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Sector
Note

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Insurance

NON-RATED

Draft insurance law adjustment

Draft Insurance law adjustment (Draft law) was announced in February 2021 and open to receive comments from experts and insurance companies. It will be 5 years until adjusted insurance law going into effect.

Aims to complete the legal framework

The draft law is given in the context of following environments 1) The size of the insurance market is getting bigger and bigger, proving its role in the economy and society, contributing to stability of macro-economy. 2) Insurance products are diversified for many types of assets as well as many economic sectors, helping to protect the interests of investors.3) The current insurance law has been in existence since 2000, with amendments in 2010 and 2019, but it is still considered unsuitable for the current industry context, and there are still many shortcomings.

Basically, the draft law aims to improving existing shortcomings in the current Law, towards perfecting the legal framework in the insurance business beside reconfirming the government's role of supporting and managing, on developing industry in both size and quality.

Driving significantly the Vietnam insurance development

The draft covers a wide range of operation aspects of Vietnam insurance companies with the scopes to 1) empowering insurance companies by promoting the agreement of parties participating in insurance contracts and insurers have more autonomy in operations including designing new products. 2) Converting a single regulation on financial regime according to Solvency into a comprehensive model consisting of 3 main pillars: a) Corporate governance, risk management, b) Risk-based capital and c) Disclosure of information. 3) Insurers have wider choices in investment plans with the application of the exclusion list instead of the fixed investment portfolio, allowing for abroad investments. And 4) Encouraging the application of technology in operations, as well as the development of the insur-tech enterprises in the market.

Building the solid foundation for the prosperous

We believe that the Draft Law will build a solid foundation for the positive outlook of the insurance industry in the long term. This will require insurers to invest more in internal processes, human resources as well as capital to be able to fully meet the requirements under the Law. In addition, the Draft is also published quite soon so that insurers have enough time to prepare and give feedback on the development direction of the industry.

The details of notable changes will be discussed below.

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I. The Role of the Government and Fundamental Principles

- Up to now, the Government has played the role of providing capital and resources while state-owned insurance enterprises have played a leading role in the insurance market. But with the Draft law, the Government does not uphold this concept but will focus on encouraging and creating an open and transparent environment for insurers to research and develop technologies and products. . This point is also consistent with plans to divest state capital at insurance enterprises and promote cooperation strategies with foreign strategic investors. Thereby, blowing a new breath in term of expertise, products and approaches into the domestic insurance market.
- In addition, insurers will have more autonomy and will be self-responsible in business activities, through being empowerered to create new products and ensuring financial safety requirements.

II. Regulations on Insurance Contracts

- Draft law adjusts and imperfects the contents of the insurance contract while ensuring compliance with the Civil Law, respecting the right to self-negotiation between the parties in entering into the insurance contract. Some notable changes can be listed below:

Article	Draft Law changes	Evalutation
Article 16. Effective insurance liability	Adding the case of allowing the debt of insurance premiums if there is an agreement.	Respects the right to self-agreement between the parties.
Article 29. Time limit for claiming	Up to 2 years from the date of the insured event instead of 1 year.	Old time limit is 1 year, more time range for the insured to file the claim profile.
Article 30. The time limit for payment of insurance claim	Adding limit to conduct appraisal within 30 days of receipt of complete claim file. Compensation within 10 days from the end of the appraisal (instead of 15 days as the current law), and Additional application of 1% late payment interest per month or liability for loss arising from late payment, depending on the amount which is bigger. The insurer must respond within 5 days after the end of the appraisal. In the case of 60 days but there is no agreed amount of insurance to be paid, the insurer will pay the amount determined according to the current profile in advance, the difference will be added after determining the correct compensation amount.	More detailed and strict regulations for the compensation process in insurance companies. This will help protect the interests of the insured, help improve the ability to settle claims at insurance companies, and enhance the customer satisfaction.
Article 39.	Adding Not allowed to sue for premium payment.	
Article 45. Group insurance contract	Adding and clarifying in case the insurer provides group insurance policy. Additional provision on conversion to individual policy in case of partial termination of group policy	More flexibility in switching between group insurance policies and individual insurance policies.
Article 52. Coincident insurance contracts	The insurance buyer is responsible for notifying all relevant insurers about the coincident insurance contract	Preventing cases of insurance fraud due to duplicate insurance where the parties do not have enough information.
Article 56. Expertise of damage	When there is a dispute about the content of the independent expert's conclusions, the parties may request the court to settle in accordance with the law.	Respects the right to self-agreement between the parties.
Article 59. Not to abandon insured property	The application of necessary measures to prevent or minimize losses.	
Article 66-69	Supplement on Loss Prevention – Insurance Fraud Prevention	Clearly state in the Law on the measures which the Insured is obliged to take to Limit Loss.
Article 70-73	Supplement on New role - Insurance Arbitrator: Independent person or body officially appointed to settle a dispute	Provide an additional third-party consultant, which can help resolve claims disputes.

