

## **E. Topics in Fiscal 2004**

### **1. Measures to Protect Personal Information in the Life Insurance Business**

#### **a) Background**

The LIAJ keeps striving to respond timely and appropriately to customers' data protection related problems, as part of its ongoing efforts to promote confidence-building of the life insurance industry. In this context, the LIAJ has been elaborating a set of common-to-industry guidelines for life insurers on personal data protection since 1987.

With an eye to the enactment of the "Act for Protection of Computer Processed Personal Data" (hereinafter referred to as "Personal Data Protection Law") in May 2003 and the enforcement of regulations to be imposed on the relevant businesses in April 2005, the LIAJ established a project team to deal with this matter in November 2003. One of the project team's immediate tasks was to draft up revised guidelines so as to make them conform to that law.

At its Board of Directors meeting held on 18 February 2005, the LIAJ approved two sets of guidelines: the "Guidelines for life insurers' personal data protection (Life Insurers' Guideline)" and the "Practical guidelines for life insurers' security control measures to secure personal data protection (Life Insurers' Practical Guideline)."

On 1 April 2005, the LIAJ was recognized as a duly-authorized organization in compliance with the Personal Data Protection Law by the Director-General of the Financial Services Agency (FSA).

#### **b) Regarding the Life Insurers' Guideline on Personal Data Protection**

In accordance with the Personal Data Protection Law and other guidelines developed by the FSA such as the Guidelines on personal data protection in the financial sector and the Practical guidelines on personal data protection and security control measures in the financial sector, the LIAJ revised drastically the contents and composition of the Life Insurers' Guideline.

##### **(1) Objectives, etc.**

The Life Insurers' Guideline aims to contribute to an improved personal data protection system in which life insurers can handle customers' information appropriately. In line with the provisions of the Personal Data Protection Law, the Guideline will present various suggestions regarding restrictions on the purposes of information usage, measures related to data protection, procedures to disclose information to an inquirer, and other matters.

##### **(2) Main points and contents of the Life Insurers' Guideline**

###### **(a) Specifying purposes of information usage**

In the handling of personal information, the purpose of using such information must be clarified to the extent that the person that the information concerns can predict generally and reasonably how the information about him or her will be used at a life insurance company or other relevant workplace.

###### **(b) Limitation of information usage depending on purposes**

Except as otherwise provided by laws or other arrangements, life insurers and other relevant parties must not handle information beyond the extent

necessary for their original purposes that would be only accomplished with the use of the information, without obtaining prior consent from the person that the information concerns.

(c) Sensitive information

Except as otherwise provided by laws or other arrangements, life insurers and other relevant parties shall not obtain, use or provide a third party with information about the political views, faith (referring to religion, thought and belief), membership of a labor union, status of one's human rights and racial background, family origin and legally registered address, healthcare and sexual life, as well as criminal record of an individual.

(d) Complaints

When life insurers and other relevant parties receive a complaint related to their handling of personal information, they must examine the complaint and try to process it promptly and appropriately within a reasonable period.

Also, life insurers and other relevant parties must strive to establish a system necessary to deal with complaints promptly and appropriately, for example by compiling complaint-handling manuals, setting up a department specialized in receiving customers' complaints, or providing adequate education or training programs for people in charge of processing complaints.

(e) Information leakage or related troubles

If personal information-related accidents such as leakage of information occur, life insurers and other relevant parties shall immediately report to the corresponding supervisory authorities about the occurrence. To prevent secondary disasters and the recurrence of similar accidents, life insurers and other relevant parties shall also swiftly make public facts relevant to the accident and non-recurrence measures.

(f) Declaration of protection of personal information

Life insurers and other relevant parties shall develop and publicize a declaration stating their views and policies regarding the protection of personal information.

**c) LIAJ's Practical Guideline on Personal Information Security Measures**

The LIAJ's Practical Guideline, which provides security control measures for personal data protection, was edited as a separate volume of the revised Life Insurers' Guideline.

Its main features are as follows:

(1) Objectives

It sets industry rules necessary and appropriate to safely manage personal data at life insurers or other relevant parties and urges them to establish a system to better implement such rules.

(2) Contents specified in the Life Insurers' Practical Guideline

In conformity with the provisions specified in the FSA's practical guideline, types of rules and implementation system to be established in life insurance companies or other relevant parties are specified. The Life Insurers' Practical Guideline also requires setting up safety handling instructions of data at different steps; acquisition and input, utilization and processing, saving and storage, transference and

transmission, deletion and disposal. Other points to be taken into consideration in setting up such rules (such as leakage prevention) were also included.

- (3) Examples of the other points to be taken into consideration
- (a) In using mobile devices during sales activities, necessary measures must be taken, such as authentication of the user, encryption of the personal data stored in computer systems, or prevention of data leakage and data destruction.

