



**LAO PEOPLE'S DEMOCRATIC REPUBLIC**

**PEACE INDEPENDENCE DEMOCRACY UNITY PROSPERITY**

Ministry of Finance

No 770...../MOF

Vientiane Capital, Dated 21 March 2016

**Ministerial Guidelines on Insurance Business Licensing**

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

**The Minister of Finance issues the following guidelines:**

**I. General Provisions**

**Article 1. Objectives**

These guidelines are issued for the purpose of providing guidance on licensing requirements for the operation of insurance businesses by insurance business operators, agencies and sales agents. These guidelines have therefore

been developed to guide the government, protect the rights of insurers, the insured and the general public and contribute to the general law and order of the society and socio-economic development of the Lao PDR.

## **Article 2. Insurance business operators**

An Insurance business operator is an individual or legal entity, whether a domestic or foreign organisation, which invests in the establishment of or participates in insurance business operations such as the establishment of a company, an agency or a sales agency operating business activities , in accordance with the types, forms and scope of insurance business operations stated in Article 19 of the Insurance Law No 06/NA dated 21 December 2011.

An Insurance business operator shall be a member of the Insurance Business Association participating in insurance related activities in accordance with national laws and regulations and in compliance with commitments under international treaties and international agreements of which the Lao PDR is party to.

## **Article 3. Insurance business operations**

An individual or legal entity, whether a domestic or foreign organisation which intends to engage in insurance business operations in the Lao PDR shall ensure compliance with laws, regulations and applicable procedures in order to obtain an insurance business license from the Ministry of Finance, pursuant to Article 25 of the Insurance Law.

An individual or legal entity, whether a domestic or foreign organisation which has not received the requisite approval for the establishment and operations of an insurance business in accordance with the Law on Insurance and these guidelines is prohibited from operating such a business.

An individual or legal entity, whether a domestic or foreign organisation shall not purchase insurance, utilise services or engage in any insurance agreement with an operator who does not lawfully possess an insurance business operating license from the Ministry of Finance.

#### **Article 4. Insurance agency business operations**

An Insurance agency means an individual or legal entity which operates an insurance business or conducts insurance business transactions and operations pursuant to an agreement with an insurance company. An Insurance Agency must have obtained approval to establish its business operations with Department of State, Investment Enterprise and Insurance Management and must register with and obtain a tax certificate from the Tax Department. An Insurance agency is entitled to receive compensation from the insurance company in accordance with their agreement and both the Insurance Company and the Insurance Agency must act in adherence with the Laws and regulation of the Lao PDR

#### **Article 5. Insurance broker operations**

An Insurance broker means an individual or legal entity entitled to operate the business as a domestic or foreign company, selling, soliciting or negotiating insurance for

compensation in accordance with the agreement of the insurance company. An Insurance broker shall meet the relevant professional criteria and must obtain an approval from the Ministry of Finance as stated in these guidelines.

An Insurance broker functions as customer representative acting on behalf of the customer in executing insurance transactions with the insurance company. An Insurance broker must adhere to taxation regulations and other legal obligations governing the operation of a business as stated in relevant laws and regulations.

#### **Article: 6. Approval to establish an insurance agency and insurance broker**

An insurance company which intends to establish an insurance agency or broker, shall complete an application form and other supporting documents as specified in Articles 9.3 and 9.4 of these guidelines and submit these to the Insurance Management Department, within the Ministry of Finance for an approval.

## **II. Issuance of an Insurance business operating license**

#### **Article 7. Issuance of an Insurance business operating license**

An individual or legal entity, whether a domestic or foreign organisation intending to operate an insurance business in the Lao PDR shall meet the conditions specified in the applicable regulations, insurance law and these guidelines and shall submit an application to the Insurance Management Department within the Ministry of Finance.

