

## Vietnam's Insurance Market: An Overview – January 2014

### 1. Introduction

Vietnam started liberalising its insurance market by allowing foreign insurers to participate in the domestic market almost 20 years ago. Since then, its insurance market has grown exponentially. Before the 1990s, Vietnam's insurance market was dominated by state-owned insurance enterprises. As at the end of 2013, there were a total of 57 players from the state and the private sector, the latter including both domestic and foreign-invested companies.

According to the figures in Vietnam's Insurance Market report issued by the Ministry of Finance annually, in the period 2005 to 2012, insurance business revenue increased by an average annualised rate of 13 percent to 15 percent a year, totaling approximately US\$2 billion by the end of 2012. Growth is likely to continue for the years to come.

### 2. Regulatory Framework

Insurance activities, including the establishment and operation of foreign-invested insurers, are highly regulated in Vietnam. Amongst the numerous pieces of legislation, the following are significant (together, the "Insurance Regulations"):

- Law on Insurance Business of the National Assembly dated 23 July 2013 (the "LIB"). This law combines Law 24 of the National Assembly dated 9 December 2000 ("LIB 2000"), and Law 61 of the National Assembly dated 24 November 2010 ("LIB 2010"), which amended LIB 2000.
- Decree 123 of the Government of Vietnam dated 28 December 2011 ("Decree 123"), Decree 45 of the Government of Vietnam dated 27 March 2007 ("Decree 45"), and Decree 46 of the Government of Vietnam dated 27 March 2007 ("Decree 46"), each of which provides implementing regulations for the LIB.
- Decree 193 of the Government of Vietnam dated 15 February 2012 on administrative fines and measures in the insurance sector ("Decree 193").
- Circular 135 of the Ministry of Finance dated 15 August 2012 guiding the provision of unit-linked insurance products ("Circular 135").
- Decision 96 of the Ministry of Finance dated 23 November 2007 on the underwriting of universal life insurance ("Decision 96").

### 3. Regulators

The Insurance Supervisory Authority (the "ISA"), a subordinate body within the Ministry of Finance ("MOF"), and the MOF itself, are the two key regulatory bodies that oversee insurance activities, including the establishment of insurers, sale and purchase of equity interests in insurance companies, the formulation, sale and implementation of insurance contracts, and other insurance-related activities.

### 4. Overview of Insurance Products

Under the LIB, insurance products in Vietnam are divided into three categories: (a) life insurance products, (b) non-life insurance products, and (c) health insurance products. We note that in Vietnam, there are social insurance and health insurance funds, which are run by the state, and are subject to a set of regulations separate from the LIB.

#### LIFE INSURANCE PRODUCTS

Insurers can offer the following seven types of life insurance products: (i) whole life insurance, (ii) pure endowment insurance, (iii) term life insurance, (iv) endowment insurance, (v) annuity insurance, (vi) investment-linked insurance, and (vii) pension insurance. The terms, conditions and premium scales of life insurance products must be approved by the MOF before they can be offered to the public. Life

insurance providers cannot sell non-life insurance products, and vice versa.

### NON-LIFE INSURANCE PRODUCTS

Non-life insurance products include: (i) property and damage insurance, (ii) insurance for goods in transit by road, sea, waterway, rail and air, (iii) aviation insurance, (iv) motor vehicle insurance, (v) fire and explosion insurance, (vi) marine hull insurance and ship-owners' civil liability insurance, (vii) liability insurance, (viii) credit and financial risks insurance, (ix) business loss insurance, and (x) agriculture insurance.

Unlike life insurance products, the rules, terms and premium scales of non-life insurance products do not have to be approved by the MOF before they may be sold. However, the MOF may request an insurer to suspend selling certain non-life insurance products where the MOF considers that the rules, terms and premium scales of such products fail to ensure the financial safety of the insurer and may affect the rights of policyholders. In such case, the rules, terms and premium scales of the insurance products must be amended, and the amendments must be approved by the MOF before the insurer may resume selling them.

Certain non-life insurance products are compulsory under Vietnamese laws, and for which the MOF sets the terms and premium scales and minimum sum insured. Those products are: (a) civil liability insurance for motor vehicle owners, (b) civil liability insurance for aviation carriers to the passengers, (c) professional liability insurance for providing legal services, (d) professional liability insurance for insurance brokers, and (e) fire and explosion insurance.

### HEALTH INSURANCE

Health insurance was introduced as a separate category of products in 2010, and includes personal accident insurance, medical expenses insurance and health care insurance. Similar to life insurance products, the rules, terms and premium rates that apply to the health insurance products must be ratified by the MOF before being offered in the market.

## 5. Foreign Investment and Participation in Vietnam's Insurance Market

A foreign investor may participate in Vietnam's insurance market through one or several options, including the following: (i) cross-border supply, (ii) establishing a branch in Vietnam, (iii) establishing a local insurance company, and (iv) acquiring equity interest in an existing insurance company in Vietnam.

