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| **THE GOVERNMENT --------** | **SOCIALIST REPUBLIC OF VIET NAM Independence - Freedom - Happiness ----------** |
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[**DECREE**](http://www.lawfirm.vn/)

[**PROVIDING GUIDELINES FOR IMPLEMENTATION OF A NUMBER OF ARTICLES OF LAW ON INSURANCE BUSINESS**](http://www.lawfirm.vn/)

[**THE GOVERNMENT**](http://www.lawfirm.vn/)

[Pursuant to the Law on Organization of the Government dated 25 December 2001; Pursuant to the Law on Insurance Business dated 9 December 2000;](http://www.lawfirm.vn/)

[*On the proposal of the Minister of Finance;*](http://www.lawfirm.vn/)

**Chapter I**

**GENERAL PROVISIONS**

**Article 1. Governing scope**

1. This Decree provides detailed regulations for implementation of a number of articles of the Law on Insurance Business.

2. Insurance business activities, reinsurance business activities, insurance broking activities and insurance agency activities shall be within the governing scope of this Decree.

3. This Decree does not apply to social insurance, medical insurance, deposit insurance and other types of insurance not of a business nature which are operated by the State.

**Article 2. Policies for development of the insurance market**

1. [The State's policy is] to develop a safe and healthy insurance market right across the board in order to meet the insurance needs of the economy and of the citizens, and in order for all entities to benefit from international standard insurance products; to create a fair business environment which mobilizes the strength of all economic sectors, to raise the competitiveness of the insurance industry, and to meet the requirements for international economic integration.

2. The State shall facilitate insurers to research and develop insurance products and encourages all organizations and individuals to participate in insurance.

3. The State shall facilitate the Vietnam Insurance Association and other socio-professional institutions to increase their self-regulatory role in the insurance sector, ensuring healthy competition for the benefit of all organizations and individuals participating in insurance.

**Article 3. Conditions and principles for participation in insurance**

1. Any organization or individual wishing to conduct insurance business, reinsurance business or insurance broking business in Vietnam must be granted a licence for establishment and operation by the Ministry of Finance pursuant to the Law on Insurance Business.

2. Organizations and individuals having insurance requirements shall have the right to select an insurer and shall only be permitted to participate in insurance with an insurer licensed to operate in Vietnam. No-one shall be permitted to illegally interfere in the right of an insurance purchaser to select an insurer or insurance broker.

**Article 4. Classes of insurance and insurance products**

1. Life insurance shall comprise the types of insurance products stipulated in article 7 of the Law on Insurance Business and investment linked insurance.

2. The Ministry of Finance shall provide a detailed list of insurance products covered by article 7 of the Law on Insurance Business.

3. Insurers shall only be permitted to conduct business in the types of insurance products stipulated in their licence for establishment and operation, and must satisfy all of the conditions on financial capability and on qualifications and expertise of professional staff in accordance with guidelines of the Ministry of Finance.

**Article 5. Compulsory insurance**

1. An insurer conducting business in compulsory insurance products shall not be permitted to refuse to sell compulsory insurance.

2. Organizations and individuals in the category of those who must have compulsory insurance shall be obliged to participate in compulsory insurance.

**Chapter II**

**INSURERS AND INSURANCE BROKERS**

**Section 1.**

**ESTABLISHMENT AND OPERATION OF INSURERS AND INSURANCE BROKERS**

**Article 6. Conditions for grant of a licence for establishment and operation**

1. Any Vietnamese or foreign organization or individual contributing capital to establish an insurance enterprise or an insurance broking enterprise must satisfy the following conditions:

(a) Not fall within the category of prohibited persons as stipulated in article 13.2 of the Law on Enterprises;

(b) The conditions stipulated in article 63 of the Law on Insurance Business.

2. A foreign insurance enterprise investing in the establishment of an insurance enterprise with one hundred (100) per cent foreign owned capital or a joint venture insurance enterprise between a foreign insurance enterprise and a Vietnamese enterprise must satisfy the following conditions:

(a) The foreign insurance enterprise has permission from the competent body of the foreign country to conduct insurance business in the sector in which it is proposed to conduct business in Vietnam;

(b) The foreign insurance enterprise has been legally operating for at least ten (10) years pursuant to regulations of the country where it has its head office, calculated up to the date of lodging the application file for grant of a licence;

(c) The foreign insurance enterprise had total assets of a minimum vale equivalent to two billion USD in the year prior to the year of lodging the application file for grant of a licence;

(d) The foreign insurance enterprise has not committed a serious breach of the law on insurance business or of other laws of the country where it has its head office for a period of three consecutive years up to the year of lodging the application file for grant of a licence.