Applications will be reviewed within 15 working days from the date of the receipt of application and supporting documents. After receiving an approval from the Insurance Management Department within the Ministry of Finance, the applicant will be granted a temporary licence valid for a period of 1 year. The Insurance Management Department shall monitor business operations during this period to ascertain whether the applicant is operating in accordance with Article 20 of the Insurance Law and other relevant regulations and laws of the Lao PDR. Should it be determined that the applicant is so operating in accordance with the relevant laws, a permanent licence will be granted by the Insurance Management Department within the Ministry of Finance.

An individual who is a representative or insurance broker for an insurance company shall have a Certified Identification Card issued by the Ministry of Finance and certified by one insurance business operator which the broker represents or serves as an agent for. This Certified Identification Card shall be shown to each customer at every instance in which insurance is being sold.

#### **Article 8. Insurance business Investment license**

The Ministry of Planning and Investment shall grant the investment license for the establishment and operation of an insurance business in accordance with conditions determined by the Ministry of Finance.. An Insurance business license is granted by the Ministry of Finance once the company has met the conditions of these guidelines as specified in Article 9.

A foreign investor may apply to operate an insurance business as a joint venture company or a sole foreign investor company pursuant to the conditions specified in international agreements which the Lao PDR is a party.

Insurance business operating licence, shall be issued in each category in accordance with Article 8 of the Law on Insurance. In instances where operators that have not categorized their services since the issuance of their license , they will need to do so in accordance with the provisions of these guidelines.

An individual who intends to engage in the provision of insurance services, either as an agent or an insurance broker under any insurance companies, shall submit an application to the Ministry of Finance for the approval of the operation of the business. After obtaining a license from the Ministry of Finance, documents shall be submitted to the Ministry of Industry and Commerce to facilitate business registration in accordance with relevant laws and regulations.

#### **Article 9. Criteria for obtaining an insurance business operating license**

An Individual or legal entity which intends to apply for a licence to operate an insurance business shall meet the criteria stipulated in Article 20 of the Insurance Law.

##### **9.1. Criteria for obtaining business operating license**

An applicant shall meet the following criteria as provided below:

9.1.1. An applicant must be an insurance company in possession of an investment certificate from the Ministry of Planning and Investment.

9.1.2. An applicant desirous of establishing an insurance company must be fit and proper, without a criminal record and must never had filed for

bankruptcy, been black listed by the Government or any regulatory agency, not be a terrorist and be free from an association of criminal activity, whether domestically or otherwise;

9.1.3. Must have an office or headquarters that is suitable for insurance business operation;

9.1.4. An applicant must possess a minimum capital of 60 billion kip. During the operation of business, an insurance company must maintain capital of each stakeholder at a level not less than the capital limit provided in Article 21 of the Insurance Law No 06/NA, dated 21 December 2011;

9.1.5. An applicant must be an account holder of a highly credible bank in the Lao PDR and then inform the Ministry of Finance of such. The applicant shall meet the following conditions below:

(1) Insurance business operators of each category must deposit 1/3 of its total registered capital for risk guarantee of each category of insurance; for account opening, withdrawals and closures, joint signatures are required between insurance company and Department of State Investment and Insurance Management.

(2) Must inform a bank that the insurance supervisor has direct authority to review account balance at any point in time;

(3) Withdrawal or deposits for risk guarantee shall be subject to the approval of the Ministry of Finance before withdrawing and using these deposits.

9.1.6. Must have names and background information of Managing Directors who are assigned for each position and have employees or human

resources who have the requisite knowledge and technical skills and have certification or a degree in insurance;

9.1.7. Must have both short-term and long-term business plans such as: short term up to 1 year, medium term from 2 to 5 years and long term for 5 years up with clear plan as follows:

- (1) Business expansion plan (new branches) inside Vientiane Capital and provinces;
- (2) Insurance plan including risk management for the company and reinsurance;
- (3) Financial plan (assets, liabilities, revenue, expenditure and profit/loss);
- (4) Employment plan and human resources development;
- (5) Joint venture with foreigners plan (if any).

9.1.8. Never had a license being terminated within 5 years prior to the submission of insurance business operating license application.

