment: Associate's Degree (or higher) in major appropriate for assessment activities; **and** Insurance Loss Assessment Certificate; **and** at least 3 years of experience in assessment;
- For Claim assistance: Associate's Degree (or higher) in any major; **and** Insurance Claim Assistance Certificate.

3. Insurance Auxiliary Certificate and Recognition of Foreign Certificates

Under Circular No. 65, the above Certificates are collectively referred to as Insurance Auxiliary Certificate. This Circular sets out steps to obtain these Certificates as follows:

- Self-study - or attend courses at training centers - the general knowledge (i.e. Vietnamese regulation on insurance business and basic principles of insurance) and the specialized knowledge (depending the type of auxiliary services) on Insurance Auxiliary Services;
- Register online and submit application fee to attend an exam held by the Center on Insurance Research and Training. Training centers shall register for their trainees;
- The exams are held on a monthly basis and the specific schedule for each year shall be notified annually by the Center on Insurance Research and Training before 31 December;
- Attend the exam. Questions are taken from a List of Questions prescribed by the Insurance Supervisory Authority and distributed by a 40-60 ratio on General and Specialized knowledge;
- The results will be announced 5 working days after the exam. Candidates who scored 70% or higher will be issued their respective Certificate on Insurance Auxiliary Services.

Alternatively, individuals may apply to the Insurance Supervisory Authority for recognition of Certificates provided by foreign institutions. Under Circular No. 65, the authority would recognize Insurance Auxiliary Certificates:



- That were provided as a certification of passing an exam held by foreign insurance management authorities or state-founded foreign insurance authorities;
- From certain international insurance institutions, including: ANZIIF, CII, IIC, IRM, RMIA, CILA, AICLA, Lloyd's Maritime Institute;
- From institutions in countries with mutual recognition agreements with the Vietnamese Government regarding Insurance Auxiliary Services.

4. Provision of Cross-border Insurance Auxiliary Services

Decree No. 80 provides for further amendments to regulate the cross-border provision of insurance Auxiliary Services. Besides the conditions similar to the ones applying to Vietnamese entities (as above), offshore service providers are required to be from countries to which Vietnam has entered into market-access commitments regarding cross-border insurance auxiliary services.

Depending on the form of cross-border service supply, an offshore service provider may be subject to additional conditions, particularly:

- a) Cross-border provision to insurance companies or insurance brokerage companies:
 - Permitted to provide cross-border insurance consultancy to Vietnam under the law of its home state;
 - Has been lawfully operating for at least 10 years up until the point of service provision;
 - Has not committed violation of any regulations on provision of Insurance Auxiliary Services for 3 consecutive years up until the point of service provision; and
 - Has been operating with profit for 3 consecutive financial years up until the point of service provision.
- b) Cross-border provision to individuals, organizations other than the above entities:
 - Must cooperate with an Insurance Auxiliary Service Provider legally established and operating in Vietnam.

Any foreign entity supplying cross-border Insurance Auxiliary Services contrary to the above conditions may be subject to the following administrative sanctions:

- Monetary fine: if the offshore service provider is not from a country to which Vietnam has entered into market-access commitments on cross-border insurance auxiliary services, administrative fine range from VND 90-100 million for individuals (approx., USD 4,300), or VND 180-200 million for organizations (approx., USD 8,600);



- Suspension of operation: if the offshore service provider supplies cross-border insurance auxiliary services without satisfying the conditions mentioned in Section 2 above. A 3 to 6-month suspension may be applied in case of first violation. During this period, if such violation continues, the suspension can be extended to 6-12 months.

5. Participation in Socio-Professional Organizations

Under Law No. 42, insurance companies, insurance agencies, insurance brokerage companies, individuals and organizations providing insurance auxiliary services are allowed to participate in socio-professional organizations on insurance business so as to develop the insurance market and protect lawful rights and interests of respective members in accordance with the laws.

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If you would like to discuss opportunities for your insurance business, more specific proposed solutions and plans for insurance spaces and how our Firm can assist you with your operations in Vietnam, please do not hesitate to contact us.

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