3. A foreign insurance broking enterprise investing in the establishment of an insurance broking enterprise with one hundred (100) per cent foreign owned capital or a joint venture insurance broking enterprise between a foreign insurance broking enterprise and a Vietnamese enterprise must satisfy the following conditions:

(a) The foreign insurance broking enterprise has permission from the competent body of the foreign country to conduct insurance broking business in the sector in which it is proposed to conduct business in Vietnam;

(b) The foreign insurance broking enterprise has been legally operating for at least ten (10) years pursuant to regulations of the country where it has its head office, calculated up to the date of lodging the application file for grant of a licence;

(c) The foreign insurance broking enterprise has conducted business profitably for a period of three consecutive years up to the year of lodging the application file for grant of a licence;

(d) The foreign insurance broking enterprise has not committed a serious breach of the law on insurance broking business or of other laws of the country where it has its head office for a period of three consecutive years up to the year of lodging the application file for grant of a licence.

**Article 7**. Application file and procedures for grant of a licence for establishment and operation

1. An application file for grant of a licence for establishment and operation shall comply with the provisions in the Law on Enterprises and its implementing guidelines, with article 64 of the Law on Insurance Business, and shall comprise:

(a) Request for grant of a licence for establishment and operation on the standard form issued by the Ministry of Finance;

(b) Draft charter of the enterprise in compliance with the Law on Enterprises, the Law on Insurance Business and their implementing guidelines. The draft charter of the enterprise must be signed by the legal representative and by founding shareholders or their authorized representatives;

(c) List of founding shareholders and the following accompanying documents:

- For an individual: Copy identity card, passport or other legal personal identification; and police record on the stipulated standard form;

- For an organization: Copy establishment decision, business registration certificate or other equivalent document of the organization; power of attorney and identity card, passport or other legal personal identification of the authorized representative of the organization.

In the case of a founding shareholder being a foreign organization, the copy business registration certificate must have been certified by the registration body within three months prior to the date of lodging the application file for grant of a licence;

(d) Confirmation from a bank authorized to operate in Vietnam of the amount of the charter capital held in an escrow account at such bank;

(dd) Operational plan for the first five years, consistent with the sector for which application is made, stipulating: the method for establishing insurance reserves; a reinsurance program; investment of capital; business effectiveness; liquidity of the insurer; economic benefits arising from establishment of the enterprise; and enclosing insurance rules, internal control rules, and risk management rules.

The above provision on the method for establishing insurance reserves, a reinsurance program and liquidity of the enterprise shall not apply to insurance brokers;

(e) List, curriculum vitae and notarized documents proving the ability, qualifications and expertise of the managers and executives of the enterprise;

(g) List of contributors of ten (10) per cent or more of the charter capital of the proposed insurer or insurance broker, including the amount and method of each such contribution and financial and other relevant information about such contributors;

(h) Rules, clauses and conditions, scales of premiums and commissions regarding the insurance products in which it is proposed to conduct business. This provision shall not apply to insurance brokers.

2. An application file for grant of a licence for establishment and operation of a joint venture insurance enterprise or insurance broking enterprise shall comply with the provisions in article 109.1 of the Law on Insurance Business, and shall comprise:

(a) The documents stipulated in sub-clauses (a), (b), (d), (dd), (e) and (h) of clause 1 of this article;

(b) Charter and licence for establishment and operation of each party to the joint venture;

(c). Joint venture contract;

(d) List of total assets and annual financial reports certified by an independent auditing organization as to the financial status of each party to the joint venture, for the three most recent years;

(dd) Documents from the competent body of the country where the enterprise has its head office:

- Permission for the insurance enterprise or insurance broking enterprise to establish an insurance enterprise or an insurance broking enterprise in Vietnam. If the law of the country where such applicant has its head office does not require written consent, then there must be a document confirming this;

- Confirmation that the insurance enterprise or insurance broking enterprise is currently conducting insurance or insurance broking business in the sector in which it is proposed to conduct business in Vietnam;

- Confirmation that the financial status of the insurance enterprise or insurance broking enterprise is currently healthy and that it satisfies all of the regulatory requirements of the country where such applicant has its head office.

