

## B. Supervisory and Regulatory Systems

### 1. Description of Insurance Related Laws (and the Year of Promulgation)

#### a) Insurance Business Law (IBL) (1995)

The IBL is a commercial special law applied prior to the Commercial Law. The objective of this law is to protect policyholders' interests through ensuring the sound management of insurance companies and fairness of insurance soliciting activities, and thereby to contribute to the stability of people's lives and the sound development of the national economy, with due consideration of the public responsibilities of the insurance business.

All companies (such as life and non-life insurers and foreign life and foreign non-life insurers) that run an insurance business shall comply with this law.

Main contents of the law are:

##### (1) Regulations concerning supervision of insurance companies

The law provides that no person shall enter the insurance business without obtaining a license from the proper authorities, and that the forms of management which are allowed to conduct insurance business are limited to stock or mutual companies or sales outlets such as branches of insurance company. The law also sets regulations concerning the scope of insurance business operation, accounting, examination for the approval of insurance products, measures for maintaining the soundness of insurance companies or for protecting policyholders in the event of the failure of an insurer.

##### (2) Regulations for the supervision of insurance soliciting

The law provides for issues concerning registration systems of insurance solicitors, prohibition of any unfair, unlawful act in the course of insurance soliciting, inspections to be conducted or orders to be issued by the competent authorities vis-à-vis insurance solicitors, and matters related to the cooling-off system, etc.

#### b) Consumer Contract Act (2000)

The purpose of this Act is to protect the interests of consumers, who are not in advantageous position to be well-informed to negotiate by themselves with insurance professionals, by permitting a complete avoidance of the contract from the consumer's side, in cases where customers are mistaken by an insurance solicitor through an inappropriate explanation, for example notification of untrue fact at the time of concluding a contract, or where customers are distressed by a solicitor's attempt to impose the conclusion of a contract with the failure to leave the place where the consumer in question resides or work in defiance of the 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 would significantly harm the interests of consumers, for example clauses that limit the scope of responsibility borne by a solicitor for non-performance and unlawful acts.

**c) The Law on Sales of Financial Products (2000)**

The law mandates that a sales agent of financial products should provide the customers with the essential information in the course of solicitation on the financial products to be purchased, such as information on price fluctuation risk, credit risk, etc. Under the law, a sales agent who fails to comply with the law and causes any damage to customers should assume responsibility for compensation for the damage caused by such behavior. The law also has the purpose of promoting the protection of customers by requiring sales agents to develop and disclose their sales policy.

Other laws insurers should comply with are: the Commercial Law, the Banking Law, the Securities and Exchange Law, the Act against Unjust Premiums and Misleading Representations, and the Antimonopoly Act and so forth.

**2. Supervisory Authorities**

All insurance companies operate under the supervision of the Financial Services Agency (FSA). The mission of the FSA is to secure stability of the domestic financial function and thus to protect depositors, insurance policyholders, and securities investors, ultimately to ensure smooth operation of the financial system by means of inspection and oversight of financial institutions such as banks, insurance companies, and securities companies,.

- a) The FSA is engaged in the following tasks concerning insurance business:
  - (1) Plan and coordinate systems or schemes related to domestic financial services.
  - (2) Inspect and supervise parties engaged in insurance business and insurance holding companies.
  - (3) Supervise the activities of the Policyholders Protection Corporation while aiming to ensure its sound operation.
  - (4) Evaluate the appropriateness of the decisions by the Policyholders Protection Corporation in underwriting insurance policies or transferring the portfolios of insolvent companies which may be subject to the financial aid provided by the Corporation.
  
- b) The FSA shall take the following actions where necessary, in accordance with the Insurance Business Law:
  - (1) Require an insurance company to report or submit an explanatory report on its business operation and the condition of assets.
  - (2) Conduct on-site inspections (staffers of the Agency visit the counters or 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 develop and submit a self-improvement plan.
  - (5) Suspend business operation, cancel license, etc.