## 9.2. Criteria for foreign investors

Apart from the criteria provided in 6.1 of these guidelines, additional criteria apply to foreign investors as follows:

9.2.1. Have at least 5 years of experience of operating an insurance business;

9.2.2. Have approval to establish a representative office of insurance company in accordance with laws in Lao PDR;

9.2.3. Have a copy of an approval letter for the establishment and operation of insurance business from insurance authority where the headquarters is located.



### 9.3. Criteria for insurance agencies

To be an insurance agency, the following conditions must be met:

(1) For individuals:

- Must be a Lao citizen, located and living in the Lao PDR;
- Must be at least 18 years old;
- Must be personable
- Must have never received a judgement against him/herself in a Court of Law because of intentionally breaking the laws, except having done so, served time in jail and released for 5 years prior to the submission of an application for a licence;
- Never been a victim of bankruptcy;
- Must have a certificate in insurance, or training related to insurance;
- Never been in the case as a licensed insurance agent and termination 5 years prior to the submission of a licensing application;

(2) For legal entities:

- Legal entities must have a business registered in accordance with laws of the Lao PDR;
- Have an office and official organisational structure;
- Have skilled and knowledgeable employees, with requisite certification or a certificate on insurance;
- Must have minimum registered capital of 50 million kip;
- Have skilled Managing Directors, with technical experience, specialty in insurance and a good business background;

- Have a contract as an agency with an insurance company that they represent;
- Never been in a case where an insurance agent's license has been terminated within 5 years prior to the submission of a licensing application;

#### 9.4. Criteria for brokers

9.4.1 For individual brokers, the following conditions must be met:

- Must possess approval to become a broker in accordance with laws and regulations;
- Must be fit and proper, without a criminal record and must never had filed for bankruptcy, been black listed by the Government or any regulatory agency, not be a terrorist and be free from an association of criminal activity, whether domestically or otherwise;
- Must have certification in insurance, or training related to insurance;
- Must have a brokerage contract with an insurance company;
- Must have never been in a case as an insurance broker license and been terminated within 5 years prior to the submission of an application for a licence;

(2) For legal entities, a broker must meet the following conditions:

- Must possess approval for becoming a broker in accordance with laws and regulations;

- Must have certification in insurance, or training related to insurance;
- Must have a minimum registered capital of 50 million kip;
- Must have deposits similar to insurance company at least 1/3 of ¼ of total registered capital;
- Must have a brokerage contract with an insurance company;
- Must have never been in a case where insurance broker license being terminated within 5 years prior to the submission of a licensing application;

#### **Article 10. Licensing fees**

Insurance business operators shall pay a licensing fee as stipulated in Article 23 of the Insurance Law No 06/NA, dated 21 December 2011. This fee will be paid according to each category of an approval by contribution to the national budget through the Department of State Investment and Insurance Management as the rate specified below:

##### **10.1. Licensing fees:**

10.1.1. Life insurance operating license	10.000.000
kip	
10.1.2. Non-life insurance operating license	10.000.000
kip	
10.1.3. Agency license for a legal entity	1.000.000
kip	

- |         |  |             |
|---------|--|-------------|
| 10.1.4. | Broker license for a legal entity                        | 2.000.000   |
|         | kip  |             |
| 10.1.5. | Agency ID card or certification letter for an individual | 300.000 kip |
- 10.2. Renewing licensing fees:
- |         |  |  |
|---------|--|--|
| 10.2.1. | Renewing life insurance operating license                          |  |
|         | 2.000.000 kip  |  |
| 10.2.2. | Renewing non-life insurance operating license                      |  |
|         | 2.000.000 kip  |  |
| 10.2.3. | Renewing agency license for a legal entity                         |  |
|         | 1.000.000 kip  |  |
| 10.2.4. | Renewing broker license for a legal entity                         |  |
|         | 500.000 kip  |  |
| 10.2.5. | Reviewing agency ID card or certification letter for an individual |  |
|         | 200.000 kip  |  |
| 10.2.6. | Renewing broker ID card or certification letter for an individual  |  |
|         | 200.000 kip  |  |

Renewal of license fees is to be done annually. License and renewed license are valid for 1 year from 1 January to 31 December of every year. When a license is expired, a license must be renewed and fees must be paid to the Ministry of Finance within the first three months of the following year, which means during the period January 1 to March 31 of every year. Licence renewal fees are to be paid in full by March 31 of every year.