III. Regulations on insurance and reinsurance enterprises

Regulations on insurance and reinsurance enterprises are supplemented and clarified. In which, expanding the scope of activities of insurance enterprises, raising the standards for establishing new insurance enterprises. In addition, adding new criteria items to improve financial safety in insurance companies: Internal control, risk management, application of a new capital adequacy ratio framework and corresponding handling measures, requirements for transparent disclosure. Lastly, the Draft Law sets out framework regulations for online insurance business and requirements to be followed, aiming to promote the development of digital insurance business trends. Details of notable changes:

Content	Draft Law changes
Supplement and clarification	
-Supplementing some activities of insurance and reinsurance enterprises	- Life insurers are allowed to provide health insurance, package insurance for households, small and medium enterprises (SMEs). - Non-life insurers are allowed to provide health insurance and term-life insurance with a term of 5 years or less. - Health insurers are allowed to provide term-life insurance business with a term of 05 or less
Requirements for licensing establishment and operation	- Raising standards to establish new insurance and reinsurance businesses. Requirements to meet are about: Shareholders, capital contributors, capital, shareholder structure, human capital, type of business, dossiers of application for establishment and operation licenses, profitable in 3 years and ensure capital safety (for established reinsurance companies that want to establish insurance businesses) - In Article 79. Regulations on organizational members contributing capital: Limiting domestic enterprises operating in the fields of finance, banking and insurance to participate, with a minimum total assets of 2,000 billion VND. *It helps ensure professionalism for newly established insurance enterprises.*
New addition	
Section 3. Internal control, Internal audit, Risk management	Supplement all regulations on internal control, internal audit, risk management in accordance with international practices, suitable to the nature of insurance business activities to ensure compliance with the law, prevention, timely detection and treatment of risks, independent assessment of suitability and compliance with regulations, internal policies, procedures, processes, identification, assessment, measurement, monitoring, control and reduce the risk of insurers.
Section 4. Professional activities	This section adds all the regulations that allow insurers to take the initiative in designing and building insurance products. The insurer will register the method of premium calculation with the Ministry of Finance. *Reduce processes and procedures for new registration, and at the same time promote creativity and satisfy market demand for insurance products.*
Section 6. Solvency and Interventions	In which, solvency is considered on 2 criteria: 1) Reserve; 2) Capital adequacy ratio (CAR), which includes corresponding handling measures: - 200% ≥ CAR > 175%: Insurers **review** processes, regulations, risk management, business plan - 175 ≥ CAR > 150%: Insurers **re-evaluate** processes, regulations, risk management, business plans - 150 ≥ CAR > 120%: The insurer **applies the improvement measures according to Article 105-106**. - 120 ≥ CAR > 100%: The insurer **applies early intervention measures according to Article 107.** - 100% > CAR: The insurer is **placed under control under Article 108.**
Section 7. Information disclosure	In addition to the periodic disclosure requirements on financial statements, solvency reports and risk management. The Draft law requires insurers to publish information on their websites on regular basis, the information is quite detailed and helps investors/customers have better information about the business's activities: - Information about business profile - Information about professional activities - Information on internal control, risk management - Information on investment activities: Investment portfolio, investment amount, structure of investments... - Information on asset management, responsibilities - Information on capital adequacy
Section 8. IT application in insurance business	Regulations on the legal framework for insurance enterprises applying IT in their business as well as InsurTech enterprises which are growing in both quantity and scale in recent times. This section requires businesses to ensure that they have an IT system that meets their operational scale, network security, server systems, data storage and recovery systems, which must be owned by the insurer and located at Vietnam, observe the confidentiality of information in accordance with the provisions of the Law.
Article 123. Provision of insurance services through the digital environment.	Specifying the services that are allowed to be performed online. In general, the processes are quite comprehensive, starting from providing information to comparing, offering premiums, collecting insurance premiums, placing contracts, settling claims as well as refunding fees.

