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Insurance

Japan – Law and Practice

Contributed by
Chuo Sogo Law Office, P.C.

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LAW AND PRACTICE:

p.3

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The 'Law & Practice' sections provide easily accessible information on navigating the legal system when conducting business in the jurisdiction. Leading lawyers explain local law and practice at key transactional stages and for crucial aspects of doing business

Law and Practice

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CONTENTS

1. Regulation	p.4
1.1 Regulation of Insurers and Reinsurers	p.4
2. Distribution	p.5
2.1 Insurance and Reinsurance Products	p.5
3. Overseas Firms Doing Business	p.6
3.1 Overseas-Based Insurers and Reinsurers	p.6
4. Transaction Activity	p.7
4.1 Mergers and Acquisitions Activities	p.7
5. Insurtech	p.8
5.1 Insurtech Development and Collaborations	p.8
6. Emerging Risks and New Products	p.8
6.1 Risks and Regulator's Reponse to Risks	p.8
7. Recent and Forthcoming Legal Developments	p.9
7.1 Legal Developments and Impact	p.9
8. Other Developments	p.10
8.1 Promoting Alternative Risk Transfer	p.10

Chuo Sogo Law Office, P.C. offers legal advice and opinions relating to insurance laws and regulations, dealing with incorporations, mergers and acquisitions, company restructurings and liquidations for insurance companies. The firm also advises on litigation, mediation, ADR and other dispute resolutions involving insurance claims and insurance products. Each year since 2005, we have been loaning our

attorneys to work at the Financial Service Agency (FSA) — an agency overseeing the insurance sector in Japan. This experience has given us insights into and better understanding of the workings of this complex governmental agency, allowing us to deal better with complex insurance-related regulations.

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1. Regulation

1.1 Regulation of Insurers and Reinsurers

Life insurers and non-life insurers are regulated by the Insurance Business Act. Reinsurers are regulated in the same way as non-life insurers. Engaging in the underwriting of life insurance and non-life insurance entails obtaining from the regulatory authorities a life insurance business licence and a non-life insurance business licence, respectively. Both licences cannot be acquired by the same company, and companies are prohibited from running both businesses concurrently. However, both life insurers and non-life insurers are at liberty to offer insurance such as medical care insurance, accident insurance, or overseas-travel-accident insurance – ie, insurance from the so-called “third sector” insurance market. Nevertheless, life insurance companies – whether operating in the form of a *kabushiki kaisha* or mutual company – must have (a) board of directors’ meetings, (b) auditors’ meetings, audit and other committee meetings, and meetings such as nominating committee meetings, and (c) accounting auditors. Foreign companies intending to enter into the Japanese market through their subsidiaries are

required to acquire the licences mentioned above. Foreign companies planning to enter through their branch offices must obtain a foreign insurer licence.

During the licence application procedures, the so-called “basic documents” (articles of incorporation, business plan, standard policy provisions, and documents showing the method used to calculate insurance premiums and policy reserves) are required to be submitted to the regulatory authorities. Furthermore, insurance companies cannot operate their businesses while in violation of the basic documents, and must procure from the regulatory authorities an approval for corresponding changes to the basic documents in order to develop and offer new insurance products, (“Insurance Product Approval” – regular processing takes 90 days, standardised 45 days). However, regarding certain types of insurance where there is little fear of insufficient policyholder protection, such as fire insurance, a notification system to the regulatory authorities has been adopted, although notification may not be required in cases where insurance

companies state in the statement of business procedures that special provisions related to business insurance are to be established or modified without notifications. (“Flexible Provision System”).

Insurance companies are not permitted to conduct any business other than the insurance business (underwriting insurance) and business incidental thereto (restriction on other business). Furthermore, insurance companies are not allowed to own subsidiaries that perform businesses other than those legally stipulated, nor to own more than 10% of voting rights in domestic companies other than those subsidiaries. However, with the approval of regulatory authorities, insurance holding companies may have subsidiary companies that insurers may not own as their subsidiaries. With respect to prescribed matters (which are quite extensive), such as customer explanations or information control, insurance companies are obliged to have a system in place to secure soundness of operations and appropriate management.