## **Article 11. Obligations**

Individuals and legal entities, whether domestic or foreign organisations who invest in or participate in insurance businesses in the Lao PDR such as enterprises, companies, agencies, brokers and representative offices who participate and operate business shall do so in accordance with international financial and accounting standards and regulations. They shall also develop summary reports of business operations and shall strictly adhere to customs and tax obligations and pay all applicable fees in accordance with the Insurance Law and other related laws.

## **Article 12. Fine**

Insurance business operators, agencies and brokers which violate these guidelines shall be subject to fines based on the violation. These are described below.

12.1. After obtaining an investment approval letter, within three months, the insurance business operator must apply for a business operating license from the Ministry of Finance as there will be a fine of 20,000,000 kip if over the period of three months.

12.2.1. If there is a delay in the submission of business operating licenses, agencies and brokers licenses, there will be a fine imposed:

- If the license is expired, but there is a delay in the request for license renewal of no more than three months, there will be a fine equivalent to licensing fees amount according to each category of license.

- if the delay in the request for renewal is between three to six months, a fine will be 5 times of the licensing fees amount according to each category of license
- If the delay in the request for renewal is over six months, there will be a fine of 10 times the licensing fees according to each type of license. In addition, a business operating license may be terminated and all damages and costs shall be the responsibility of the business operators;

12.2.2. If false information is provided, incorrect documents submitted or information omitted during the licensing application process or the renewal of insurance business licenses, there will be a fine of 10 times the licensing fees amount according to each category of license and will be punishable according to the laws;

12.2.3. If there is a temporary suspension of the insurance business operation without written notification to the relevant authorities and the Ministry of Finance within one year, when returning to operate business, customs and tax commitments to government shall be applied and a fine of 5 times the licensing fees amount according to each type of license. If the suspension exceeds one year, business operation will be terminated and shall not be considered for license renewal. In addition, any costs incurred either by the business itself or related parties resulting from the cessation of business operations will be the responsibility of the business operator.

12.2.4. Should an insurance business operator lease its license to others, this operator shall be fined 20.000.000 kip in accordance with relevant laws and regulations.

### **III. Policy for good conduct and measures to be implemented when a violation occurs**

#### **Article 13. Policy for good conduct**

Individuals or legal entities including private entities and government institutions, domestic and foreigner investors that conduct their businesses in accordance with the insurance law and other related laws and operate their insurance business effectively and in compliance with laws and regulations, and contribute to socio-economic development will receive the appropriate awards as proposed by the Insurance Management Authorities.

Persons who furnish the relevant authorities with accurate and credible information and report violations of these guidelines, which lead to the levying of fines shall receive an award of 5% of a total amount of the fine, based on the violation further to the provisions of Article 9 of these guidelines.

#### **Article 14. Measures for addressing violations**

Persons who violate these guidelines will be advised of their violation, fined, disciplined and be held criminally or civilly liable and punished based on the degree of the violation.

#### 14.1. For employees and officers of the Insurance Authority

In situations of violations which will not affect revenue and the integrity of the Insurance Authority e.g. non-performance or poor performance of duties as assigned without sufficient reason and in contravention of laws and regulations creating unwarranted business operations barriers or advertently levying inaccurate fees or requesting benefits and taking bribes shall be punished as follows:

- First time: apprised of obligations and commitments under law, issued a warning of violation according to government officer regulation and record the violation on the offender's personal file;
- Second time: Suspension of promotion opportunities, salary increases and bonuses;
- Third time: Demotion of the Officer (and other co-conspirators) or transferral of the Officer to another position of a lower rank;
- Fourth time: Termination of employment without receiving any benefits.

