

Lao People's Democratic Republic
Peace Independence Democracy Unity Prosperity

Ministry of Finance

No: 539/MOF

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Unofficial Translation
Ministerial Instruction
on implementing the Law on Insurance

- Pursuant to the Law on Insurance No.06/NA, dated December 21, 2011;
- Pursuant to the Prime Minister's Decree on roles and functions of Ministry of Finance No. 80/PM, dated February 28, 2007.

Minister of Finance instructed:

1. Objective

This Instruction is issued to elaborate and instruct the implementation of certain articles of the Law on Insurance No. 06/ NA, dated December 21, 2011 with a view to facilitating its effective and uniform implementation throughout the country, and to ensure the accuracy, clarity, correctness and understanding of its content, in line with international and regional treaties and agreements to which the Lao PDR is a party.

2. Development of Insurance Market

The insurance market shall be developed in accordance with the National Socio-Economic Development Plan, economic development and the growth of population and it shall provide conditions for the insurers to develop new insurance products for the insurance market.

3. Requirements for the Insurance Contract

All individual and legal entity's businesses, properties and assets in Lao PDR shall be insured with an insurer licensed in Lao PDR.

4. Insurance Premiums

Insurance premium shall be freely set by insurer based on market conditions and risk management for all types of non-compulsory insurance and Insurance Management Authority shall be reported accordingly.

5. Forms of Registered Capital and Security Deposit

An insurer shall have a registered capital of not less than sixteen billion kip. Eighty percent (80%) of registered capital shall be deposited within 90 days of business registration in the form of a deposit in the Bank of Laos or any

commercial bank in Lao PDR. The remaining registered capital shall be deposited within one year after the registration.

The security deposit according to Article 24 of the Law on insurance, the insurer shall maintain at least one third of its registered capital defined in the previous paragraph of this Article as a security deposit for each type of insurance (life insurance and general insurance) in a blocked bank account at the Bank of Lao PDR or in any commercial bank in the Lao PDR, with the account number and the name of the bank reported to the Insurance Management Authority without delay to guarantee compensation for damages to life and assets and to protect legitimate interests of the insured. The deposited security shall be specifically utilized by an insurer only when an incident occurs in accordance with Article 94 of the Law on Insurance.

The registered capital in excess of the security deposits can be in the form of liquid assets and equipment used in business operations. The market value of the security deposits and those assets shall not be less than sixteen billion Kip at all times.

Insurer who has received license to operate Life and General Insurance Business is required to separately utilize the specific Life or General Insurance business license, after obtaining the new specific Life or General Insurance license the security shall be deposited for each type of insurance by three years.

Registered capital and security deposit levels shall be reported to the Insurance Management Authority on a regular basis, including in the annual report.

6. Compulsory General Insurance

Ministry of Finance shall determine compulsory general insurance conditions, which shall include required minimum coverage and whenever appropriate fixed premiums pertaining to such coverage in accordance with the National Socio-Economic Development and insurance market development.

Compulsory general insurance shall apply to:

- (a) Third-party liability for all motor vehicles registered or operating in the Lao PDR;
- (b) Third-party liability for businesses, properties and assets as determined by the Insurance Management Authority;
- (c) Other risks as determined by the Insurance Management Authority.

The matter concerning to public interest and social security shall be compulsorily protected and guaranteed pursuant to The MOF Agreement No. 0228 dated February 4, 2009 on minimum coverage shall hold until further notice

7. Compulsory Motor Vehicle Insurance for Transit Transport

Operators and Road Transit Transport Vehicles

Road Transit Transport Vehicles and motor vehicles run by any type of engine that are owned, chartered or operated by Transit Transport Operators, whenever crossing the Lao PDR border from, or to, one or several countries in the ASEAN region, shall hold insurance from the ASEAN (Blue card) community as defined in Protocol 5 establishing the ASEAN Scheme of Compulsory Motor Vehicle Insurance.

8. Insurance for International and Cross-Border Transport

Motor vehicles run by any type of engine, whenever crossing the Lao PDR border from one or several countries, shall hold compulsory third-party liability insurance, and insurance covering the driver and goods being transported, valid for the Lao PDR.

9. Selling Insurance for Cross-Border Transport

The insurer and insurance agent that legally established in Lao PDR are eligible to sell insurance policy for the cross-border transport vehicles which registered in the Lao PDR according to relevant regulations.

National BUREAU of Insurance and its agents shall be able to sell ASEAN Insurance (Blue Card) for the cross border transport vehicles from/to Lao PDR, including the vehicle registered in Lao PDR and ASEAN country.