Insurance companies are required to accumulate policy reserves and appoint an insurance administrator with a pre-determined actuary’s licence, who gets involved in work related to actuarial science. Regulations on the solvency margin ratio were introduced in 1996, and the solvency margin index has become an assessment standard for the supervisory authorities to execute early corrective actions, with broad supervisory reach against targeted companies, including orders to submit an improvement plan. The solvency margin ratio has been introduced on a consolidated basis. Field tests of economic value-based solvency regimes have been conducted three times in the past, and the most recent field test – the results of which were announced in March 2017 – was conducted in accordance with the ICS field test specifications of IAIS (as of June 2016). In March 2016, the European Union announced its adoption of the equivalence recognition between Solvency II with temporary equivalence and the Japanese reinsurance supervision and group solvency.

Based on the Insurance Business Act, the regulatory authorities have the power to issue administrative dispositions to insurance companies, including orders to change the basic documents, orders for business improvement, orders for suspension of business, or orders for cancellation of a licence. In fact, a broad discretion has been given to the regulatory authorities, and those administrative dispositions against insurance companies invoked by the regulatory authorities are not necessarily based on the assumption that violations of law by insurance companies have taken place. With that as a background, entities targeted for supervision not only have to make sure that laws and regulations are being observed but must also follow the guidelines officially promulgated by the regulatory authorities (Comprehensive Guidelines for the Supervision of Insurers).

Insurance solicitation is subject to a registration system as well as various regulations, such as the duty to provide information and the duty to confirm the customer’s intent. In addition, the Insurance Business Act has introduced other measures, such as the Cooling-off System, or the Financial ADR System. Apart from the Insurance Business Act, the Insurance Law – which deals with insurance-related contract law (private law) – contains several mandatory provisions designed for the protection of consumers, which insurers cannot remove by agreement.

2. Distribution

2.1 Insurance and Reinsurance Products

Unless otherwise allowed by any other laws, the Insurance Business Act prohibits any person from acting as an agent or intermediary to conclude insurance contracts, an activity which falls under the definition of “insurance solicitation” under the Act.

In case of a life insurance company, only registered life insurance agents (ie, officers and employees of a life insurer; or life insurance agencies (agents) as well as their officers, employees and other personnel) may conduct “insurance solicitation.” Japanese life insurance companies characteristically utilise a high rate of sales people who have long belonged to those companies (mostly women employees known as “*Sei-ho* ladies”). Put simply, every person selling insurance contracts has to be registered to do so. In principle, in the current legal system, life insurance agents operate within the so-called “one-company exclusive system”, meaning they may deal with the insurance products of only one insurance company. However, by fulfilling the prescribed legal requirements (such as enrolling two or more life insurance agents), it is possible to deal with the insurance products of multiple insurance companies, with quite a number of independent agencies currently doing so.

The situation involving non-life insurance companies (including reinsurance companies) is as follows:

- It is recognised that officers (other than auditors) and employees of a non-life insurer may engage in “insurance solicitation” not only without being registered but also – similarly to officers and employees of the below-mentioned non-life insurance agencies – without any obligation to give notice thereof. In many cases employees of a non-life insurance company tend to engage in “non-face-to-face” offerings of their products (by such means as telephone, mail or internet), and tend to transfer business opportunities with large-scale companies to their head office for handling.
- Registered non-life insurance agencies as well as their officers (with the exception of auditors) and employees may engage in “insurance solicitation.” No officers or employees

of non-life insurance agencies are required to be registered, but they are required to give notice of such a fact.

As a special feature of sales channels for non-life insurance in Japan, a considerable portion of sales is through non-life insurance agencies, the ratio of which accounts for 82% of the total on a direct-net-premiums-written basis, while sales by officers and employees of insurance companies (through their direct sales) and insurance brokers account for only around 9% and 0.5% respectively. Insurance-dedicated agencies account for 20% of the composition ratio (based on the number of entities involved) of non-life insurance agencies. Around 50% of non-life insurance agencies involved in another business are automobile dealers/repair shops, and around 10% are entities within the real estate industry – with both figures indicating high ratios.

