

LEGAL UPDATE

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SEVERAL KEY CHANGES ON INSURANCE BUSINESS REGULATIONS

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In July 2023 and in November 2023, the Government and the Ministry of Finance (MOF) issued Decree No. 46/2023/NĐ-CP ("**Decree 46**") and Circular No. 67/2023/TT-BTC ("**Circular 67**"), respectively. These guiding documents aims to strengthen sector regulation, guiding licensing processes, adjusting insurance companies' minimum charter capital, and imposing stricter conditions for 'bancassurance' services, thereby steering the market's positive development.

Decree 46 provides detailed classifications of operational lines for each group of life insurance, non-life insurance and health insurance. In particular:

- Life insurance includes (i) whole life insurance, (ii) pure endowment insurance, (iii) term life insurance, (iv) combined insurance, (v) annuity insurance, (vi) investment-linked insurance (including universal life insurance and unit-linked insurance) and (vii) pension insurance.
- Non-life insurance includes (i) property insurance, (ii) goods transportation/cargo insurance, (iii) aviation insurance, (vi) motor vehicle insurance, (v) fire and explosion insurance, (vi) hull insurance and ship owners "civil liability insurance", (vii) liability insurance, (viii) credit and financial risk insurance, (ix) agriculture insurance, (x) guarantee insurance and (xi) other damage insurance.
- Health insurance includes (i) health and body insurance, and (ii) medical expense insurance.

In terms of cross-border insurance service, Decree No. 46 introduces notable changes compared to Decree No. **No. 73/2016/NĐ-CP** ("**Decree 73**"), particularly regarding foreign ownership in companies receiving insurance services. It broadens the scope of eligible

service recipients to include all foreign-invested companies and foreigners working in Vietnam, removing the previous limitation of servicing only companies with over 49% foreign ownership. This expansion allows for a wider range of foreign-invested companies to avail of cross-border insurance services. Furthermore, Decree No. 46 largely retains existing rules for the provision and utilization of cross-border insurance services, aligning with Vietnam's international treaty commitments. Offshore insurance providers must meet various criteria to offer services in Vietnam, such as having appropriate home country licenses, maintaining requisite asset values, and demonstrating profitability over the last three fiscal years. These providers must also adhere to loss-handling conditions and collaborate with a licensed Vietnamese insurance broker. Offshore insurance brokers can only offer broking services to Vietnam-licensed insurers or branches of offshore insurers. Additionally, offshore auxiliary service providers can directly serve onshore insurers, branches of foreign insurers, and insurance broking companies, but must partner with Vietnam-licensed auxiliary service providers when catering to other entities.

Acknowledging the inevitable growth of e-commerce, Circular 67 provides new rules for providing insurance products on the internet. Circular 67 elaborates on Article 14.3 of the Law on Insurance Business, defining “providing insurance products on the internet” to encompass a wide range of activities, including introducing, offering, selling, verifying information, assessing, confirming contracts, arranging insurance contracts, making payments, and issuing insurance certificates. Any engagement in one or all of these activities qualifies as “providing insurance products on the internet”, which is defined as: using electronics equipment connected to internet, mobile telecommunications network, or other open networks. The circular outlines various platforms for providing insurance products, including portals/websites with registered domain names, e-commerce websites, or applications. The complete online provision is restricted only to two following insurance product categories: (i) micro insurance product, health insurance products and term-life products which, under the insurer policies, are not subject to underwriting process, and (ii) health insurance, term life insurance of less than one year coverage term, motor vehicle insurance, and travel insurance. Other unlisted insurance products can be partially offered through online platforms. Notably, the circular requires that all consulting calls between insurers (agents/brokers) and the policyholders must be recorded. To address the inherent risks of online insurance provision, insurance providers are required to maintain robust security measures to safeguard online transactions, ensure information safety, and enhance network security. Insurance providers must notify the Ministry of Finance (“**MOF**”) within seven working days of commencing online insurance product provision. Active online insurance products also need to be reported within 90 days of Circular 67’s effective date. This notification process allows the MOF to monitor developments in the online insurance landscape and ensure compliance with regulations.

With respect to agencies, especially agencies being credit institutions, certain new conditions have been introduced to address issues emerging in this distribution channel. The detailed requirements are as follows:

- Credit institutions are required to establish a dedicated department (in Vietnamese ‘*bộ phận chuyên trách*’) to manage and execute their insurance agency operations.