Examples:

- i) Insurers should apply a user authentication system which requires a private key specific to a single PC or a password to access the personal data on mobile devices.
- ii) Insurers should apply a protective system which will automatically lock the personal computer when it is left untouched for a certain period of time.
- iii) Insurers should apply encryption technology to retained registered personal data to render the data illegible so that unlawful attempts by someone who might try to remove the hard disk and read the information will fail.
- (b) Life insurers and other relevant parties must restrict access to personal data according to their usage purpose or significance of the data.

For example, access to individuals' medical or health information shall be exclusively limited to designated terminals or systems at specified locations.

**d) Authorized Personal Data Protection Organization<sup>5</sup>**

As an authorized Personal Data Protection Organization, the LIAJ will implement necessary measures such as providing member companies with advice that would contribute to ensuring appropriate handling of personal data and dealing with complaints related to the handling of personal information in the workplace.

**2. Revision of the IBL (Unregulated Kyosai and Policyholder Protection)**

Under the Second Subcommittee of the Financial System Council (an advisory body for FSA) a working group was set up to focus on basic issues concerning the insurance business. Since April 2004, the working group has been discussing: "How to deal with unregulated Kyosai" and "How to review the Insurance Policyholder Protection Scheme," and by December of the same year, it finished compiling a report on these subjects. Based on the working group's discussions, a bill for partial amendments to the Insurance Business Law and its enforcement regulations was submitted to the Diet on 11 March 2005, enacted at the Diet on 22 April 2005, and finally promulgated on 2 May 2005.

The outline of the amendments is as follows:

**a) Unregulated Kyosai**

- (1) Review of the definitions related to "Insurance Business" in Article 2 of the IBL
- (a) In the first paragraph of Article 2, the phrase "vis-à-vis *unspecified* persons"

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<sup>5</sup> About the "Authorized Personal Information Protection Organization":  
This refers to an organization authorized by the corresponding minister under the Law for the Protection of Computer-Processed Personal Data Held by Administrative Organs. An authorized organization shall perform the following duties aiming to ensure the appropriate handling of personal information at the relevant entities:

i. Dealing with complaints about the handling of personal information at the entity.

ii. Providing information that would contribute to ensuring the appropriate handling of personal information by the entity.

iii. Taking other measures deemed necessary in order to secure the appropriate handling of personal information.

shall be removed. In principle, with this removal the provisions of the IBL will become also applicable to businesses which will underwrite insurance “vis-à-vis *specified* persons.”

- (b) What will be exempted from the application of the above provisions will be enumerated. The main examples are as follows:
  - i) Regulated Kyosai like National Mutual Insurance Federation of Agricultural Cooperatives (Zenkyoren) and National Federation of Workers and Consumers Insurance Cooperatives (Zenrosai), etc.
  - ii) Labor unions, corporate cooperatives, etc.
  - iii) Those run by small businesses having fewer than a certain number of people
- (2) Creation of a scheme for “Small-amount Short-term Insurance Providers”
  - (a) For companies which deal only with small-amount and short-term insurance contracts within a limited business scale, a framework of new regulatory schemes will be introduced, for example, to enable such companies to start business on a registration basis.
  - (b) For existing entities, adequate provisional measures will be taken, for example, a two-year transitional period will be provided.
  - (c) This scheme shall be re-examined within five years from the enforcement of the law, and necessary measures shall be taken if needed.

#### **b) Policyholders Protection Scheme**

- (1) Reviewing the compensation scheme considering the characteristics of each insurance contract
  - (a) Compensation rate will be determined taking into account the type of contracts, assumed interest rate or other contract details. (Coverage of high assumed interest rate insurance contracts will range from around 85 percent to 90 percent.)
  - (b) Investment returns-indexed insurance contracts will be treated separately from other contracts. (Compensation rate will be 100 percent guaranteed.)
  - (c) Regarding general insurance including automobile insurance, a compensation system in which policy replacement to other insurance companies will be encouraged. (Insurance amount can be 100 percent compensated for three months since the failure of the insurance company occurred.)
- (2) Reviewing the measures related to financial resources of the Life Insurance Policyholders Protection Corporation of Japan
  - (a) The existing temporary measure which would allow as much as ¥500 billion (\$4.7 billion) of payment will be abolished and replaced with a new system in which compensation will be covered in principle by the contribution of insurance companies within the borrowing limit of the Life Insurance Policyholders Protection Corporation of Japan.
  - (b) The governmental support system will be kept as it is. (Failures that might occur during fiscal 2006 to 2008 will be subject to this system.)
  - (c) Within three years of this enforcement, a review should be made on how to share the financial burden to finance resources for compensation and whether the government regulated supplementary support needs to be continued.