10. Limits to the Risk Borne Directly by Insurers : Reinsurance

When a primary insurance contract is reinsured by the primary insurer through treaty reinsurance, the primary insurance contract shall specify the conditions under which its agreeable reinsurance operator is governed.

When a primary insurance contract is reinsured through facultative reinsurance, the scope for reinsurance, and the associated reinsurance contract, shall be notified to the insured at the same time that the primary contract is signed.

The maximum level of risk that may be retained by the primary insurer in Lao PDR shall not exceed 1.6 billion Kip for each policy; the primary insurer shall then recourse to reinsurance for the surplus. The surplus reinsurance shall be directly covered by the agreeable reinsurance operator. The Insurance Management Authority shall periodically adjust the level of risk through a notice to be consistent with the insurance market development.

After the signing of reinsurance contract, insurer shall submit monthly and yearly to Insurance Management Authority the list of their reinsurance contracts with the amount of ceded premiums, the name and domicile of the lead reinsurer involved.

The Insurance Management Authority shall further detail the conditions for the implementation of this article.

11. Calculation of the Reserve Fund for On-going Risks and Outstanding Claims

Forty (40%) percents of all types of insurance net premium shall be reserved for on-going risks of insurers, for short term contract of less than 31 days shall be excluded, The Reserve Fund shall be adjusted accordingly each month based on the previous twelve months of net premiums.

12. Prudential Principles for Insurance Investments

The investment proportion shall not be greater than the following stipulation:

- (a) One hundred (100%) percent, to deposit in a current or savings account at a commercial bank or buy government bonds;
- (b) Twenty (20%) percents in corporate equities;
- (c) Thirty (30%) percents in real estate assets;
- (d) Thirty (30%) percents in corporate bonds.

13. Requirements for an Insurance Broker

Insurance brokers operate as representatives of prospective insured and customers who are interested to subscribe insurance. Insurance Brokers shall assist the insurer in developing strategy on risk management appropriated to their risk analysis and at the best price possible, work with the insured to find out what kind of risks they regularly encounter and provide the prospective insured about what policies are available for each type of risk.

Those who wish to apply for the operation of an insurance broker business shall have authorized license and deposit insurance security in form of the registered capital or professional liability insurance.

The Ministry of Finance shall determine the conditions for the implementation of this article.

14. Professional Qualifications for an Insurance Broker

An insurance broker who is required to have successfully passed an insurance training and to have obtain a certificate as defined by Insurance Management Authority, Ministry of Finance, can apply the establishment and operation of insurance broker business related to the partnership's contract with any insurer legally established in Lao PDR.

15. Regulations and Procedures for the Issuance of an Insurance Business License

After receiving an application for investment in an insurance business whereby the investor has filled in information in the prescribed form as determined under Article 11 of the Decree on the Implementation of the Law on Investment Promotion, the Ministry of Planning and Investment shall pass such application to the Ministry of Finance for consideration and to provide technical

recommendations. In addition, the investor shall file additional information as follows:

1. Certified documents related to insurance professional skills;
2. Certified documents on financial sources;
3. Initial five-year insurance business operation plan;
4. List of partners or shareholders and number of shares held;
5. By law on the insurer

In line with the requirements provided in the international treaties and agreements that Lao PDR is a party to, especially the WTO Accession Protocol and the U.S.-Lao PDR Bilateral Trade Agreement, A foreign-investor on insurance business is eligible to form its operation as a joint venture or as one hundred (100%) percent foreign owned company,

An insurance business license shall be specifically issued for each type of insurance business as defined in Article 8 of the Law on Insurance. In case, an insurer has not yet separated its insurance business license into separate types of insurance, it shall be done in accordance with the provisions defined in this Ministerial Instruction.

16. Term of a Claim for Indemnity or Compensation for Damages

In case, the beneficiaries specified in the insurance contract are dead or incapacitated, the person or persons entitled to inheritance rights may recover the indemnity, compensation or insurance sum insured according to the principles laid down in the Law on Inheritance.

The amount of indemnity or compensation for damages to be paid to the beneficiary, may be estimated at the time of the incident and a portion may be paid at that time. After receiving the results from a full evaluation of the damage, the insurer shall pay the indemnity or compensation for the damage to the beneficiary in the full amount or in accordance with the sum insured as specified in the contract.

