

Client Alert

August 2017

Vietnam's New Circular on Insurance Business

Effective as of 1 July 2017, Circular No. 50¹ provides specific regulations to implement last year's Decree No. 73² on insurance business. Circular No. 50 aims to contribute to the reform of the legal framework of insurance and cover a comprehensive scope of legal aspects for local insurers, insurance brokers, agents and insurance-related entities in Vietnam. Previously, the rules were mainly detailed under several implementing circulars, namely Circular No. 124/2012/TT-BTC, Circular No. 125/2012/TT-BTC, and Circular No. 194/2014/TT-BTC (the "**Previous Circulars**"). Circular No. 50 also introduces new and stricter requirements and guidelines compared with the Previous Circulars.

Specific amendments under Circular No. 50:

Insurance agents' commissions and the reduction of insurance premiums

Circular No. 50 provides a new guideline in cases where an insurer sells its life or health insurance products directly to customers and does not have to pay any commission to its agents or brokers. In such cases, the insurer can reduce premiums for its customers. However, under Circular No. 50, the insurer must:

- ensure that the amount of reduction does not exceed the amount equivalent to the maximum insurance commissions rates as regulated by the Ministry of Finance ("**MOF**");
- formulate and approve an internal regulation on the reduction of premiums and the level of reduction, ensuring equality among different customers; and
- notify the MOF of such internal regulations before applying them.

Periodical reporting requirements related to insurance products

Circular No. 50 provides an increase in the reporting frequency for life insurers from quarterly to monthly on their reports on the list of new insurance products. Under the Previous Circulars, while non-life insurers are required to submit monthly reports on the list of new insurance products, life insurers are only required to report on a quarterly basis. However, Circular No. 50 provides that, within the first 15 days of each month, all insurers must submit a monthly report to the MOF on the list, terms and conditions, and premiums of new products from the previous month.

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¹ Circular No. 50/2017/TT-BTC of the Ministry of Finance dated 15 May 2017 guiding the implementation of Decree No. 73/2016/ND-CP of the Government dated 1 July 2016 guiding the implementation of the Law on Insurance Business ("**Circular No. 50**").

² Decree No. 73/2016/ND-CP of the Government dated 1 July 2016 guiding the implementation of the Law on Insurance Business.



Should you wish to obtain further information or want to discuss any issues raised in this alert with us, please contact:

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Reinsurance/Fronting Arrangement

Under Decree No. 73, if a local insurer "cedes insurance in accordance with a designation of the insured," the maximum rate of such reinsurance to be designated must not exceed 90% of the level of insurance liability.

Given the uncertainty of the term "cedes insurance in accordance with a designation of the insured", Circular No. 50 adds an explanation that it implies either of the cases where:

- an insured person designates one or more particular reinsurers and requests that a local insurer cedes insurance to one or some of such designated reinsurers; or
- an insured person designates one or more particular insurance brokers and requests that a local insurer arranges the reinsurance via one or some of such designated insurance brokers.

In addition, in relation to offshore reinsurers, Circular No. 50 clarifies that regardless of whether they accept the reinsurance under a fronting arrangement (as set out above) or any other traditional reinsurance arrangement, the legal and financial conditions (as generally provided for offshore reinsurers) will still apply.

Higher duties for appointed actuaries

In relation to life and health insurers, Circular No. 50 adds a new duty for their appointed actuaries. Among other things as provided under the Previous Circulars, appointed actuaries must assess and report on investment activities on a quarterly and annual basis, specifying the risks arising and providing their suggestions for assets to be invested and the duration of investment for each type of asset, ensuring a correlation between the duration of the invested assets and the liabilities that the insurer is committed to pay under the insurance policies.

In relation to non-life insurers and reinsurers' appointed actuaries, Circular No. 50 requires non-life insurers and reinsurers' appointed actuaries to prepare and submit annual reports to the MOF on matters related to their duties for assessment of insurance reserves and solvency of their non-life insurers or reinsurers within 90 days from the end of each fiscal year. Under the Previous Circulars, only life and health insurers' appointed actuaries are subject to this annual reporting requirement.

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In addition, Circular No. 50 provides consolidated new guidelines on a number of other matters relating to the establishment and operations of insurers, reinsurers, insurance brokers and agents, their financial and investment regimes, reporting requirements and information disclosure, as well as new prescribed forms that they should use when conducting various administrative procedures with the MOF.