

# Insurance and reinsurance in the Lao People's Democratic Republic: overview

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## MARKET TRENDS AND REGULATORY FRAMEWORK

### 1. What were the main trends in the insurance and reinsurance markets over the last 12 months?

#### Insurance

Businesses operating life and non-life insurance activities are governed by the same law, regardless of whether the legal entity is operated by a foreign business investor or a local investor. The main pieces of regulation are the:

- Law on Insurance no 06/NA dated 21 December 2011 (Insurance Law).
- Instructions on the Implementation of the Law on Insurance no 539/MoF dated 19 February 2014 (Instructions).
- Instructions on the Issuance of Insurance Operating Licences no 770/MoF dated 21 March 2016 (Operating Licence Instructions).

The 2011 law introduced a complete system overhaul because the previous regulations dated back to 1990. The more recent Operating Licence Instructions aim to provide more clarity on the requirements, conditions and the necessary steps needed to set up a company involved in the insurance sector. They particularly relate to insurance companies with local shareholders, or insurance companies held (in whole or in part) by foreign investors. They also detail requirements for independent insurance agents and the mandatory conditions they must meet to be issued with a business licence.

In September 2016, a note from the Ministry of Industry and Commerce (the business registration authority in Laos) mentioned that there were 12 licensed insurance companies in Laos, along with five additional companies that were not yet operating and another four undergoing the business registration process. As of August 2017, 24 insurance companies were registered with the Ministry.

Recently, foreign companies have made significant moves to invest in the Lao market, for example:

- Navakij Insurance Plc (NKI), which invested in two joint ventures in Laos involving life insurance as well as non-life insurance.
- Hannover Rueck SE, through its Malaysian branch, which signed a partnership agreement with Phongsavanh Insurance (APA) involving both life and non-life insurance.

#### Reinsurance

See above, *Insurance*. There is no particular framework specifically dedicated to reinsurance activities. Therefore, the law and regulations discussed above apply to reinsurance business activities.

The reinsurance business continues to play an important and extensive role in the socio-economic development of Laos. It

provides reinsurance coverage for the development of important projects, including hydropower plants and solar energy projects as part of Laos' aim to become the battery of Southeast Asia and to upgrade the country from the list of least developed nations by 2020, as set out in the Millennium Development Goals.

### 2. What is the regulatory framework for insurance/reinsurance activities?

#### Regulatory framework

The regulatory framework is somewhat scarce. The main rules are contained in the Insurance Law 2011 and its Instructions, along with the Operating Licence Instructions (see *Question 1*). Other than these, there are regulations that set out rules to be followed by every type of company, including:

- Law on Enterprise no 46/NA dated 26 December 2013 (Enterprise Law).
- Law on Investment Promotion no 14/NA dated 17 November 2016 (Investment Promotion Law).
- Law on Contract and Tort no 01/NA dated 8 December 2008. This sets out the elements that must appear in every contract made and performed in Laos.

In addition, Laos aims to have a legal framework that complies with the Insurance Core Principals (ICPs) developed by the International Association of Insurance Suppliers. However, according to a note from the local authorities in September 2016, there are insufficient staff and resources to fulfil their current duties and all 28 ICPs. Instead, local authorities have set an objective to implement six of the 28 ICPs within three years. To achieve these goals, the Ministry of Finance has set up an insurance regulator unit to supervise and be responsible for regulating the insurance sector to bring Laos in line with the required international standards.

#### Regulatory bodies

Insurance activities in Laos are governed by the Ministry of Finance and its insurance regulator unit, the Department of Government Investment Enterprise and Insurance Management Authority. The Ministry of Finance takes an active part in the insurance-related business registration process, overseeing the issue of operating licences for each entity contemplating conducting any insurance related-business in Laos.

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## REGULATION OF INSURANCE AND REINSURANCE CONTRACTS

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### 3. What is a contract of insurance for the purposes of the law and regulation? How does it differ from a contract of reinsurance?

