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Thailand

Country Guides: Insurance

Last updated Dec 28, 2012

The Thai insurance industry is primarily regulated under the Civil and Commercial Code, the Casualty Insurance Act B.E. 2535 (as amended), the Life Insurance Act B.E. 2535 (as amended), the Insurance Commission Act B.E. 2550, and the Motor Accident Victims Protection Act B.E. 2535 (as amended). Numerous regulations are issued under each of these laws, and the Office of the Insurance Commission (OIC), under the Ministry of Finance, is the primary regulator.

Establishment, Shareholding, and Directorship

The law requires that life insurance companies and casualty insurance companies are established as public limited companies. There are also nationality requirements with respect to shareholding and directorship. Specifically, at least three-fourths of board members must be of Thai nationality, and the number of shares held by Thai natural and/or juristic persons, when combined, must constitute at least three-fourths of the total voting shares. Where considered appropriate, the OIC can allow persons who are not Thai nationals to hold up to 49 percent of the total voting shares, and allow directors, who are not Thai nationals, to take up less than 50 percent of the total number of directors. Insurance companies existing in Thailand before the law came into effect were granted a certain period within which to comply with these shareholding and directorship requirements.

In the event that an insurance company has conditions or operations which may cause damage to the insured or the public, the Minister of Finance, upon the recommendation of the OIC, has the discretion to permit the holding of shares and/or number of directors differently from the above requirements. Moreover, when the Minister of Finance so grants, such permission may be subject to particular conditions and/or time frames. In any case, when Thai shareholding falls below a majority, additional steps must be taken to comply with the Foreign Business Act B.E. 2542 (as amended).

The law permits foreign life insurance companies and foreign casualty insurance companies to establish and operate branches in Thailand, subject to certain conditions. Foreign insurance companies also commonly take the approach of arranging for insurance to be fronted by a Thai insurance company, and arrange for the risk to be completely reinsured back to the foreign insurance company. Following this approach, the foreign insurance company can arrange with the Thai insurance company to issue policies aligned with those the foreign insurance company would typically issue, thus maintaining consistency.

Regulations

Insurance companies are subject to extensive regulation in terms of capital adequacy, permitted investments, handling of claims, marketing activities, dispute resolution, and others. Policy wording may only be used following approval of the OIC. In addition, all advertising images and solicitation documents are regarded as part of the relevant insurance policy. If the meaning of any advertised wording or image is contrary to that written in the policy, such meaning is to be interpreted in favor of the insured or the beneficiary (as the case may be). Outsourcing of core functions is not authorized. Notice must also be given to the OIC of changes in shareholding that are greater than or equal to 5 percent. OIC approval is required for any change in directors.

Within an insurance company, persons who are directors, managers, officers, persons having management authority, or advisers are subject to special requirements. Such persons must not:

- Be or have been bankrupt;
- Have been imprisoned by a final court judgment for an offense related to property committed with dishonest intent;
- Have been a director, manager, officer, or a person having management authority, of a company which had its life or casualty insurance license withdrawn;
- Be a director, manager, or a person having management authority of any other company licensed to engage in the same type of insurance business (life or casualty) unless an exception in accordance with the rules and conditions prescribed by the Minister has been granted;
- Have been removed from his/her position as a director, manager, or a person having management authority of the insurance company, by order of the OIC;



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- Be a government official in political service; or
- Be a government official having a duty of supervision of insurance business, except where the insurance company is a state enterprise; the person is appointed with the approval of the Minister of Finance for the purpose of assisting in the operation of the insurance company; or the person is appointed by the OIC.

An insurance contract is voidable if, at the time of its making, the insured, or in case of life insurance, the party upon whose death payment depends, knowingly omits facts that would have induced the insurer to raise premiums or refuse to enter into the contract, or knowingly makes false statements in regard to such facts. In addition, an insurance contract is not enforceable by action unless written evidence exists signed by the liable party.

Any right to claim compensation for loss is time-barred if judicial proceedings are not instituted within a two-year period from the date of loss. But the period of prescription for a compensation claim under life insurance is 10 years.

Insurance agents and insurance brokers are also subject to a licensure requirement. Insurers are vicariously liable for the acts of their agents. Moreover, both agents, who may only be individuals, and brokers, who must be established as Thai companies, receive commissions from the insurance company. Commission is built into the premium and charged to the client, whether or not one is used. Notably, insurance brokers can be 100 percent foreign owned, but this would require a foreign business license or foreign business certificate authorizing such business, in order for the insurance broker to meet the requirements of the Foreign Business Act. In addition, those with management authority over an insurance broker must hold personal insurance brokerage licenses.

The General Insurance Fund and the Life Insurance Fund are available to pay compensation to insured/beneficiaries in cases of policy revocation or insurance company insolvency. However, numerous restrictions and conditions apply. The insurance industry is highly regulated, and this offers but a summary. Therefore, it is highly recommended that companies and individuals seek specialist advice.

Compulsory insurance

Third-party motor insurance is compulsory for all vehicle owners. The law sets out minimum standards for such coverage, as well as deadlines for filing claims and payment thereof. A compensation fund, supported by the government and the insurance industry, provides compensation for injury/death caused by the uninsured, in certain circumstances. There are also some insurance schemes administered by the Ministry of Labor. These include workmen's compensation and social security.

Subject to few exceptions, the Workmen's Compensation Act requires an employer to register all of its employees with the Workmen's Compensation Fund. In addition, the employer is required to contribute to the fund annually at the rate specified for the business by the Ministry of Labor. The Workmen's Compensation Fund is meant to compensate an employee in the event of injury, illness, disappearance, or death related to work. The fund can be used for compensation, as well as for medical, work rehabilitation, and funeral costs.

As for the social security fund, it is administered by the Social Security Office and is compulsory for most private sector employers and employees. It provides certain injury or sickness benefits, maternity benefits, invalidity benefits, death benefits, child benefits, old-age benefits, and unemployment benefits. The Social Security Act requires an employer to register all of its employees with the Social Security Fund, and to make a contribution to the Social Security Fund on behalf of the employer and its employees.

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