3. An application file for grant of a licence for establishment and operation of an insurance enterprise or insurance broking enterprise with one hundred (100) per cent foreign owned capital shall comply with the provisions in article 109.2 of the Law on Insurance Business, and shall comprise:

(a) The documents stipulated in sub-clauses (a), (b), (d), (dd), (e) and (h) of clause 1 of this article;

(b) Charter and licence for establishment and operation of the foreign insurer or insurance broker in the country where it has its head office;

(c) Power of attorney to the general director (director) in Vietnam;

(d) List of total assets and annual financial reports certified by an independent auditing organization as to the financial status of the foreign insurer or insurance broker, for the three most recent years;

(dd) Documents from the competent body of the country where the enterprise has its head office:

- Permission for the foreign insurer or insurance broker to establish an insurance enterprise or an insurance broking enterprise in Vietnam. If the law of the country where such applicant has its head office does not require written consent, then there must be a document confirming this;

- Confirmation that the insurer or insurance broker is currently conducting insurance or insurance broking business in the sector in which it is proposed to conduct business in Vietnam;

- Confirmation that the financial status of the insurer or insurance broker is currently healthy and that it satisfies all of the regulatory requirements of the country where such applicant has its head office.

4. An application file for grant of a licence for an insurance enterprise or insurance broking enterprise shall be made in three sets comprising one original set and two copy sets. An application file for grant of a licence for an insurance enterprise or insurance broking enterprise with foreign owned capital shall be made in three sets comprising one set in Vietnamese and two sets in a commonly used foreign language. Copies of documents in Vietnamese and translations into Vietnamese must be certified by a Vietnamese notary in accordance with the law on notarization. Investors shall be liable for the accuracy of their application files.

5. The time-limit for issuance of a licence for establishment and operation shall be as stipulated in article 65 of the Law on Insurance Business, and any such licence issued by the Ministry of Finance shall concurrently be the business registration certificate.

6. The Ministry of Finance shall provide regulations on the order and procedures for evaluation of application files for grant of a licence for establishment and operation to insurers and insurance brokers.

**Article 8. Fees for issuance of licences**

Insurers and insurance brokers which have been issued with a licence for establishment and operation must pay a fee for issuance of their licence in accordance with the law on fees and charges.

**Article 9. Procedures after issuance of licences**

1. Within a time-limit of thirty (30) days from the date of issuance of a licence for establishment and operation, an insurer or insurance broker must publish an announcement in five consecutive issues of a central daily newspaper and a daily newspaper in the locality where it has its head office, containing the following main items:

(a) Name and address of the main head office, branch offices and representative offices of the insurer or insurance broker;

(b) Contents, scope and duration of operation;

(c) Amount of charter capital and amount of paid-up charter capital;

(d) Full name of the legal representative of the enterprise;

(dd) Number and date of issuance of the licence for establishment and operation;

(e) Insurance products or broking services which the insurer or insurance broker is permitted to provide.

2. Within a time-limit of twelve (12) months from the date of issuance of a licence for establishment and operation, an insurer or insurance broker must complete the necessary procedures required by law in order to officially commence the insurance or insurance broking operation. If this time-limit expires and an insurer or insurance broker has not commenced operation, its licence shall be withdrawn.

3. If during the process of an insurance operation the Ministry of Finance grants approval to an insurer or insurance broker for amendment of any of the items set out in article 69.1 of the Law on Insurance Business, such insurer or insurance broker must publish an announcement in accordance with the provisions in clause 1 of this article.

**Section 2.**

**ORGANIZATION AND OPERATION OF INSURERS AND INSURANCE BROKERS**

**Article 10. Operational organization of insurers and insurance brokers**

The operational organization of an insurer or insurance broker shall include:

1. Head office.

2. Branches, transaction centres, bureaus and dependent accounting member companies (referred to as branches) being subsidiaries of the insurer or insurance broker and with the function of implementing all or a part of the function of such enterprise, including acting as authorized representative.

3. Representative offices being dependent units of the insurer or insurance broker and with the function of acting as authorized representative of the interests of such enterprise and of protecting such interests.

4. Business locations and transaction offices (referred to as business locations) being locations for conducting specific business activities, and being subsidiaries of the branch of the insurer or insurance broker.

**Article 11. Conditions for opening a branch or representative office**

1. Any insurer or insurance broker wishing to open a branch or representative office must satisfy the following conditions:

(a) The paid-up charter capital complies with regulations of the Ministry of Finance;

(b) The organizational and personnel structure, and the system of internal control and checks operates effectively;

(c) The insurer or insurance broker has not committed a serious breach of the law for a period of three consecutive years up to the year of lodging the application file; and the insurer is not in breach of the regulations on solvency;

(d) The branch or representative office has rules on organization and operation;

(dd) The person operating the branch or representative office has experience of and expertise in conducting insurance business and does not fall within the category of prohibited persons as stipulated by law;

(e) The application file for permission to open the branch or representative office complies with clause 2 of this article.