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The definition of an insurance contract is found in the Insurance Law. An insurance contract is an agreement that is reached between the insurance purchaser and the insurer, under which the insurance purchaser must pay a premium and the insurer must pay insurance money to the insurance purchaser (or provide a specific service as otherwise agreed) on the occurrence of the insured event as specified in the contract. An insurance contract (for both life and non-life insurance) must be made with an insurer that is locally registered and operating in Laos.

The Insurance Law defines reinsurance as a way for insurers to reduce their risks relating to an insured property. An insurer can reinsure with other insurers, either domestic or overseas. However, there is no specific definition of a reinsurance contract. The Insurance Law sets out further requirements for reinsurance businesses to abide by, including that:

- The reinsurance must be technically feasible and fit the business activity of the authorised reinsurer.
- The reinsurer must have a certain reputation in the Lao, regional and international market.
- There is a certain degree of financial soundness and expertise in the company.

Insurers must provide information on reinsurance contracts to the Ministry of Finance. Under the Insurance Law, the Ministry has the discretion to examine and approve or reject the reinsurance project if the reinsurer does not fulfil the above requirements.

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### 4. Are all contracts of insurance/reinsurance regulated?

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The Insurance Law regulates life insurance as well as non-life insurance. In 2015 the Ministry of Finance established an insurance regulator called the Department of Government Investment Enterprise and Insurance Management, which is responsible for monitoring and implementing the regulations for the whole insurance sector.

## CORPORATE STRUCTURE

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### 5. What form of corporate organisation can insurers take?

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The Insurance Law does not set out any restrictions with regard to corporate organisation. The Insurance Law directly refers to the Enterprise Law and the Investment Promotion Law with regard to the choice of investment and legal structures available for insurance activities. The Law on Investment Promotion lists different types of investments that can be used to establish an insurance company, such as:

- A wholly domestic or foreign-owned company.
- A joint venture between domestic and foreign investors.
- A joint venture between state-owned enterprises and the private sector.

The Enterprise Law lists the different types of legal structures available in Laos. An insurance company can take the form of a:

- Partnership.

- Limited company (either a sole limited company or one with several shareholders).
- Public company.
- State-owned company.

The registration authority is the Ministry of Planning and Investment, which considers all business registration applications, regardless of their legal structure. When the dossier is eventually approved by the Ministry of Planning and Investment, the applicant will seek an operating licence from the Ministry of Finance before starting its operations.

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## REGULATION OF INSURERS AND REINSURERS

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### 6. Are all insurers and reinsurers regulated? Are they all regulated in the same way?

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All insurers and reinsurers are regulated by the Insurance Law and its related Instructions. They are regulated in the same way, except for the liability of insurers and reinsurers. The Insurance Law provides specific provisions on the liability of reinsurance businesses. Under it, an insurer is responsible to the insurance purchaser in accordance with an insurance contract, including reinsurance of property. Likewise, a reinsurer cannot require the insurance purchaser to pay insurance premiums to it directly, except where the insurance contract states otherwise. An insurance purchaser cannot require the reinsurer to pay compensation, except where the insurance contract expressly states otherwise in accordance with the Insurance Law.

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### 7. Can insurers and reinsurers carry on non-insurance business? Are there any restrictions on their business activities?

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In Laos, the business registration process will be complete once the Enterprise Registration Certificate (ERC) is issued by the registration authority. The ERC indicates which activities the company is approved to operate in Laos. Under the laws and regulations, there is no prohibition that restricts insurers or reinsurers from only carrying out insurance activities.

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### 8. Are there any statutory limits or other restrictions on, or requirements relating to, the transfer of risk by insurance or reinsurance companies?

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A primary insurer cannot cover a risk of more than LAK1.6 billion. Beyond this threshold, an excess insurer will be liable for the excess insurance.

