

B. Supervision and regulation system

1. Description of Insurance Related Law

a) Insurance Business Law (1995)

This is the Commercial Special Law to be applied prior to the Commercial Law. The objective of this law, with due consideration of the public responsibilities of the insurance business, is to protect policyholders' interests by ensuring the sound management of insurance companies and fairness of insurance soliciting activities, thereby contributing to the stability of people's lives and the sound development of the national economy.

All insurance companies (life and non-life insurers and foreign life and foreign non-life insurers, etc.) that run an insurance business should comply with this law.

Major contents of the law:

Regulations concerning supervision of insurance companies:

The law provides that no person shall carry on an insurance business without obtaining a license from the proper authorities, that management forms available for an insurance company are limited to stock, mutual, and branch of insurance company, etc. The law also sets the regulations concerning the scope of insurance business operation, accounting, examination of insurance product, measures taken for maintaining the soundness of insurance companies, and policyholder protection measures in the event that an insurance company fails.

Regulations for the supervision of insurance soliciting:

The law provides for issues concerning the registration of insurance solicitors, the prohibition of any unfair, unlawful act at the time of insurance soliciting, the examination to be conducted of insurance solicitors, the orders to be issued by the competent authorities, and a cooling-off system.

b) Consumer Contract Act (2000)

The purpose of this Act is to protect the interests of consumers by permitting the complete avoidance of the contract, in cases where customers are mistaken or distressed by certain acts of an insurance solicitor such as notification of untrue fact, inappropriate explanation, failure to leave a place where a consumer resides or does business in defiance of consumer's display of intention for them to leave. The law also aims at protecting the interests of consumers by invalidating certain clauses of the Act that limit the scope of responsibility borne by a solicitor for non-performance and unlawful acts.

c) The Law on Sales of Financial Product (2000)

The law mandates that a sales agent of a financial product should provide the customer with the essential information on the financial product at the time of solicitation, such as price fluctuation risk, credit risk, etc. Under the law, a sales agent who fails to do so and causes any damage to customers should assume full responsibility for compensation for damage caused by such behavior. The law also has the purpose of promoting the protection of customers by forcing a sales agent to establish his or her policy on solicitations and to publish it.

Furthermore, an insurance company should comply with other laws such as the Commercial Law, the Bank Law, the Security and Exchange Law, the Act against Unjust Premiums and Misleading Representations, and the Antimonopoly Act.

2. Supervisory Agency

All insurance companies are under the supervision of the Financial Services Agency (FSA). The role of FSA is to secure the stability of domestic financial function by means of the inspection and oversight of banks, insurance companies, and securities companies, while protecting depositors, insurance policyholders, and securities investors, to ensure smooth operation of the financial system.

- a) FSA is engaged in the following tasks concerning insurance business:
 - (1) Plan and coordinate the system for domestic financial business.
 - (2) Inspect and supervise persons who run insurance businesses and insurance holding companies.
 - (3) Ensure the fair activities and operation of the Policyholders Protection Corporation.
 - (4) Accredite the appropriateness of transfer of portfolio from an insolvent company in respect of the financial aid provided by the Policyholders Protection Corporation.
- b) FSA shall take the following actions based on the Insurance Business Law:
 - (1) Require an insurance company to submit an explanatory report which describes the condition of its operation and assets.
 - (2) Conduct on-site inspection (the staff of the Agency visit the counters and branches of the insurance companies and inquire about the condition of business operation and its assets, or inspect documentation such as accounting books).
 - (3) Order amendments to the statement of the Scheme of Operation declared by an insurance company.
 - (4) Order an entity to submit a self-improvement plan.
 - (5) Suspend business operation, cancel license, etc.