2. An application file for permission to open a branch or representative office shall comprise:

(a) Request to open the branch or representative office signed by the authorized representative of the enterprise, with a brief summary of the necessity for the branch or representative office, its name and location, and the contents and scope of its operation;

(b) Operational plan of the branch or representative office for the initial three years specifying the client structure, proposed market, contents and scope of operation, insurance products which are proposed to be offered, organizational and personnel structure, and location and technical and material facilities of the branch or representative office;

(c) Valid documents proving the enterprise satisfies the conditions stipulated in clause 1 of this article.

3. Within thirty (30) days from the date of receipt of a complete and valid file, the Ministry of Finance shall be responsible to reply in writing with its approval or refusal to approve, with an explanation of its reasons in the case of refusal.

**Article 12. Changes of contents, scope and duration of operation**

1. Any insurer or insurance broker wishing to expand the contents, scope or duration of operation stipulated in its licence for establishment and operation, must satisfy the following conditions:

(a) The conditions stipulated in sub-clauses (a), (b) and (c) of article 11.1 accompanied with valid evidence;

(b) Send a request to the Ministry of Finance together with a business plan for the next three years specifying the client structure, proposed market, forecast business results, and technical and material facilities.

2. Any insurer or insurance broker wishing to curtail the contents, scope or duration of operation stipulated in its licence for establishment and operation, must send an application file comprising the following documents to the Ministry of Finance:

(a) Request, together with an explanation of the reasons for the curtailment, and the method of settling undertakings and liabilities to clients, employees, the State and other relevant entities;

(b) Report on the operational status, financial status, and managerial and executive work as at the time of making the application.

3. Within thirty (30) days from the date of receipt of a written request and valid application file for the change of contents, scope or duration of operation from an insurer or insurance broker, the Ministry of Finance shall be responsible to provide a written reply with its approval or refusal to approve, with an explanation of its reasons in the case of refusal.

**Article 13. Managers and executives of insurers and insurance brokers**

1. The chairman of the board of management and the general director (director) of an insurer or insurance broker must have expert qualifications and the ability to manage or operate an enterprise in accordance with guidelines of the Ministry of Finance. The general director (director) of an insurer or insurance broker must reside permanently in Vietnam throughout his or her term of office.

2. If an insurer or insurance broker wishes to appoint or change the chairman of its board of management or its general director (director), it must have approval from the Ministry of Finance.

3. Within thirty (30) days from the date of receipt of a written request and valid application file from an insurer or insurance broker, the Ministry of Finance shall be responsible to provide a written reply with its approval or refusal to approve, with an explanation of its reasons in the case of refusal.

4. The Ministry of Finance shall provide regulations on the standards and conditions applicable to other managerial positions in insurance enterprises.

**Article 14. Appointed actuary**

1. The appointed actuary shall have the duty of organizing implementation of work to ensure the financial safety of the life insurer. The appointed actuary shall have independent rights regarding his or her professional specialty and shall not concurrently hold the following positions:

(a) General director;

(b) Chief accountant;

(c) Member of the board of management.

2. The Ministry of Finance shall provide regulations on the standards for and use of appointed actuaries by life insurers.

**Article 15. Internal control and checks**

1. Insurers and insurance brokers must formulate, implement and supervise implementation of rules allocating responsibilities within the enterprise; of procedures for research and development of insurance products, on rules on underwriting, assessment, compensation, reinsurance, and other professional rules as stipulated by law.

2. Insurers and insurance brokers must establish a system of internal control and checks in order to ensure the enterprise operates safely and correctly in accordance with law.

3. Insurers must regularly check compliance with law, professional rules and internal rules; and directly inspect professional activities in all sectors at the head office, branches, representative offices and business locations aimed at accurately assessing business results and the financial status of the enterprise.

4. The results of internal control and checks must be expressed in writing and archived at the enterprise.

**Article 16. Division, consolidation, merger, acquisition and sale of an enterprise; assignment of capital contribution**

1. The division, consolidation, merger, acquisition and sale of an enterprise; and the assignment of ten (10) per cent or more of the charter capital of an insurer or insurance broker must ensure:

(a) Stable operation of the insurer or insurance broker;

(b) There is no adverse effect on the rights and interests of insurance purchasers, employees or the State;

(c) Compliance with the relevant laws;

(d) There must be written approval from the Ministry of Finance.