For a reinsurance contract, the insurer must provide information relating to the reinsurer to the Ministry of Finance, which may approve or reject it if certain requirements are not met (see *Question 3*). Other provisions between the insurer and the reinsurer will be set out in the agreement between them.

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## OPERATING RESTRICTIONS

### *Authorisation or licensing*

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### 9. Does the entity or person have to be authorised or licensed?

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#### Insurance and reinsurance providers

The Insurance Law states that any type of insurance contract entered into between an insured in Laos and an insurance company must be made with a locally registered insurer. The insurance

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operator must have a licence for each type of insurance it contemplates carrying out in Laos.

The Insurance Law includes the following activities as insurance business activities:

- Insurance and re-insurance business.
- Risk management, prevention and limitation of loss.
- Loss assessment agency, agency for consideration and resolution of indemnity and an agency for third party recovery claims.
- Management of funds and investments.

An operator must seek approval for a business licence for each type of insurance it aims to conduct in Laos.

This list can be amended from time to time by the regulator in future regulations.

### Insurance and reinsurance intermediaries

The Insurance Law has a chapter dedicated to insurance brokers. Under it, an insurance broker must follow the same registration process as an insurance company, that is, submitting its registration application to the one-stop service of the Ministry of Planning and Investment and then seeking the relevant authorisation from the Ministry of Finance.

### Other providers of insurance/reinsurance-related activities

The Insurance Law has a chapter on insurance agents. An insurance agent is a legal entity or an individual duly authorised by an insurer (based on a contract of insurance agency between the insurance agency and the insurer) to conduct insurance agency activities for the insurer. The insurance company must submit the list of its insurance agents to the Ministry of Finance. Insurance companies must seek authorisation from the Ministry of Finance to be able to set up agencies across the Lao territory. Each agency must obtain approval from the Ministry of Finance and the Ministry of Industry and Commerce to conduct its activities.

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## 10. What are the main exemptions or exclusions from authorisation or licensing?

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### Insurance and reinsurance providers

The law and relevant regulations do not provide any particular exemptions or exclusions from authorisation or licensing.

### Insurance and reinsurance intermediaries

See above, *Insurance and reinsurance providers*.

### Other providers of insurance/reinsurance-related activities

See above, *Insurance and reinsurance providers*.

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## RESTRICTIONS ON OWNERSHIP OR CONTROL

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### 11. Are there any restrictions on the ownership or control of insurance-related entities?

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### Insurance and reinsurance providers

The Insurance Law and its related Instructions do not provide any particular restrictions with respect to nationality, and both the Insurance Law and its Instructions provide the possibility for a foreign investor to wholly own an insurance business entity. However, the Insurance Law sets out a prohibition on local officers from insurance regulatory bodies being part of an insurance business activity, to avoid conflicts of interest.

In addition, under the Instructions, insurance companies are restricted from investing more than a certain percentage, which

can vary depending on the total income generated by the company during the year. The following investments can be restricted:

- Purchasing shares in companies.
- Investing in real estate.
- Purchasing bonds issued by companies.

### Insurance/reinsurance intermediaries

There are no specific restrictions on insurance brokers.

### Other providers of insurance/reinsurance-related activities

There are no specific restrictions on an insurance agency acting as a legal entity, and no local compliance for a local/foreigner share ratio equity is indicated in the Insurance Law.

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## 12. Must owners or controllers be approved by or notified to the relevant authorities before taking, increasing or reducing their control or ownership of the entity?

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There is no particular threshold that triggers an obligation for notification to be provided to the relevant authorities. However, the insurer must notify the Ministry of Finance and the Ministry of Planning and Investment of any changes in respect of its shareholding structure.

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## ONGOING REQUIREMENTS FOR THE AUTHORISED OR LICENSED ENTITY

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### 13. What are the key ongoing requirements with which the authorised or licensed entity must comply?