17. Compensation Assistance for Non Insurance Victims of Road

Accidents

When the Insurance Fund for Road Accidents is not yet established, the advance payment in compensation for the cost of treatment of the injured victim or victims of a road or motor vehicle accident involving an insured motor vehicle, without consideration of liability, shall not exceed the amount of 1.8 million kip per each injured person. In case of the death of a victim or victims, the compensation for death shall not exceed the amount of 3 million kip per deceased.

The maximum payment by the insurer shall not exceed 10 million kip per event. Additional compensations shall be subjected to the stipulated provisions of insurance contracts.

Ministry of Finance may amend periodically the maximum payment based on the National Socio-Economic Development. Ministerial Instruction of Ministry of Finance No. 0772 dated April 24, 2009 shall be implemented until having further notice of the Ministry of Finance.

18. Insurance Fund for Road Victims

An Insurance Fund for Road Victims shall be established to assist and relieve persons injured in road and motor vehicle accidents. The fund aims to assist people who have suffered from a road accident by transporting them to have emergent treatment in the hospital before the insurance officers reach the accident in case the accident involving with insured motor, whenever appropriate, claiming actual expenses from the person or section liable for the injuries to the road victims based on documents from hospital.

The Fund is financed through a mandatory contribution, determined as a percentage and/or a fixed amount levied on all motor vehicle insurance premiums collected by the insurers, and through a percentage collected on fines and penalties from traffic offenses.

The determination of the mandatory contribution, the conditions for the governance and administration of the Fund, the limits of its liabilities, claims, procedure, rights, and other prescriptions shall be specified by the Ministry of Finance.

19. Taking Over the Rights (subrogation) of the Insured

In case the third party uninsured is the cause of the damage, the insurer who has already paid insurance indemnities has the right to take over the right of the insured and file a claim for reimbursement of money equal to the insurance indemnities paid from a third person who is the cause for the damage.

The insurer does not have the right to file a claim for reimbursement of money if the person who is the cause of the damage is the direct ascendant or descendant of the insured, or his/her spouse, is a person who has been assigned to work on behalf of the insured, is an employee of the insured or a person who is permanently living in the house of the insured, except if such persons have intentionally caused this damage.

20. Establishment of an Insurance Agent

The individuals and legal entities shall be selected by the insurer to be its insurance agents by legally binding or having a mutual contract according to the laws of Lao PDR and can determine the service charges for selling insurance, the scope of rights, detailed duties and security deposit for the insurance agent according to article 76 of Law on insurance.

The security deposit shall be returned to the agent when the contract with the insurer ends.

21. Obligations of the Insurer for the Establishment of Their Insurance Agents

An insurer shall provide training on insurance to persons before becoming their insurance agent/s, or before establishing an agent's office as an incorporated entity, and shall issue them certificates to verify that they are qualified to provide insurance services. The certified training that shall be dispensed during programs of no less than thirty hours, shall include briefings on:

- The products sold and services provided by the insurer;
- The business and sales process, administration, accounting of the insurer,
- The applicable legislation and the principles of ethics that shall govern the work of the agents.

The Insurance Management Authority may decide to require potential insurance agents to have successfully passed a certifying test before they qualify for the position.

22. Liability of Insurer for Its Insurance Agents

An insurance agent operates as a sole representative of an insurer, and that insurer is liable for the actions and operations of its agents. The violation of the covenant binding the insurer and its agent shall not waive the direct responsibility of the insurer for damage caused by its agent.

The insurer shall be responsible for the management, compliance and monitoring on its agents' business operation and strict adherence according to article 80 of Law on insurance.

A payment of a premium to the agent shall be deemed payment to the insurer.

23. In-Service Training for an Insurance Agent

Insurer shall provide regularly in-service training to its agents and agent's staffs. The training should cover information and guidelines for new developments in the insurance sector, including new legislation and new insurance products and procedures.

24. Accounting and Statistics

An insurer shall execute the accounting regulations in accordance with the enterprise accounting format as defined in the Law on Accounting of Lao PDR by dividing its accounts into each type of insurance category. The accounting system shall be completely and precisely recorded as well as transparent and easy to audit.

Statistics on each insurance category shall comply with the principles, regulations and formats defined by the Ministry of Finance in each period.

An insurer shall report its accounting summary, namely its income statement and balance sheet and report on the change of capital and other

statistics to the Insurance Management Authority, Ministry of Finance on a monthly, quarterly, semi-annual and annual basis.

Insurer shall publish their annual financial report by means that will make it readily available to the general public.