2. The Ministry of Finance shall provide guidelines on division, consolidation, merger, acquisition and sale of an enterprise; and on assignment of capital contribution to an insurer or insurance broker.

**Section 3.**

**UNDERWRITING INSURANCE**

**Article 17. Selling insurance**

1. Insurers shall have the right to take the initiative in selling insurance by the following methods:

(a) Directly;

(b) Via insurance agents and insurance brokers;

(c) Via tendering;

(d) By other methods consistent with law.

2. Insurers shall only be permitted to make offers to clients to participate in insurance in accordance with the contents and scope of operation stipulated in their licence for establishment and operation.

3. Insurers shall not be permitted to coerce the purchase of insurance by organizations or individuals in any form.

**Article 18. Selling insurance via an insurance agent or insurance broker**

1. Insurers may authorize insurance agents to sell insurance products.

2. An insurance broker shall guide and advise the client participating in insurance at the request of the client.

3. Insurance brokers and insurance agents shall have the following obligations:

(a) To explain information about the insurance product truthfully so that the party purchasing insurance clearly understands the insurance product that it proposes to purchase;

(b) Not to disclose or provide information causing loss and damage to the lawful rights and interests of the party purchasing insurance.

4. Insurance brokers and insurance agents shall not be permitted to act in such a way that a party purchasing insurance provides false information or fails to provide all essential information to the insurer.

**Article 19. Selling insurance via tendering**

1. The purchase and sale of insurance by the method of tendering must comply with the law on tendering and the provisions in clause 2 of this article. The parties shall be liable for the results of tendering.

2. Tendering must be held in accordance with the following provisions:

(a) It must be conducted in public and the conditions for calling for tenders must apply generally to all insurers participating in the tender;

(b) The bids of insurers participating in the tender must specify the insurance clauses, the duration of insurance and its regulations, the premiums, and any other provisions required by the tender invitation documents.

(c) The bases for consideration of a bid shall be the tender invitation documents, the insurance premiums offered, and other related supporting services.

**Article 20. Insurance regulations, clauses, and premium scales**

1. The Ministry of Finance shall promulgate the insurance regulations, clauses, premium scales and minimum sums insured applicable to compulsory insurance products.

2. With respect to life insurance products and personal accident and health care insurance subsidiary to life insurance products, life insurers must comply with the insurance regulations, clauses and premium scales ratified by the Ministry of Finance.

3. With respect to non-life insurance products, non-life insurers shall have the right to take the initiative in formulating and implementing their own insurance regulations, clauses and premium scales.

4. Insurance regulations, clauses and premium scales formulated by insurers must ensure:

(a) Compliance with law, ethical standards and practice, and the fine customs of Vietnam;

(b) The language used in insurance regulations and clauses must be accurate, and must use simple means of expression which are easily understandable. Technical terms must be defined in insurance regulations and clauses when the contents of such technical terms need to be clear;

(c) There must be a clear and transparent explanation of insurable interests; insurable entities or objects; insured scope and insured risks; rights and obligations of the insurance purchaser and of the insured person; responsibilities of the insurer; conditions leading to exemption of liability; method of paying insured sums or insurance proceeds; and provisions on dispute resolution;

(d) Premium scales must be formulated on the basis of statistical data, must ensure the solvency of the insurer, and must correspond to the insurance conditions and insurance liability.

**Article 21. Procedures for ratification of insurance products**

1. With respect to insurance products for which the Ministry of Finance shall ratify the insurance regulations, clauses and premium scales under article 20.2 of this Decree, insurers shall forward a written request to the Ministry of Finance enclosing the following documents:

(a) Insurance regulations, clauses, premium scales and commission scales in relation to the insurance products which it is proposed to underwrite;

(b) Formulae, method and explanation of the basis of premium calculation and the insurance reserves for the insurance products which it is proposed to underwrite.

2. Within thirty (30) days from the date of receipt of a complete and valid application file, the Ministry of Finance shall be responsible to provide a written reply with its ratification or refusal to ratify, with an explanation of its reasons in the case of refusal.

**Article 22. Insurance commissions**

1. Insurers may only pay insurance commissions from the part of insurance premiums actually collected and commissions may not exceed the rates of commission stipulated by the Ministry of Finance.

2. Entities entitled to insurance commissions shall comprise:

(a) Insurance brokers;

(b) Insurance agents.

3. Insurance commissions may not be paid to the following entities:

(a) Organizations and individuals not permitted to conduct insurance agency and insurance broking in Vietnam;

(b) Entities directly purchasing insurance, except where an insurance agent purchases life insurance for him or herself;

(c) Officers or staff of the insurer itself.