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### Insurance/ reinsurance providers

The key ongoing requirements an authorised or licensed entity must comply with include the:

- **Registered capital.** The Insurance Law expressly provides the need for registered capital of at least LAK16 billion, of which 80% must be introduced within 90 days of the date of the registration of the business. The remaining capital can be introduced within a year after the incorporation date.
- **Insurance reserve.** The Instructions set out an obligation on insurance companies to set up a reserve representing at least 40% of the premium it receives monthly for each insurance product. Contracts for less than 31 days are not taken into account when calculating the 40%. This reserve must be adjusted monthly. The insurance reserve is the amount of money that an insurer must put aside to pay potential insurance liabilities determined in advance and arising from insurance contracts. Reserves must be established for each type of insurance product.
- **Security deposit.** The Insurance Law sets out the obligation for an insurance business operator to have a security deposit totalling one-third of the registered capital for each type of insurance. The deposit must be remitted to the Bank of Laos or a commercial bank whose name and bank account details must be disclosed to the Insurance Management Authority, in a blocked bank account, which will be used to pay the debts of the insurance company when it terminates its operation, for example, where an insurer voluntarily terminates its activity or where an insurance company enters bankruptcy.

### Insurance/ reinsurance intermediaries

Insurance brokers must abide by the following key requirements, set out in the Operating Licence Instructions:

- **Registered capital.** The minimum registered capital must not be less than LAK50 million.

- **Security deposit.** Similar to insurance/reinsurance providers, insurance brokers must have security totalling one-third of the registered capital for each type of insurance.

#### Other providers of insurance/reinsurance-related activities

An insurance agent must abide by the following key requirements, which are set out in the Operating Licence Instructions:

- **Registered capital.** The minimum registered capital must not be less than LAK50 million.
- **Training.** Insurance companies must provide insurance training to the agency before it is established and issue a certificate at the end of the training to evidence the capability of the agency to deliver insurance services. The training must include at least 30 hours in relation to the following subjects:
  - insurance products and related services that the agent will supply;
  - business process and distribution, management and insurance company accounting; and
  - regulations on insurance activities and principles of ethics to be followed when acting as insurance agent.

### PENALTIES FOR NON-COMPLIANCE WITH LEGAL AND REGULATORY REQUIREMENTS

#### 14. What are the possible consequences of an entity failing to comply with applicable legal and regulatory requirements? What recourse do policyholders have if they have done business with a non-approved entity?

##### Insurance/reinsurance providers

The Insurance Law provides the possibility to withdraw an insurance operating licence if one of the following events occurs:

- The insurer does not fulfil the requirements provided under the Insurance Law.
- The company does not implement the measures decided under the original business plan.
- The insurer commits a serious violation of the rules and regulations.
- The insurer has not commenced its business activity within 90 days of receiving its business licence.

The Insurance Law also provides a range of measures/sanctions. However, they may not be precise enough to address the many issues that can arise when a business operator violates the law, or fails to comply with it.

For minor offences, or those committed unintentionally, there are education measures or warnings. Education measures can consist of a training session provided by the relevant authority on the adverse consequences of the offence. The Insurance Law also provides penal measures, but these are limited to acts relating to unfair competition. Companies that commit an act of unfair competition can face imprisonment for a term ranging from three months up to two years, and a fine of LAK500,000 to LAK10 million. Likewise, insurance business operators can be pursued under the penal law, or asked to pay compensation for damage caused by them.

The Insurance Law also lists specific disciplinary sanctions that apply to any officials and staff working for the government who infringe the Insurance Law.

In addition, once the insurance company obtains the relevant permits from the Ministry of Planning and Investment, the insurance company has three months to pass the dossier on to the Ministry of Finance to seek issue of an operating licence. If the

insurance company passes the dossier after three months, it will be fined LAK20 million.