Registered insurance brokers may also engage in “insurance solicitation” (limited to mediating conclusions of insurance contracts). The Insurance Business Act has assigned special duties to such insurance brokers, including the duty to deposit a security guarantee (JPY20 million at the time of commencement of their business, which payment can be exchanged for an insurance brokers’ liability insurance policy), the duty to disclose fees and commissions, the duty to prepare bought and sold notes, the duty of loyalty (the duty of “best advice”), and other special duties that have not been imposed on insurance agents. The number of insurance brokers in Japan is comparatively low (around 40 companies). It is said that, while most of them focus on large-scale businesses, handling of products for consumers is almost non-existent.

Insurance sales through banking channels in Japan commenced in 2001 but the range of insurance products they could sell was severely restricted. This range was expanded multiple times, and the restriction was totally removed in 2007.

- Banks function as insurance agents in the selling process. In this respect, it is noteworthy that additional special regulations have been applied to banks in order to avoid circumstances of insufficient consumer protection, which could result from improper use of the banks’ information-gathering ability in relation to customers’ funds or their improper influence over customers.
- Strict regulations have been imposed on banks, including measures/regulations for the protection of non-public information (pursuant to which customer information obtained through their banking business cannot be used in connection with insurance solicitation without the customers’ consent) or the regulations concerning soliciting of borrowers (where certain types of insurance products cannot be sold to customers who are granted business loans). While these additional regulations have been im-

posed for the protection of consumers, in essence they have functioned to protect the traditional channels of insurance distribution.

“Open-for-visitor” agencies have strengthened their presence of late. On their own initiative, these agencies utilise the insurance products of multiple insurance companies to propose insurance products that conform to customers’ actual needs, a process that open-for-visitor agencies call consultative selling. In order to regulate such business schemes, the “comparative recommendation” regulation has been introduced.

3. Overseas Firms Doing Business

3.1 Overseas-Based Insurers and Reinsurers

Under the Insurance Business Act, the regulations that apply to Japanese insurance companies also apply to local subsidiaries of overseas-based insurers. Nevertheless, the Act allows foreign insurance companies to conduct insurance business without establishing such local subsidiaries.

Foreign insurance companies may conduct insurance business in Japan only if they have opened a branch in Japan and obtained the applicable licence from the Financial Services Agency (the FSA), a body overseeing insurance companies (Article 185-1 of the Insurance Business Act). This requirement allows the FSA to effectively execute administrative power over such foreign insurers. With some exceptions, Article 185-6 of the Insurance Business Act requires such licensed foreign insurers to conclude insurance contracts with persons having an address or residence in Japan, property located in Japan, or vessels or aircraft with Japanese nationality inside Japan. The procedure to apply for the licence is mostly the same as that for a Japanese insurance company. Since foreign insurance companies do not have capital inside Japan, they are required to deposit a minimum of JPY200 million to the deposit office to protect policyholders.

Unlicensed foreign insurance companies may not conclude insurance contracts with persons having an address or residence in Japan, property located in Japan, or vessels or aircraft with Japanese nationality (Restriction on Foreign Direct Insurance; Article 186-1 of the Insurance Business Act), other than the following insurance contracts:

- reinsurance contracts;
- marine insurance contracts pertaining to objects such as vessels with Japanese nationality used for international maritime transportation;
- aviation insurance contracts pertaining to aircraft with Japanese nationality used for commercial aviation;
- insurance contracts pertaining to launching into outer space;

- certain insurance contracts covering cargo located within Japan which is in the process of being shipped overseas; and
- overseas travel insurance.

The restriction does not apply when an entity applying to purchase insurance from unlicensed insurance companies has obtained permission from the FSA in advance, as set forth in Article 186-2 of the Insurance Business Act. This exception is provided to enable policyholders to purchase insurance products that are the most beneficial to them. That permission may not be provided in the following cases:

- if the insurance product in question violates laws or is unfair;
- if it is easy to conclude insurance contracts with licensed Japanese or foreign insurers for comparable insurance products with equal or more advantageous conditions;
- if the terms and conditions of the insurance product in question are significantly unbalanced compared to the typical terms and conditions of the same type of insurance products with licensed Japanese or foreign insurers;
- if concluding such insurance contracts would unjustly deprive the insured and other related persons of their benefits; and
- if concluding such insurance contracts would likely have a negative impact on the development of the Japanese insurance business, or be harmful to public interest.