**Section 4.**

**UNDERWRITING REINSURANCE**

**Article 23. Ceding reinsurance**

An insurer may reinsure a part or the whole of the liability which it has accepted to insure with one or more other insurers but it may not cede the whole of its liability under one insurance contract to another insurer in order to earn reinsurance commission, pursuant to guidelines of the Ministry of Finance.

**Article 24. Accepting reinsurance**

An insurer may accept reinsurance of the liability for which another insurer has accepted insurance. When accepting reinsurance, an insurer must assess the risks in order to ensure consistency with its financial capability.

**Section 5.**

**OTHER ACTIVITIES OF INSURERS**

**Article 25. Prevention and limitation of loss**

1. Insurers may apply preventive measures in order to ensure the safety of the subject matter of insurance with the agreement of the insurance purchaser or a competent State body.

2. Measures to prevent and limit loss shall comprise:

(a) Organizing information and education;

(b) Assisting and aiding with facilities and materials in order to prevent and limit loss;

(c) Assisting with the construction of works aimed at preventing or reducing the level of risks of the subject matter of insurance;

(d) Hiring other organizations and individuals to supervise, prevent and limit loss.

3. Insurers shall deduct a fixed percentage of the insurance premiums actually collected as stipulated by the Ministry of Finance in order to cover expenses of prevention and limitation of loss.

**Article 26. Loss assessment**

1. Loss assessment shall be conducted in accordance with the provisions in article 48 of the Law on Insurance Business. The assessor shall be responsible for the results of its assessment.

2. Loss assessment must ensure the principles of honesty and objectivity and must be a scientific, prompt and accurate assessment.

3. The results of loss assessment must be expressed in minutes of assessment.

**Article 27. Assignment of insurance contracts**

1. The assignment of insurance contracts shall be implemented in accordance with the provisions in articles 74, 75 and 76 of the Law on Insurance Business and guidelines of the Ministry of Finance.

2. In the case of assignment of the whole of the insurance contracts within one or a number of types of insurance products, the insurer must forward a written request to the Ministry of Finance for amendment of or addition to its licence for establishment and operation.

**Chapter III**

**INSURANCE AGENTS**

**Article 28. Principles for insurance agency activities**

1. Organizations and individuals conducting insurance agency activities must satisfy all of the conditions for operation of agents stipulated in article 86 and must sign the contracts of insurance agency stipulated in article 87 of the Law on Insurance Business.

2. Officers and staff of an insurer may not act as insurance agents of that insurer.

3. Organizations and individuals may not simultaneously act as agents for other insurers, unless the insurer for which they are acting as agent approves.

4. Insurance agents must not incite clients to rescind a currently effective insurance contract in any form whatsoever.

**Article 29. Rights and obligations of insurers in insurance agency activities**

1. Insurers shall have the following rights:

(a) To choose insurance agents and to enter contracts of insurance agency;

(b) To decide on the levels of payment of insurance commissions in contracts of insurance agency in accordance with law;

(c) To receive and manage security deposits or mortgaged assets of the insurance agent, if there is such an agreement in the contract of insurance agency;

(d) To require insurance agents to pay insurance premiums received by the method agreed in the contracts of insurance agency;

(dd) To check and supervise the implementation of contracts of insurance agency;

(e) To be entitled to other lawful benefits derived from insurance agency activities.

2. Insurers shall be obliged to:

(a) Organize training and issue certificates of agency training in accordance with law;

(b) Guide and supply accurate and complete essential information relating to insurance agency activities;

(c) Discharge the liabilities arising under contracts of insurance agency entered into;

(d) Pay commissions in accordance with the undertakings in contracts of insurance agency;

(dd) Refund to insurance agents any items of security deposit or mortgaged assets in accordance with agreements;

(e) Be liable for loss or damage caused by their insurance agency activities in accordance with the provisions in contracts of insurance agency;

(g) Accept checks and supervision by the competent State body of activities implemented by insurance agents of the insurers;

(h) Notify the Vietnam Insurance Association of any insurance agents whose contracts of insurance agency were terminated by the insurer as a result of a breach of law or professional rules.

**Article 30. Rights and obligations of insurance agents**

1. Insurance agents shall have the following rights:

(a) To choose and to enter into contracts of insurance agency with appropriate insurers correctly in accordance with law;

(b) To take part in training courses to foster and upgrade insurance agency qualifications as organized by insurers;

(c) To be supplied with the essential information relating to their insurance agency activities and relating to other conditions in order to fulfil contracts of insurance agency;

(d) To receive commissions and other lawful benefits earned from their insurance agency activities;

(dd) To request insurers to refund items of security deposit or mortgaged assets in accordance with agreements in contracts of insurance agency.