### 5.1 Cross-border supply

Under Vietnam's accession commitment to the World Trade Organisation in 2007 (the "WTO Commitments"), Vietnam permits foreign-invested companies and foreigners working in Vietnam to buy insurance from offshore insurers. However, the detailed regulations for how this could be done were only issued in December 2011. Under Decree 123, foreign-invested enterprises with 49 percent or more of equity owned by foreigners, and foreigners working in Vietnam may obtain non-life insurance from qualified offshore insurers. In turn, the offshore insurer must satisfy certain operational and financial requirements before it can sell insurance products to customers in Vietnam. The key requirements are:

- Its head office must be in a country with which Vietnam has entered into a treaty for the cross-border supply of insurance products;
- It is licensed to offer insurance products, and has operated for at least 10 years;
- For the last three years, it has been profitable and has not violated the relevant insurance regulations;
- It has investment grade credit rating such as BBB+ by Standard & Poor's or Fitch, or the equivalent;
- It provides cross-border insurance services in Vietnam through an insurance brokerage company licensed to operate in Vietnam;
- Offshore insurers must have assets of US\$2 billion or more, and offshore brokers must have assets of US\$100 million or more; and
- It must deposit VND100 billion (approximately US\$5 million) or more at a bank in Vietnam.

## 5.2 Establishing a local presence

Foreign insurers wishing to establish their commercial presence in Vietnam may either set up a local company, either in the form of a joint venture company with a local partner, or a 100 percent foreign-owned entity (a “Local Company”) or open a branch.

As an initial step, many have found that setting up a representative office is helpful towards establishing a commercial presence in Vietnam. As its name suggests, a representative office may not engage in a full range of business and profit-generating activities. It may only conduct very limited activities in Vietnam such as marketing, operating as a liaison office, and supervising the implementation of contracts in Vietnam. However, it is suitable for market study purposes and for being a liaison office for the licensing process.

### LOCAL COMPANY

A Local Company may be licensed to engage in the following business activities: (i) insurance and reinsurance business, (ii) prevention and mitigation of risk and loss, (iii) loss inspection, (iv) acting as loss inspection and claim settlement agents, (v) third-party claim agents, and (vi) fund management and capital investment. Whilst the Insurance Regulations do not expressly prohibit an insurer from concurrently conducting insurance and insurance brokerage activities, there is an implication that these two sets of activities have to be mutually exclusive.

Foreign companies must meet several conditions in order to set up a subsidiary in Vietnam. Some of the conditions are similar to those applicable to the cross-border supply of insurance, such as: holding the necessary insurance licences issued by their home country; having operated for at least 10 years; having assets of US\$2 billion or more; and having operated profitably in the last three years before application. In addition, a new insurance company must meet the minimum legal capital (i.e., owner’s capital) requirement for its respective business lines, which ranges widely from VND4 billion (approx. US\$190,000) for insurance brokerage, to VND300 billion (approx. US\$14.3 million) for non-life insurance, or VND700 billion (approx. US\$33.3 million) for life and life and health re-insurance. An investor should check the specific capital requirements against its proposed insurance activities.

Under the Insurance Regulations, the MOF is supposed to issue the licence within 60 days from the date of receipt of a full and complete application dossier. In practice, this period can take much longer, ranging from three to six months, or to over a year or longer.

### BRANCH OF FOREIGN NON-LIFE INSURER

Since 2012, foreign non-life insurers are expressly allowed to open their branches in Vietnam. Such a branch will be considered a dependent unit of the foreign non-life insurer and has no independent legal status under Vietnamese laws. Thus, the foreign non-life insurer must guarantee and be liable for all obligations and commitments of its branch in Vietnam. Branches of foreign non-life insurers may only engage in the insurance business activities within the scope of business of its parent foreign company and to the extent permitted under the laws of Vietnam. The conditions for setting up a branch of a foreign non-life insurer are similar to those applicable to establishing a Local Company in Vietnam; in addition, the insurance regulator of the home country of the foreign non-life insurer must have entered into a cooperation agreement with the MOF in relation to the management and supervision of the activities of branches of foreign non-life insurers in Vietnam. The minimum legal capital requirement for a branch of a foreign non-life insurer is VND200 billion (approx. US\$9.5 million).

Since the regulations on the establishment of the branch of foreign non-life insurers in Vietnam only came into effect from early 2012, to the best of our knowledge, no such branch has been established to date. In addition, since a foreign non-life insurer has the ability to open a Local Company with limited liability (thereby insulating the parent company from liabilities in Vietnam), a branch may not be a popular option for a foreign non-life insurer.