In a recent trend, the government in Tokyo is pursuing a policy to attract overseas financial business-providers to the Japanese market by providing assistance to cope with the complicated financial regulations in Japan, such as opening one-stop service centres for financial start-ups. It is expected that such activity will attract more overseas insurance companies and revitalise the Tokyo financial markets.

4. Transaction Activity

4.1 Mergers and Acquisitions Activities

Existing insurance businesses may be acquired in several ways, such as through obtaining shares of Japanese insurance companies, a merger of insurance companies, or the sale and purchase of insurance business. The Insurance Business Act provides a regulatory framework for such M&A activities.

Under the Japanese regulatory framework, shareholders who own a certain percentage of voting rights in insurance companies are subject to oversight by the regulator.

- A shareholder with more than 50% voting rights in an insurance company is required to obtain approval from the FSA in advance of acquiring such voting rights (Insurance Holding Company; Article 271-18-1 of the Insurance

Business Act). Insurance Holding Companies are subject to strict regulations, including those regulating the scope of business and imposing subsidiary restrictions, and, in certain instances, reporting obligations. As of 1 April 2017, 11 Insurance Holding Companies have been approved by the FSA.

- Apart from Insurance Holding Companies, a shareholder with 20% or more voting rights in an insurance company needs approval from the FSA in advance of acquiring such voting rights (Major Shareholder of Insurance Companies; Article 271-10-1), even if the investor resides overseas. The FSA oversees Major Shareholders of Insurance Companies by imposing reporting obligations and taking administrative dispositions.
- A shareholder with more than 5% voting rights in an insurance company is required to report the acquisition of such voting rights to the FSA within five days (or one month in the case of foreign investors) (Shareholders with Large Voting Rights in Insurance Company; Article 271-3-1 of the Insurance Business Act). That shareholder has to submit a report if their percentage of voting rights changes by 1% or more (either as an increase or decrease). The FSA may take administrative dispositions against Shareholders with Large Voting Rights in an Insurance Company if it finds that the submitted report includes false information, or lacks important or necessary information, thus causing a potential misunderstanding.

A merger with an insurance company requires approval by the FSA. Article 167-2 of the Insurance Business Act provides the following standards/checkpoints that the FSA could use in determining whether to give an approval:

- the merger is appropriate in light of the protection of policyholders;
- the merger will not hinder fair competition among insurance companies; and
- it is certain that the surviving insurance company after the merger will be capable of operating the insurance business precisely, fairly and effectively.

The sale and purchase of an insurance business also requires approval from the FSA, pursuant to Article 142 of the Insurance Business Act. Purchasers of insurance businesses must be licensed insurance companies. Such a sale and purchase also requires a separate approval to transfer insurance contracts from the FSA, pursuant to Article 139 of the Insurance Business Act. Petitions for approval to transfer insurance contracts are reviewed according to the following standards/checkpoints:

- the transfer of insurance contracts is appropriate in light of the protection of policyholders;
- it is certain that the transferee will be capable of operating the insurance business precisely, fairly and effectively; and

- the transfer does not violate the benefit of the creditors of the transferor unjustly.

The Insurance Business Act does not require policyholders' approvals for transfers of insurance contracts to another insurance company. Instead, the transferor must make a public notice and notify each policyholder, and provide policyholders with a chance to file objections to the transfer.

5. Insurtech

5.1 Insurtech Development and Collaborations

In Japan, the emergence of FinTech was most pronounced in the banking sector at first. Indeed, the Japanese government first responded to FinTech by amending the Banking Act so that banks could own technology companies as their subsidiaries – something which was previously restricted to some extent (the “Amended Banking Act”). The Amended Banking Act came into force on April 1, 2017.