2. Insurance agents must fulfil the following obligations:

(a) Discharge undertakings in the contracts of insurance agency that they have entered into with insurers;

(b) Pay security deposits or mortgage assets to insurers if so agreed in their contracts of insurance agency;

(c) Introduce and offer insurance for sale; provide complete and accurate information to parties purchasing insurance; and implement insurance contracts within the scope of their authority according to their contracts of insurance agency;

(d) Participate in training courses to foster and upgrade insurance agency qualifications as organized by the training establishments referred to in article 31 of this Decree;

(dd) Accept checks and supervision by the competent State body and fully discharge their financial obligations in accordance with law.

**Article 31. Training of insurance agents**

1. Any establishment training insurance agents must satisfy the following conditions:

(a) Having a program for training insurance agents as stipulated in article 32 of this Decree;

(b) Having officers to conduct the insurance agency training who have professional knowledge of insurance, knowledge of the law, and teaching skills;

(c) Having sufficient material facilities for training.

3. Any establishment wishing to organize insurance agency training must forward a written request to the Ministry of Finance for ratification of the program for insurance agency training, enclosing documents explaining the knowledge of officers who will conduct the insurance agency training and the material facilities for the training. Within thirty (30) days from the date of receipt of a written request and valid application file from the establishment, the Ministry of Finance shall be responsible to provide a written reply with its approval or refusal to approve, with an explanation of its reasons in the case of refusal.

**Article 32. Program for insurance agency training**

A program for insurance agency training shall comprise the following items:

1. General knowledge on insurance.

2. Responsibilities of agents and professional ethics of agents.

3. Law on insurance business.

4. Contents of insurance products which insurers are permitted to underwrite.

5. Skills in selling insurance.

6. Rights and obligations of both insurers and insurance agents in insurance agency activities.

7. Practising the profession of an insurance agent.

**Article 33. Administration of insurance agency training**

1. The Ministry of Finance shall be responsible to inspect and supervise insurance agency training activities. In any case where an establishment fails to satisfy all of the conditions stipulated in article 31 of this Decree, the Ministry of Finance shall suspend the insurance agency training activities.

2. Establishments which train insurance agents shall report annually to the Ministry of Finance on the number of training courses that they have held, the number of agents that they have trained, and the number of certificates issued in the year.

**Chapter IV**

**REPRESENTATIVE OFFICES OF FOREIGN INSURERS AND INSURANCE BROKERS**

**Article 34. Representative offices**

Representative offices in Vietnam of foreign insurers or foreign insurance brokers means subsidiary establishments of such foreign insurers or foreign insurance brokers.

**Article 35. Activities of representative offices**

1. The representative office in Vietnam of a foreign insurer or foreign insurance broker may carry out the following activities:

(a) Exercise the function of a liaison office;

(b) Conduct market research;

(c) Promote the formulation of investment projects by the foreign insurer or foreign insurance broker;

(d) Expedite and monitor the implementation of projects in Vietnam financed by the foreign insurer or foreign insurance broker;

(dd) Conduct other activities consistent with the law of Vietnam.

2. The representative office in Vietnam of a foreign insurer or foreign insurance broker shall not be permitted to conduct business activities in Vietnam.

**Article 36. Fees for issuance of licences and announcement of contents of operation**

1. The level of the fee for each occasion of issuance of a licence or extension of operation shall be in accordance with the law on fees and charges.

2. Within a time-limit of twelve (12) months from the date of issuance of a licence, a representative office shall be required to commence official operation. Within a time-limit of thirty (30) days from the date of issuance of its licence, the representative office must publish an announcement of the contents stipulated in the licence for establishment of the representative office.

**Article 37. Duration of operation**

1. The duration of operation of representative offices of foreign insurers or foreign insurance brokers in Vietnam shall not exceed five years but may be extended.

2. Representative offices of foreign insurers or foreign insurance brokers in Vietnam wishing to extend the duration of their operations shall be required to submit an application for extension.

3. Licences for establishment of representative offices may be withdrawn in the following circumstances:

(a) Thirty days after the date of expiry of the duration of operation and the Ministry of Finance has not granted an extension or a request for extension has not been made;

(b) Upon withdrawal of the licence of the foreign insurer or foreign insurance broker;

(c) Upon the representative office operating contrary to its objectives or not in accordance with the contents stipulated in the licence for establishment and operation.