In criminal cases such as accepting bribes and seeking benefits, issuing threats and the engagement in corrupt practices, which cause damages to other persons, groups of people, government and organisations; protecting or joining with insurance companies that violate laws and regulations, falsifying documents, collecting fees without authorisation, using revenues for personal gains and non collection of fees and other charges which are not directed to the government, will be subjected to prosecution. If such acts will lead to damages to others or organisations, such persons will be responsible to compensate for damages caused.

#### 14.2 For business operators, agencies and insurance brokers



Situations of violation which are not severe shall include failure to submit annual reports, failure to submit applications for the renewal of licenses on time or violation of these guidelines for the first time unintentionally. Such violations will result in the issuance of warning and the advising of these violations and the obligations which should be adhered to ensure compliance with the relevant laws and these guidelines.

Violation which amount to criminal offences shall include the operation of insurance business without approved licenses, the utilisation of other person's license or allowing others to use your license, using expired license, providing false information, omitting information, falsifying documents, bribing or granting payments to persons, joining with other officers of the insurance authority to violate laws and regulations, defaming and threatening or using violence against employees and officers who supervise insurance related work. Such violations will be subjected to prosecution and violator will be responsible for compensating injured parties for damages caused.

#### 14.3 For persons and organisations

In situations of violations of these guidelines, violators will be re-educated on their obligations and commitments under law, fined, provide compensation to injured parties or criminally charged, depending on the severity of the situation.

Cases on criminal offences such as refusing to provide information, joining with other officers to advertently omit information, falsify documents, cause damages to insurance business operators, bribe or accept bribes and rewards, perform actions that violate laws and regulations related to insurance, defame, threaten and use violence against employees and officers or insurance business operators, will be subjected to prosecution and be responsible for compensating injured parties for damages caused.

Insurers including agencies and insurance brokers who operate insurance business without the approved license from the Ministry of Finance will receive a warning or will be re-educated on the provisions and obligations on the Insurance law, other related laws and these guidelines or will have their business license suspended or terminated. In addition, violators will be responsible for damages occurred to insurance purchasers and will resolve conflicts and other issues as provided for in insurance agreements.

## **15. Termination of Insurance Business Operating license**

An Insurance business operating license shall be terminated in situations where insurers do not follow conditions or violate prohibitions as stated below:

15.1 Insurers do not follow conditions or violate prohibitions stipulated in Article 26 of the Law on Insurance No 06/NA dated 21 December 2011;

15.2 Insurers fail to follow these guidelines;

15.3 Insurers make a loss for three years consecutively for business operation and cannot maintain reserves for risk guarantee;

15.4 Companies withdraw deposits equivalent to 1/3 of registered capital for risks without permission;

15.5 Insurers violate regulations related to the implementation obligations that are still in effect;

15.6 Concession registration has been terminated, has lapsed or expired as provided in Articles 25, 76 and 77 of the Investment Promotion Law.

In a case where an insurance operating license is already terminated, a license of branches under such companies located in the Lao PDR shall also be terminated.

#### **IV. Final Provisions**

##### **Article 16. Implementation**

Individuals and legal entities, whether domestic or foreign organisations that intend to engage in the provision of insurance services in the Lao PDR shall strictly do so in accordance with the Insurance Law, regulations and procedures as stipulated in these guidelines.

Insurance business operators that obtained approval to establish and operate insurance businesses prior to the adoption of the (amended) Law on Insurance and the entry into force of these guidelines, shall submit an application for the continuance of the operation of insurance business to the Ministry of Finance in accordance with these guidelines, should the operators be desirous of continuing the operation of their insurance business.

Upon implementation of these guidelines, where necessary, a report in relation to implementation and challenges therein should be developed and submitted at a Ministerial level for review and immediate resolution..

##### **Article 17. Effectiveness**

These guidelines shall enter into force from the date of signing. With the exception of the constitution, all regulations and laws, which contrive these guidelines, shall be repealed.

Minister of Finance.