Japanese insurance companies are gradually adopting new technologies to their services, such as IoT (Internet of Things), Big Data and Artificial Intelligence. For example, Tokio Marine & Nichido Fire Insurance Co has announced that it would introduce a new type of medical insurance where an insured might obtain cashback on insurance fees if he or she walked a certain number of steps on average; the insured would be required to use a wearable instrument to monitor their activities and record their health data. Tokio Marine plans to provide this medical insurance in alliance with NTT DOCOMO, a telecommunications company in Japan. Another example is Sony Assurance's automobile insurance, where an insured has a “driving counter” installed into their cars, which would monitor their driving; if it shows safe driving on the part of the insured, the insurer will give the insured cash back towards insurance fees. This technology was developed in collaboration with OPTEX Co, a Japanese sensor producing company.

Insurance companies alone cannot create new insurtech products because they do not have any resources/knowledge to develop new technology, so an alliance with tech companies or telecom companies is therefore necessary. The remaining question is whether insurance companies are allowed to own tech companies or telecom companies as their subsidiaries in order to take full control of the new technologies. Technology development and telecoms are not included in the list contained in the Insurance Business Act regarding the scope of business in which a subsidiary of insurance companies may engage. As stated above, the Amended Banking Act allows banks to own subsidiaries that provide IT and other technology to enhance banking activities and benefit the banks' customers. However, the Insurance Business Act was not amended to introduce similar modification

of allowable activities. Therefore, it is questionable whether insurance companies may own tech companies or telecom companies under the current regulatory system.

Meanwhile, the Financial Services Agency of Japan (“JFSA”), a governmental body overseeing insurance companies, regards the FinTech trend quite positively, as demonstrated by the FinTech Support Desk, which was established to provide a streamlined process for FinTech businesses. Indeed, JFSA appears to be watching developments of insurtech with a high degree of interest.

The important progress in dealing with Big Data is the recent amendment of the Act on the Protection of Personal Information, which came into force on 30 May 2017 (the “Amended APPI”). The Amended APPI clarified that it is possible to use anonymised personal data without obtaining each person's approval as long as safety management measures have been implemented. It is expected that this Amended APPI will promote the use of Big Data in insurtech.

6. Emerging Risks and New Products

6.1 Risks and Regulator's Reponse to Risks

Cyber attacks have come to pose a severe and present risk that Japanese companies have to cope with, as they are capable of rendering any countermeasures ineffective. The Ministry of Economy, Trade and Industry of Japan (the METI) issued the Cybersecurity Management Guideline in December 2015, which clarifies that cybersecurity is a business challenge and that managements of Japanese companies have to take appropriate actions to protect their companies. To respond to such situations, insurance companies have developed insurance products to cover the costs of information leakage or damages caused by a cyber attack. Indeed, it is reported that the sales of cyber attack insurance tripled in 2016 as compared to the previous year.

The risk of terrorism is another emerging risk to which Japanese companies have to pay close attention. In particular, companies with overseas operations have actual needs to purchase insurance products which, for example, compensate for damages arising from the suspension of operations due to terrorism, or cover the cost of employees' evacuation. As for the domestic situation, although Japan has not been attacked by organised terror groups such as ISIL thus far, the fear of terrorism may increase as the Tokyo 2020 Olympic and Paralympic Games are approaching, boosting demands for the insurance products that cover terrorism risk.

With the advancements of the autonomous car technology, there is debate concerning who should bear legal responsibilities in accidents involving self-driving cars. A project team of the General Insurance Association of Japan pub-

lished a paper discussing legal responsibilities involving autonomous driving in June 2016, in which it opined that the current legal framework can basically be applicable to level 3 autonomous driving, where an automated driving system performs entire driving tasks with the expectation that human drivers will respond appropriately to a driving system's request to intervene. Tokio Marine & Nichido Fire Insurance Co has added the protection to cover accidents arising from malfunctions in the autonomous driving system in order to provide prompt relief to victims of such accidents.

Increased longevity may affect the strategy of insurance companies. Recently, the Institute of Actuaries of Japan published the Standard Longevity Table 2018 (previously amended in 2007), indicating significant decreases in projected death rates. With this trend of further increasing people's longevity, it is reported that insurance companies will lower the fees for life insurance by 5% to 10% for newly entered insurance contracts. It is also reported that demands are gradually shifting from life insurance to products covering living costs when the insureds become unable to work, reflecting the increased longevity.