IV. Regulations on Finance, Accounting and Reports

- Draft changes to Finance section attract lots of attention, when there are significant changes. Below are the changes we assess that have an impact on the operations of insurers:

  1) **Regulations on capital:** The insurer will guarantee the following types of capital:

  - Minimum charter capital
  - Charter capital
  - Owners' equity, including charter capital
  - Capital available, including onwers' equity, and **excess provision capital based on risk groups** including:
    - Risks from insurance business
    - Risks from investment activities
    - Risks from normal operation
    - Other risks

- The addition of risk-based capital on risk groups reflects the size and level of risk that the insurers really carry. This point helps to improve financial safety and prevent major risks, but it will require businesses to prepare strong capital to be able to take on larger and broader risks.

  2) **Regulations on Technical reserves:** Keep the same definition and basic principles, but higher requirements are as follows:

  - Separation of reserves by territory (Vietnam and outside of Vietnam), even within the same insurance business or product.
  - Separation of respective assets with corresponding each kind of provision
  - Using appointed actuaries to calculate and set up professional reserves
  - Review and evaluate the provisioning on regular basis

- With the new regulations, it can be seen that the Goverment would like insurers to focus more on calculating the professional reserve in a methodical manner, when requiring appointed actuaries to perform the work and be more transparent when seperating provisions by territory as well as information about the corresponding reserve assets for the operations.

  3) **Regulations on Investment:**

- Investment capital sources are still regulated as before, including:
  - Owners' equity
  - Idle capital from Technical reserve
- **Noteworthy point:** In regard to investment activities, this Draft changes from allowed investment portfolio to regulations on **investment limitations**. The limited list includes:
  - Borrow to invest in securities, real estate, contribute capital to businesses
  - Direct real estate investment, except for the case of using it as business office/leasing an unused business office/disposing of bonds secured by real estate
  - Loans
  - Precious metals, member funds
  - Intangible fixed assets
  - Non-hedging derivatives

- Currently, the allowed investment portfolio is quite limited and mainly focuses on financial instruments with stable returns, including:
  - G-bonds
  - Certificates of deposit
  - Stocks, corporate bonds, fund certificates, capital contribution to enterprises (Limited from 20-35% of Idle capital, depending on the type of insurer)
  - Real estate investment (Limited from 10-20% of Idle capital, depending on the type of insurer)

- The positive point is that there is no limit for maximum proportion for each investment activity, so the investment department in insurance companies will be free to have many opportunities to maximize its investment plans depending on the market status.
- Real estate investment is currently allowed and limited from 10-20% of Idle capital depending on the type of insurance business, but this type of investment is under the list of limitations in the draft.

4) Regulations on Abroad investment:

- Sources of capital financing for abroad investment include:
  - Owners' equity after deducting the capital meets the requirements of capital adequacy ratio and solvency
  - Idle capital from technical reserves of insurance contracts with interest in linking foreign investment indexes/signed to overseas organizations and individuals
- Abroad investment must be kept separate from domestic capital sources. Regulations also prohibit the use of money and assets of domestic insurance participants to cover losses or shortfalls of abroad investments.

V. Draft law and its implications on insurance industry

- The draft law was first released around February 2021 to receive comments from experts as well as insurers in the market. Most recently, on September 9th 2021, a workshop was held to listen to ideas with the participation of legislative bodies, regulators and scientists/economists. Most of the comments agreed with the need for the upcoming draft law in the context that Vietnam's insurance market has formed and developed over the past 20 years and supply with suggestions for the best possible completion.
- It is expected that the adjusted Law on Insurance Business may be promulgated in the next 5 years. With the above changes, we **see a positive outlook for the insurance industry in the future** when:
  - The Draft Law on supplementing new articles helps standardize the institution of insurance contracts, respects the right to self-agreement between the parties and minimizes disputes arising in the engagement of insurance contracts.
  - Empowering insurance companies: Promote the agreement of parties participating in insurance contracts. Insurers have more autonomy in operations including designing new products.
  - Converting a single regulation on financial regime according to Solvency into a comprehensive model consisting of 3 main pillars: 1) Corporate governance, risk management, 2) Risk-based capital and 3) Disclosure of information.
  - Insurers have wider choices in investment plans with the application of the exclusion list instead of the fixed investment portfolio, allowing for abroad investments.
  - Encouraging the application of technology in operations, as well as the development of the insur-tech enterprises in the market.

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