4. Upon termination of its operation, the representative office of a foreign insurer or foreign insurance broker must fully perform the procedures and discharge the obligations prescribed by law.

**Article 38. Reporting on operations**

Representative offices of foreign insurers or foreign insurance brokers in Vietnam must report periodically on their operation in accordance with the guidelines of the Ministry of Finance.

**Chapter V**

**SUPERVISION AND REGULATION**

**Article 39. Responsibilities of Ministry of Finance for State administration of insurance business**

The Ministry of Finance shall be responsible to:

1. Provide guidelines for implementation of legal instruments in relation to insurance business; formulate strategies, policies, master planning and specific plans for the development of the Vietnamese insurance market.

2. Issue and withdraw licences for establishment and operation of insurers and insurance brokers, and issue and withdraw licences for establishment of representative offices of foreign insurers and foreign insurance brokers in Vietnam.

3. Promulgate, ratify and guide the implementation of insurance regulations, clauses, scales of premiums and commissions.

4. Apply necessary measures to ensure that insurers satisfy their financial requirements and fulfil their undertakings to insurance purchasers.

5. Organize the provision of information on the status of the insurance market and market forecasts.

6. Conduct international co-operation in the insurance sector.

7. Approve overseas operations of insurers and insurance brokers.

8. Regulate the operation of representative offices of foreign insurers and foreign insurance brokers in Vietnam.

9. Organize the formation and training of a workforce of insurance regulatory personnel and insurance professional experts.

10. Inspect and check insurance business activities; resolve complaints and denunciations, and deal with breaches of the law on insurance business.

11. Organize dissemination of the law on insurance business.

12. Organize an apparatus and train officials in order to perform the duty of State administration of insurance business.

**Article 40. Responsibilities of ministries, ministerial equivalent bodies and Government bodies for implementation of law on insurance business**

Ministries, ministerial equivalent bodies and Government bodies shall, depending on their duties and powers, be responsible to:

1. Co-ordinate with the Ministry of Finance in formulating policies and regulations relating to insurance business activities.

2. Co-ordinate with the Ministry of Finance in inspecting and supervising the implementation of the law on insurance business and deal with breaches of the law on insurance business.

3. Carry out other duties within the scope of their authority as stipulated by law.

**Article 41. Responsibilities of people's committees of provinces and cities under central authority for implementation of law on insurance business**

People's committees of provinces and cities under central authority shall, depending on their duties and powers, be responsible to:

1. Resolve the procedures relating to establishment and operation of insurers, insurance brokers, and representative offices of foreign insurers and foreign insurance brokers in Vietnam which are situated in the localities under their administration, after the Ministry of Finance has issued licences.

2. Co-ordinate with the Ministry of Finance in dealing with breaches of the law on insurance business committed in the locality under their administration.

3. Carry out other duties within the scope of their authority as stipulated by law.

**Article 42. Inspections of insurance business operations**

Inspections of insurance business operations shall be conducted in accordance with article 122 of the Law on Insurance Business and shall comply with the provisions of the law on inspection and checks of enterprises.

**Chapter VI**

**REWARDS AND DEALING WITH BREACHES**

**Article 43. Rewards**

Organizations and individuals having achievements in insurance business activities, making a contribution to socio-economic development, ensuring safety in the insurance market, properly observing the law and identifying conduct in breach of the law of insurance business shall be rewarded in accordance with law.

**Article 44. Dealing with breaches**

Any organization or individual in breach of the law on insurance business shall, depending on the seriousness of the breach, be dealt with by the Ministry of Finance in accordance with regulations of the Government on administrative offences in the insurance business sector.

**Chapter VI**

**IMPLEMENTING PROVISIONS**

**Article 45. Effectiveness**

1. This Decree shall be of full force and effect after fifteen (15) days of the date of its promulgation in the Official Gazette.

2. Decree 42/2001/ND-CP of the Government dated 1 August 2001 providing regulations for implementation of the Law on Insurance Business shall no longer be effective as from the date of effectiveness of this Decree.

**Article 46. Organization of implementation**

1. The Minister of Finance shall provide guidelines for implementation of this Decree.

2. Ministers, heads of ministerial equivalent bodies and Government bodies, and chairmen of people's committees of provinces and cities under central authority shall be responsible for implementation of this Decree.

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|  | **ON BEHALF OF THE GOVERNMENT PRIME MINISTER**     **Nguyen Tan Dung** |