The virtual currency exchange business recently became subject to regulatory oversight. With this regulatory move, the virtual currency market is actively expanding, and, at the same time, posing concerns that purchased virtual currency may be lost if the virtual currency exchange business-provider becomes a subject of a cyber attack, operational mistake or wrongdoing. Insurance products to cover such losses are now being released under co-operation with virtual currency exchange business-providers. It is expected that such insurance products will provide a sense of security to the virtual currency market and make the market more active.

7. Recent and Forthcoming Legal Developments

7.1 Legal Developments and Impact

A recent revision of the Insurance Business Act (which came into force in May 2016) has significantly affected the practice of sales and the solicitation of sales of insurance products by insurance companies or insurance agents. The most influential of the newly enacted duties, etc., that have been imposed on or become applicable to insurance agents as a result of that revision are as follows: the duty to confirm the customer's intent, the duty to give "comparative recommendation," and the duty to establish a management system of insurance agents.

When soliciting sales of insurance products to customers, as part of the "duty to confirm customer's intent," insurance agents are legally required to do the following:

- to confirm the customer's intent;
- make sale proposals in light of such intent;
- explain the details of the insurance products in light of that intent; and
- offer the customers a chance to confirm whether the contents of the insurance product match their intent at the time of the conclusion of an insurance contract.

Depending on the form of the offer and the product, the methods to confirm customers' intent are within the province entrusted to the ingenuity of insurance companies and insurance agents, and are provided by the law as general obligation provisions ("principles"), while concrete methods in connection with the performance of their "duty to confirm the customer's intent" are governed in more detail by the "Comprehensive Guidelines for Supervision of Insurance Companies." In fact, the practical operations of soliciting sales of insurance are bound by those Guidelines. With the introduction of said duty, insurance agents are required to provide a personalised response concerning the intention of consumers at each stage of the solicitation of sales of insurance products, which in turn led to changes in their practical operations with respect to the solicitation of sales and the forms they obtained from customers, such as insurance applications, etc. In order to conduct subsequent verification of appropriate responses in line with the regulations mentioned above, it became more important deliberately to record details of the solicitation of sales.

The "comparative recommendation" regulation applies in cases where insurance agents select and offer certain insurance products from a number of comparable and similar insurance products belonging to multiple insurers. Independent agencies that utilise consultative selling of insurance products are a typical subject of the regulation.

The content of this regulation varies depending on whether the customer's intent in selecting the insurance products mentioned above is complied with. In other words, the selection of products is determined either through consultative sales or by considering factors other than the customer's specific intent, such as the agent's convenience.

In the latter case, insurance agents are obliged to explain the reasons why they recommend such product, such as capital connections with an insurance company developing the product or business policy. However, the degree of explanation required in accordance with the regulation is not necessarily very high. With proper and reasonable justification of their position, insurance agents are allowed to select insurance products based on their business policy and not the customer's intent.

In the former case, however (taking into account the customer's intent in the selection of an insurance product), insurance

agents are required to (1) show outlines of insurance contracts that are comparable and similar as well as compatible with the customer's intent from the range of products available, and (2) provide an explanation for the recommendation.

- Regarding item (1), in particular, each pamphlet of an insurance product needs to show a product outline column, and for that purpose appropriate choices of insurance products must be presented to customers to give them freedom to make their own choice.
- Regarding item (2), insurance agents are legally required to go beyond explanations of the insurance product during the selling process and to offer customers advice on why they should choose a particular product. Insurance agents engaged in consultative sales have traditionally given explanations for their recommendations of products as their "service;" nowadays, however, this is required by the regulation in order to ensure quality and accuracy in a more systematic manner.

In recent days, insurance agents have emerged that have large-scale agencies with hundreds of locations, and that can suggest – at their discretion – insurance products from multiple insurance companies in response to customers' needs. In such a situation, it becomes increasingly difficult for a single insurance company to grasp and control the entire scope of duties of insurance agents, which was the traditional assumption behind the Insurance Business Act, and which may not necessarily be adequate anymore. Based on the diversification relating to such insurance companies and insurance agents, a duty to establish a management system has been imposed on insurance agents in connection with insurance solicitation to ensure business soundness and proper management. The goal of that duty is to provide information to customers, handle customer information, manage consignees, give explanations in connection with comparative-recommendation sales, and educate, supervise and coach franchisee agencies by franchisor agencies. The introduction of such a duty entails the self-checking function of insurance agents, such as maintaining proper governance within agents (decision-making, enactment of internal regulations, etc), following the PDCA cycle, or conducting internal audits. Furthermore, ensuring that this management system functions efficiently and properly to its fullest extent and according to its characteristics has become a question of practical concern.