##### Insurance/reinsurance intermediaries

In addition to the measures and sanctions above, specific fines will also be imposed on insurance brokers and agencies whenever they fail to extend their operating licence on time. The amount of the fine depends on how late the extension is. The Instructions are ambiguous about whether this also applies to insurance companies, however, according to interpretation from the authorities, insurance companies can also be fined in similar circumstances.

##### Other providers of insurance/reinsurance-related activities

See above, *Insurance/ reinsurance intermediaries*.

### RESTRICTIONS ON PERSONS TO WHOM SERVICES CAN BE MARKETED OR SOLD

#### 15. Are there any restrictions on the persons to whom insurance/reinsurance services and contracts can be marketed or sold?

The Insurance Law provides that persons or entities involved in insurance business activities must not provide false information about the contents, scope or terms and conditions of the insurance contract if it will affect the benefits of the purchaser of the insurance, or exaggerate the virtues of the product being sold. Other than this, there are no prohibitions on advertising. Likewise, there are no particular prohibitions on who advertising can be aimed at.

With this in mind, the Contract Law requires that an individual must have the legal capacity to form a contract. A person is deemed to have the capacity to contract if they are at least 18 years of age or older and not mentally disturbed.

### REINSURANCE MONITORING AND DISCLOSURE REQUIREMENTS

#### 16. To what extent can/must a reinsurance company monitor the claims, settlements and underwriting of the cedant company?

No legal obligations apply and a reinsurance company can monitor the claims, settlements and underwriting of the cedant company, based on any terms agreed in the contract signed by the parties.

#### 17. What disclosure/notification obligations does the cedant company have to the reinsurance company?

There are no specific disclosure or notification obligations on the cedant company.

### INSURANCE AND REINSURANCE POLICIES *Content requirements and commonly found clauses*

#### 18. What are the main general form and content requirements for insurance policies? What are the most commonly found clauses?

The Insurance Law provides a list of information that every insurance contract must contain, including:

- Names, surnames and addresses of the contracting parties.
- Object of the insurance.

- Types of risks insured.
- Effective date of the insurance contract.
- Sum insured.
- Insurance premium and payment methods.
- Methods and provisions for notifying the damages that have occurred.
- Duration of the insurance contract and guarantee.
- Wording that indicates when the contract will be declared invalid, terminated before its expiration or when rights are lost.
- Methods for dispute settlement.

Policy wording can be drafted by the insurers themselves. However, approval from the Ministry of Finance will need to be secured.

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### 19. Is facultative or treaty reinsurance more common? What are the most commonly found clauses in reinsurance policies?

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Both facultative and treaty reinsurance are common in Laos, but either one or the other will be chosen according to the type of project to be reinsured. Under the legislation, a primary insurer has a retention limit of US\$200,000. Beyond this limit, insurers will have recourse to a reinsurance contract. For projects of a reasonable size/amount, an insurer will typically favour treaty reinsurance with their usual reinsurer or the mother company if a branch of a larger international group. However, if a project is important in terms of size and value, facultative reinsurance will be favoured. This happens, for example, with respect to large hydropower projects and investments. These will typically be handled by international brokers, who will call on several reinsurers to cover the risk.

#### Common clauses

For insurance/reinsurance involving large projects, arbitration clauses are widely used, whether governed by the London Court of International Arbitration Rules or the Singapore International Arbitration Centre.

Another clause often found in reinsurance contracts (stemming directly from local legislation) is that insurers must indicate to their final client their retention limit of US\$200,000 and that the contract will be reinsured.

#### IMPLIED TERMS

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### 20. Are there any terms that are implied by law or regulation (even if not included in the insurance or reinsurance contract)?

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The Insurance Law sets out the obligations on insurers, which must be followed in any circumstances, even if they are not set down in writing in the contract.

Insurers have the following obligations:

- To provide a thorough explanation to the purchaser of the insurance, before they purchase the insurance product, about the terms and conditions of the contract and the rights and obligations of the insurance purchaser.
- To pay any insurance indemnity in a timely manner, in the full and correct amount.
- To provide a written explanation to the insurance purchaser if an insurer refuses to pay an indemnity.