- The head of the above-mentioned department is required to possess a minimum of three years of professional experience in finance, banking, or insurance. Additionally, s/he must have at least a bachelor's degree in insurance. If not, s/he may have a bachelor's degree in a different field, provided s/he also hold an insurance certificate as per the regulations of the Ministry of Finance (MOF).
- Every branch and transaction office providing agency service is required to employ at least three staffs (for a branch) and one staff (for a transaction office) who are appropriately trained and certified in insurance agency operations, specific to the types of insurance products distributed by the credit institutions. Each branch and transaction office providing agency service must have a separated counter or desk dedicated for carrying out agency service.

The Credit institutions that were engaged in insurance agency activities prior to Decree 46 the new conditions by no later than July 1, 2024.

In line with the strict conditions of Decree 46, Circular 67 strengthens regulations for insurance agents, with a Focus on Bancassurance. In particular:

- Circular 67 places strong emphasis on agents providing accurate and sufficient information to policyholders. Agents and their employees must use product brochures and sales materials provided by insurance companies, without altering their content.
- Certain insurance products require policyholders to receive hard copies of policy summaries, terms and conditions, along with sales materials and insurance certificates. The time limits for policy consideration start from the date of confirmation of receipt.
- For Investment-linked Insurance plans (“ILPs”), Circular 67 imposes more transparent and stringent stipulations on the insurance agents to either explain rights and typical risks of insurance products to the policyholders, or maintain detailed records of the consultation process, which will be stored and kept confidential by the life insurance companies at least 05 years from the effective date of the insurance contract. Among other criteria, these records must clearly demonstrate that policyholders are voluntarily acquire the policy and the policy is suitable to the policyholder’s financial capacity and alignment with their insurance needs. Significantly, with respect to ILPs, the insurance companies shall not issue a policy if the records does not include the policyholder’s aforementioned confirmation. Insurance companies are mandated to implement this regulation within 01 year as of November 2023.
- Customers must be explicitly informed that the offered products are insurance products and that the purchase of insurance products is not a mandatory prerequisite to access other products or services of the agents. Particularly for credit institutions, the insurance application must include the voluntary purchase decisions of policyholders.

- The insurance companies are required to regularly supervise and inspect the distribution of insurance products by the employees of the agents being organizations. Notably, *from November 02, 2023*, insurance companies are not allowed to enter into *new* individual agency agreements with employees of the agents being organizations to co-distribute or co-sell an insurance product. The insurance companies have a grace period to *end of June 2024* to review the existing agency agreements and to comply with this new requirement.
- It is worth noting that credit institutions are banned from introducing, selling or arranging the purchase of ILPs within *60 days before and 60 days after* full disbursement of customer's loan.

Concerning the required contributed capital of insurance companies, Decree 46 replaces the terms “legal capital” by “minimum charter capital”, and sets out the minimum charter capital required for each market participant in the insurance sector as follow:

Type of organization	Operation lines	Minimum charter capital under Decree 46 (billion VND)	Minimum legal capital under Decree 73 (billion VND)
Life insurer	Life insurance (except for unit-linked insurance and pension insurance) and health insurance	750	600
	Life insurance, health insurance and either unit-linked insurance or pension insurance	1,000	800
	Life insurance, health insurance, unit-linked insurance and pension insurance	1,300	1,000
Non-life insurer	Non-life insurance (except for aviation and satellite insurance) and health insurance	400	300
	Non-life insurance, health insurance and either aviation insurance or satellite insurance	450	350

Type of organization	Operation lines	Minimum charter under Decree 46 (billion VND)	Minimum legal capital under Decree 73 (billion VND)
	Non-life insurance, health insurance, aviation insurance and satellite insurance	500	400
Health insurer	Health insurance	400	300
Reinsurer	Either (i) non-life reinsurance or (ii) both non-life and health reinsurance	500	400
	Either (i) life reinsurance or (ii) both life and health reinsurance	900	700
	Reinsurance for all three lines of life, non-life and health	1,400	1,100
Insurance broking company	Either direct insurance broking or reinsurance broking	5	4
	Both direct insurance broking and reinsurance broking	10	8

Insurers, reinsurers, and insurance brokers that were operational prior to Decree 46 and whose charter capital is below the newly specified minimums must raise their charter capital to meet these requirements by January 1, 2028.

In addition to the above-mentioned notable matters, Decree 64 and Circular 67 provides detailed regulations on many other area relating to operation of insurance companies, such as personnel qualifications, finance, accounting and financial reports, insurance policies, etc.

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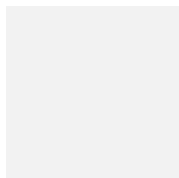
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