25. Insurance Management Authority

The insurance Management Authority is established at the Ministry of Finance which has the roles and responsibilities in regulating the insurance business, including identifying SWOT in the insurance industry that may pose a systematic risk in the insurance or financial system.

The Insurance Management Authority shall coordinate and develop the national prudential insurance policy relating international insurance which include representing Lao PDR in the International and regional Association of insurance Supervision.

The Insurance Management Authority assists the Minister of Finance in negotiating the international agreements relating to the insurance, monitoring and evaluating the insurance penetration of the communities and consumers, the people of multi-ethnic groups and the low and middle-income people.

26. Establishing a National Bureau of Insurance

The Ministry of Finance may establish the National Bureau of Insurance, a business sector organization to administrate and implement its commitments to provide insurance for cross-border transportation under ASEAN protocol 5. The Ministry also promotes the establishment of an Insurers' Association.

27. Duties and Organization of the National Bureau of Insurance

The National Bureau of Insurance is a private business organization, established on the basis of ASEAN Protocol 5 on compulsory insurance for cross-border transport, to coordinate with Insurance Bureau of ASEAN countries, issue ASEAN stickers and insurance stickers, and is eligible to sign an ASEAN insurance certificate and facilitate when the accidents occur in the territory of Lao PDR according to the laws of Lao PDR.

The members of the National Bureau of Insurance shall consist of a head and one or two deputy-heads based on the election by the Insurers' Association and approved by the Ministry of Finance.

28. Insurers' Association

The Insurers' Association is the insurers' management organization that gathers insurers for the purpose of the facilitation of insurance business operations and to implement its rights and obligations as defined in Chapter VII of the Decree on the Organization and Operation of the Lao National Chamber of Commerce, 20 November 2009.

The Insurers' Association shall encourage its members to operate with corporate governance principles appropriate for the insurance sector. It shall develop a By-Law and a Code of Conduct for all insurance companies operating

in Lao PDR. The Code of Conduct shall be subject to the endorsement of the Insurance Management Authority.

Subject to the By-Laws of the Association, the representative offices of foreign companies in the insurance sector operating businesses in Lao PDR may be admitted in the Association.

29. Settlement of Insurance Disputes and Right to appeal against administrative decisions through administrative processes

A party to an insurance dispute may refer the dispute to the Insurance Management Authority which shall establish an Insurance Appeal Settlement Committee to resolve such disputes.

An individual, a legal entity or organization may also refer an adverse decision of a Insurance Appeal Settlement Committee, pertaining to the implementation of the Law on Insurance or this ministerial Instruction.

The Insurance Appeal Settlement Committee shall consist of the Head of the Insurance Management Authority (or his/her representative) as the chairman, officials of the Ministry of Finance, the Insurance Management Authority, representatives of the insurance companies and policyholders.

The party shall refer the dispute with supporting documents and evidence to the Insurance Appeal Settlement Committee. The time frame for submitting that dispute is thirty (30) days from the date the contested decision or action was made by the other party.

Within forty-five (45) days from receiving the claim, the Insurance Appeal Settlement Committee shall finalize settlement of the dispute and notify the decision to the parties. The absence of response to the appeal by the deadline shall be considered as a rejection of this appeal.

In case, there is an objection to the decision of the Insurance Appeal Settlement Committee, a party may appeal the decision to the People's Court within thirty (30) days from the date of receiving such decision.

30. Resolution of Insurance Disputes through Mediation and

Arbitration

Disputes arising between an insurer registered in the Lao PDR and a policy holder or another party shall be settled according to the provisions of the Law on the Resolution of Economic Disputes, including recourse to mediation and arbitration services provided by the Center for Economic Dispute Resolution, private mediation processes, domestic private arbitration centers or ad-hoc arbitration, and foreign arbitration whenever appropriate.

31. for Good Performers

- Incentives for good performers as defined in Article 120 of the Law on Insurance shall be implemented as the follows:

- Individuals or both public and private legal entities that have outstanding performance for the implementation of the Law on Insurance shall be provided recognition or other incentives based on the proposal of the Insurance Management Authority.

- Domestic and foreign investors having outstanding performance in insurance business operations in accordance with the amended Law on Insurance and other relevant Laws and regulations of Lao PDR, particularly having highly effective business operations, accurate and full compliance with obligations, contribution to the socio- economic development, shall be provided recognition or other incentives according to the Laws and regulations based on the proposal of Insurance Management Authority.

32. Effectiveness

This instruction will come into force from the date of its signing. All provisions and regulations that contradict this Ministerial Instruction shall be void.

Minister of Finance

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