## CUSTOMER PROTECTIONS

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### 21. How do customer protections in the general law affect insurance contracts? What customer protections are generally included in insurance policies to supplement this?

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Customer protection is primarily governed by the Law on Consumer Protection no 02/NA dated 20 June 2010 (Consumer Protection Law), which aims to protect the interests and safety of consumers in Laos from adverse impacts relating to products, goods or services. The Consumer Protection Law lays down broad principles, rather than addressing specific issues, and it does not specifically provide clauses or provisions that are prohibited from being included in a contract.

The Contract Law provides recourse to consumers for non-performance of a contract by an insurer, and this can lead to compensation for the consumer. The Contract Law stipulates that consent to a contract cannot be sought through fraud, threat or violence. If the contract is concluded under any of these conditions, it will be deemed null and void.

## STANDARD POLICIES OR TERMS

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### 22. What are the main standard policies or terms produced by trade associations or relevant authorities?

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There are no standard policies or terms produced by trade associations or relevant authorities. However, policy wording must be registered with and approved by the Ministry of Finance.

## INSURANCE AND REINSURANCE POLICY CLAIMS

### *Establishing an insurance claim*

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### 23. What must be established to trigger coverage under an insurance policy?

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The Insurance Law sets out a number of responsibilities that fall on the purchaser of insurance. Among these, the insured must notify the insurer of any damages or losses that have occurred not later than five days after the event.

Where there is a robbery, the insured must notify the insurer within 36 hours of the policyholder's knowledge of it. However, notification times can be negotiated in the insurance contract and extended. If the insured is the victim of a force majeure incident which impeded it from notifying the insurer, no rights will be lost.

## THIRD PARTY INSURANCE CLAIMS

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### 24. What are the circumstances in which third parties can claim under an insurance policy?

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Typically the person claiming under the insurance policy or insurance contract will be the person whose name appears as the beneficiary in the contract. However, a third party can demand that the insurance purchaser compensate for the damages covered by the insurance, as agreed in the insurance contract.

## TIME LIMITS

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### 25. Is there a time limit outside of which the insured/reinsured is barred from making a claim?

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The Insurance Law provides three situations which prescribe time limits in three different cases:

- The time limit for requesting payment of an insurance indemnity or annuity is one year from the date that the insured event occurred. A force majeure or any other objective interruption is not taken into account when calculating the time limit for requesting payment of an insurance indemnity or annuity.
- Where the insurance purchaser can prove that it did not know exactly when the insured events occurred, the one-year time limit is counted from the date the insurance purchaser knew of the occurrence of the insured events.
- Where a third party demands that the insurance purchaser compensates for damage covered by the insurance (as agreed in the insurance contract) the time limit runs from the date the third party makes the demand.

## ENFORCEMENT

### 26. Can the original policyholder or other third party enforce the reinsurance contract against a reinsurer?

The Insurance Law provides that the insurer will remain responsible to the insured for reinsurance of a property. This means that the insured is not authorised to require the payment of compensation from the reinsurer. However, the Insurance Law provides that it is possible for a policyholder to enforce the reinsurance contract if otherwise agreed in the contract, so freedom of contract prevails.

## REMEDIES

### 27. What remedies are available for breach of an insurance policy?

#### Insurer

There are no specific remedies provided, either under the Insurance Law or its Instructions, for breach of an insurance policy. For example, the Insurance Law provides that an insurer must pay an indemnity in a timely way to the insured person, or to the beneficiary of the indemnity. However, no specific sanction/remedies are provided if this does not happen.

The Contract and Tort Law provides a definition for a breach of contract that includes non-performance (in whole or in part) or unreasonable performance by either contracting party. The definition includes low quality performance, untimely performance, or performance that did not take place at the venue set out in the contract. Therefore, non-performance or delayed performance of an insurance policy can give rights to compensation to the other party (insurer or insured) for any damages that have occurred.