### 5.3 Acquisition of equity in an existing insurance company in Vietnam

Foreign investors may acquire equity in an existing Vietnamese insurance company. One or more foreign investors may acquire up to 100 percent equity interest in a limited liability company, provided that they meet other legal requirements for owning the equity (i.e., the requirements set out in section 5.2). By contrast, other restrictions apply to foreign shareholding of a joint stock insurance company (i.e., companies which can issue shares under Vietnamese law) as follows:

- An individual shareholder can only hold up to 10 percent of the insurance company's charter capital;
- An entity shareholder (including related parties) can only hold up to 20 percent of the insurance company's charter capital;
- A strategic institutional foreign shareholder acquiring shares in an equitised state-owned insurance company may hold up to 25 percent of the company's charter capital, provided that it obtains the MOF's prior approval, and provided it complies with additional conditions (such as a lock-up period of five years) which apply;
- Foreign shareholders cannot own more than 49 percent of a listed insurance company in aggregate.

On 6 December 2012, the Prime Minister issued Decision 1826 containing the restructuring plan for the security and insurance markets. Pursuant to this Decision, state-owned enterprises and banks in which the state owns a majority interest must continue to divest their shareholdings in insurance companies and ensure that their maximum ownership in any insurance company does not exceed 20 percent by 2015. This creates some acquisition opportunity for foreign insurers to participate in Vietnam's insurance market.

### 6. Conclusion

Despite Vietnam's economic challenges in recent years, Vietnam's insurance premium market's double-digit growth continued steadily in the last eight years where statistics are available. There are several good reasons to support the position that Vietnam possesses the fundamentals to remain a promising insurance market in the medium and long terms. These include:

- Its population is over 90 million, of which over 60 percent are under 30 years old, with an emerging middle class;
- Penetration of both life and non-life insurance services compared to other countries in the region remains relatively low;
- Its economic growth rate ranged from 5 percent to 9 percent in the last 15 years; and
- The government continued its efforts to streamline the regulatory framework in line with international best practices and standards and to comply with Vietnam's WTO Commitments.

## Contact Us

For inquiries related to this Legal Update, please contact the following person or your usual contacts with our firm.

### **Quynh-Anh Lam**

Consultant

T: +84 8 3513 0315

E: [quynhanh.lam@mayerbrownjms.com](mailto:quynhanh.lam@mayerbrownjms.com)

---

Mayer Brown JSM is part of Mayer Brown, a global legal services organisation advising many of the world's largest companies, including a significant portion of the Fortune 100, FTSE 100, DAX and Hang Seng Index companies and more than half of the world's largest banks. Our legal services include banking and finance; corporate and securities; litigation and dispute resolution; antitrust and competition; employment and benefits; environmental; financial services regulatory & enforcement; government and global trade; intellectual property; real estate; tax; restructuring, bankruptcy and insolvency; and wealth management.

OFFICE LOCATIONS      AMERICAS: Charlotte, Chicago, Houston, Los Angeles, New York, Palo Alto, Washington DC  
ASIA: Bangkok, Beijing, Guangzhou, Hanoi, Ho Chi Minh City, Hong Kong, Shanghai, Singapore  
EUROPE: Brussels, Düsseldorf, Frankfurt, London, Paris  
TAUIL& CHEQUER ADVOGADOS in association with Mayer Brown LLP: São Paulo, Rio de Janeiro

Please visit [www.mayerbrownjms.com](http://www.mayerbrownjms.com) for comprehensive contact information for all our offices.

This publication provides information and comments on legal issues and developments of interest to our clients and friends. The foregoing is intended to provide a general guide to the subject matter and is not intended to provide legal advice or be a substitute for specific advice concerning individual situations. Readers should seek legal advice before taking any action with respect to the matters discussed herein. Please also read the Mayer Brown JSM legal publications [Disclaimer](#). A list of the partners of Mayer Brown JSM may be inspected on our website [www.mayerbrownjms.com](http://www.mayerbrownjms.com) or provided to you on request.

Mayer Brown is a global legal services provider comprising legal practices that are separate entities (the "Mayer Brown Practices"). The Mayer Brown Practices are: Mayer Brown LLP and Mayer Brown Europe - Brussels LLP, both limited liability partnerships established in Illinois USA; Mayer Brown International LLP, a limited liability partnership incorporated in England and Wales (authorised and regulated by the Solicitors Regulation Authority and registered in England and Wales number OC 303359); Mayer Brown, a SELAS established in France; Mayer Brown JSM, a Hong Kong partnership and its associated entities in Asia; and Taül & Chequer Advogados, a Brazilian law partnership with which Mayer Brown is associated. "Mayer Brown" and the Mayer Brown logo are the trademarks of the Mayer Brown Practices in their respective jurisdictions.

© 2014 The Mayer Brown Practices. All rights reserved.