8. Other Developments

8.1 Promoting Alternative Risk Transfer General Principles of Customer-Centric Business Operation (Trend of Disclosure of Agency Fees)

On 30 March 2017, the Financial Services Agency published the "General Principles of Customer-Centric Business Operation." If financial undertakers running a financial company attempt to adopt these General Principles (it is up to financial undertakers whether to adopt them but, in practice, it is difficult for insurers to choose not to adopt them), they are required, for example, to develop and make public a clear guideline to achieve the customer-centric business operation and then regularly make public announcements on how their efforts in relation to such guideline are progressing. These General Principles contain an item that requires the provision of information relating to the "concrete contents (including fees received from third parties and other information) of any possible conflict of interest with a customer in connection with financial products or services to be sold, suggested or otherwise presented to the customer as well as the resulting impact on its trade and business." As a result, the question of whether insurers or insurance agencies will end up publishing their agency fees has drawn considerable attention. Although at present nothing suggests that they will, many banking channels (financial institutions) have disclosed the agency fees relating to insurance products with strong investment characteristics on a voluntary basis since around the summer of 2016.

Impact of Amendment to the Civil Code on Liability Insurance

The amended laws of the Civil Code, which contains the private general laws of Japan, were enacted on 26 May 2017 and publicly announced on June 2nd of the same year. The amended Civil Code is to come fully into force by 2 June 2020. Previously, a 5% statutory interest rate was adopted in the Civil Code, but a fluctuating rate is applicable in the amended Civil Code where the rate of 3% applies for the first year and the subsequent rate is subject to change every three years on the basis of the short-term loan rate. In the case of compensation for damages suffered in traffic accidents or similar events, the amount of interest accrued at a given point in time is deducted from the loss of prospective profits when the damages for death or secondary diseases are calculated. In civil matters, a statutory rate of interest was established by the Supreme Court of Japan and has been adopted. It is predicted that the lower rate effectuated by the amendment of the Civil Code will increase the amount of damages. Note that the amended Civil Code makes it clear that the statutory rate of interest at the time of the emergence of the right to seek damages is adopted as the rate for interim interest deduction. After the enforcement of the amended Civil Code, it is expected that claims paid under damage liability insurance will increase, and the manage-

ment of non-life insurers will be affected by the amendment, prompting among other things the necessity to raise insurance premiums.

Implementation of the Amended Act on the Protection of Personal Information

The Amended Act on the Protection of Personal Information came into force on 30 May 2017. It defines an individual's race, creed, medical history or other information as "special care-required personal information", and makes it unlawful to obtain such information without the individual's consent. This Act also disallows the use of the opt-out procedure, upon provision of such information to a third party (as a general rule, the individual's consent is required for such provision). In relation to the opt-out procedure upon provision of personal information to a third party, this Act stipulates that prior notification of the opt-out to the Personal Information Protection Commission is mandatory (this Commission will make the filed information available to the public), and places a heavier burden on the side of com-

panies. In principle, the Act requires companies to obtain an individual's consent upon provision of the individual's personal information to a third party in a foreign country, and makes it mandatory for both the providing party and the third-party to prepare specified records or other documents upon third party provision of personal information. As seen from the foregoing, the Amended Act on the Protection of Personal Information tightens regulations with respect to personal information protection and has a corresponding effect on the practices of non-life and life insurers. In addition, by adopting a concept called "anonymously processed information" (ie, information that can be obtained through the processing of personal information for the purpose of preventing a specific individual from being identified through certain actions and is unrestoreable), this Act sets up new rules on the creation, third-party provision, or use of "anonymously processed information." These new rules have a practical effect on insurers' approach to insurtech, which constitutes an integral part of the utilisation of Big Data.

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