The Contract and Tort Law goes beyond simple compensation as it also allows a disadvantaged party that has suffered from a breach of contract, to unilaterally modify or terminate it. Freedom of contract prevails so it is advisable to define clearly in the contract the sanctions that can be enabled in the event of a breach as the law is silent on this. Likewise, there are few available precedents that render it possible to predict how a judge will interpret the law. The remedies for breach of an insurance policy must be regulated in the insurance company's policy.

The Lao regulatory framework encourages parties to try to settle disputes by engaging in amicable negotiations before proceeding with litigation. If the negotiations fail, the Insurance Law and its Instructions provide the possibility to trigger an administrative remedy. This remedy will activate the Committee for Insurance Dispute Resolution, which is a committee that is comprised of:

- The head of the insurance management office, or its representative, as the president of the committee.

- Officers from the Ministry of Finance and from the insurance management office.
- Representatives of insurance companies along with insured persons.

The Instructions set a time frame of 45 days for the committee to reach a decision.

In addition, it is also possible to bring a case before the Lao People's Court, or before an arbitration panel based abroad.

#### Insured

See above, *Insurer*.

## PUNITIVE DAMAGE CLAIMS

### 28. Are punitive damages insurable? Can punitive damages be reinsured if they are covered by an underlying policy?

Punitive damages are not specifically addressed/recognised, and the damages awarded will generally be in line with the damage suffered by the victim. However, nothing precludes specific damages from being reinsured if they are covered by an underlying policy. This also applies to particular damages that would be granted through a mediation or arbitration process.

## INSOLVENCY OF INSURANCE AND REINSURANCE PROVIDERS

### 29. What is the regulatory framework for dealing with distressed or insolvent insurance or reinsurance companies, or other persons or entities providing insurance or reinsurance related services? What regulatory and/or other protections exist for policyholders if the insurance company is insolvent?

The Insurance Law and its Instructions regulate security deposits, under which the insurance business operator must have a security deposit amounting to one-third of the registered capital for each type of insurance in any commercial bank with financial stability established in Laos. Where an insurance business terminates its business operations due to bankruptcy, the insurer cannot claim back the security deposit until it has developed a plan to pay its debts and it pays the debts arising from insurance contracts to all the insured customers or beneficiaries.

An insurance purchaser can claim compensation through the company's security deposit.

### 30. Can excess insurance policies "drop down" to provide coverage if the primary insurer goes into insolvency?

There are no statutory or other provisions requiring an excess policy to "drop down" in the event of insolvency. Any right to claim will be determined by the policy terms.

### 31. Is a right to set-off mutual debts and credits recognised in an insolvency proceeding involving an insurer or reinsurer?

There are no laws or regulations on the right to set-off mutual debts and credits recognised in an insolvency proceeding involving an insurer or a reinsurer.

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## TAXATION OF INSURANCE AND REINSURANCE PROVIDERS

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### 32. What is the tax treatment for insurers, reinsurers, and other persons or entities providing insurance and reinsurance-related services?

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There is no special tax treatment for insurance companies or any legal entity or individual providing similar services. Therefore, insurance companies are subject to profit tax of up to 24% depending on the amount of profit made.

## INSURANCE AND REINSURANCE DISPUTE RESOLUTION

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### 33. Are there special procedures or venues for dealing with insurance or reinsurance complaints or disputes?

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The Lao regulatory framework and best practice provides leeway for the resolution of disputes through negotiation and the Insurance Law specifically encourages this. In addition, the Insurance Law provides an administrative remedy where the conflict cannot be amicably settled or negotiated. In this situation, the parties can require the Committee for Insurance Dispute Resolution to administratively resolve the dispute (see *Question 27*).

Dispute resolution can be carried out in the following ways:

- **Amicable negotiation.** Where a conflict relating to insurance business arises, the parties can make an effort to resolve the conflict through consultation and compromise to reach a negotiated solution that is mutually beneficial.
- **Mediation.** The parties can elect to mediate a dispute at any time, in compliance with the relevant laws and regulations.
- **Through the Committee for Economic Dispute Resolution.** Where a conflict cannot be amicably settled or negotiated, or administratively resolved, the parties can request the Committee for Economic Dispute Resolution to resolve the matter under the Laws on Economic Dispute Resolution no 06/NA dated 17 December 2010 and other related regulations. Dispute resolution by the committee must consist of at least three or more committees (but there must be an odd number). The dispute must be settled within three months from the date the committee was selected.
- **Filing a claim with the court.** Parties can make a claim or file a lawsuit with the People's Court for its consideration using relevant laws and procedures.
- **Using international dispute settlement procedures.** Laos has ratified the UN Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958 (New York Convention), so foreign awards can be enforced in Laos.

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### 34. Are arbitration clauses in insurance and reinsurance agreements enforceable?

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Domestic arbitration is available through the Committee for Economic Dispute Resolution (see *Question 33*). Dispute resolution to settle an insurance dispute relating to an international case must be conducted in accordance with any treaties and conventions to which Laos is a party.

Laos recognises foreign arbitration awards from a foreign or international arbitration panel if they are valid under the New York Convention. To be recognised, the award must be certified by the

Lao People's Court to be fully enforceable within Laos. The People's Court must verify all of the following:

- The disputing parties are from countries that are contracting members of the New York Convention.
- The award is not contradictory to the Lao Constitution or regulations that relate to the stability, peace and environment of the country.
- The disputing parties must have property, business, equity, a bank account or some other assets in Laos.

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### 35. Are choice of forum, venue and applicable law clauses in an insurance or reinsurance contract recognised and enforced?

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The Insurance Law does not provide specific prohibitions on forum, venue or applicable law. A contract can set out that it will be governed under any particular law. Laos recognises and enforces decisions from foreign courts through embassies, consulates or representative organisations of Laos in foreign countries. Once the decision has been translated into the Lao language, the Lao People's Court will consider the case and reach a decision by taking into account whether the decision:

- Comes from a country that is a member of an international treaty/bilateral agreement to which Laos is a party.
- Affects the sovereignty of Laos.
- Contradicts the laws of Laos.
- Adversely affects the peace and orderliness of Lao society.

## REFORM

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### 36. What proposals are there for reform of the law, regulation or rules relating to the provision of insurance or reinsurance services?

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There are no immediate plans for reform. However, the government's strategic plan for 2016 to 2020 includes revising some laws, including the Insurance Law. The new law is due to be introduced around July 2018.

In 2015, the Ministry of Finance established a regulatory unit, responsible for overseeing the insurance sector. The long term goal is to create a regulatory framework that complies with the Insurance Core Principals (ICPs) developed by the International Association of Insurance Suppliers, which represent best practice. There are currently 28 ICPs but, to date, the insurance regulatory unit lacks the necessary staff and resources to implement them all. Instead, the unit is aiming to achieve compliance with six ICPs over the next two years, including those covering:

- Effective supervision.
- Internal controls.
- Market analysis.
- Offsite and onsite supervision.
- Preventative and corrective measures.

Implementing these will mean that the basic regulatory functions relating to supervising the insurance market are met, and ensure that companies are transparent and provide their customers with proper protection.

Establishing an insurance industry association to represent the industry and support government initiatives to develop the sector will raise public awareness about insurance and create opportunities to enforce insurance legislation. Government authorities support the establishment of an insurance industry

association, as this would help an efficient collection of information from the insurers established in the country. Likewise, the country

suffers from lack of market information from insurers, which would also be tackled by setting up an industry association.

## ONLINE RESOURCES

### Lao Official Gazette

**W** [www.laoofficialgazette.gov.la/](http://www.laoofficialgazette.gov.la/)

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