Insurance Business

As the insurance business is a business which has a public interest aspect, the insurance business is subject to supervisorial control by the state. In the Insurance Business Act, the insurance business is made a licensed business and domestic insurance business operators are restricted to mutual companies and stock companies of a certain scale.

The principal laws and regulations relating to supervisorial control of the insurance business and insurance companies are the Insurance Business Act, the Insurance Business Act Enforcement Regulations, the Insurance Business Enforcement Order, etc. With respect to the concrete application of laws and regulations, the "Comprehensive Supervisorial Guidelines for Insurance Companies" prepared by the Financial Services Agency, which is the supervisory agency, plays an important function.

The insurance business means (1) the life insurance business where insurance premiums are received under contracts to pay a fixed amount of insurance claims in connection with the life or death of individuals, (2) the non-life insurance business where insurance premiums are received under contracts to compensate for damage caused by a certain fortuitous accident and (3) other classes of insurance listed in the items of Article 3, Paragraph 4 or items of Article 3, Paragraph 5 (Insurance Business Act, Article 2, Paragraph 1). (3) is the underwriting of so-called third sector insurance.

Insurance companies are not authorized to engage concurrently in the life insurance business and the non-life insurance business and companies that have life insurance business licenses and companies that have non-life insurance business licenses are respectively and independently permitted to undertake the underwriting of (3) third sector insurance. Insurance companies can establish a subsidiary and have the subsidiary obtain a life insurance business or non-life insurance business license not undertaken by the parent company and, via the subsidiary, the parent company can be authorized to engage in the insurance business not undertaken by the parent company.

The Insurance Business Act creates not only supervisorial control relating to the organization itself, such as the establishment and management, etc. of insurance companies but also puts in place provisions on supervisorial control relating to insurance solicitation. The sale of insurance by financial institutions, such as banks, will be subject to regulation pursuant to the Insurance Business Act.

The Insurance Business Act was revised accompanying the enactment of the Financial Instruments and Exchange Act. Namely, Article 300-2 of the Insurance Business Act defines "…an insurance contract specified by a Cabinet Office Ordinance as entailing the risk of loss due to any change in interest rates, currency values, financial instruments market prices or any other indicator as mentioned in Article 2, Paragraph 14 the Financial Instruments and Exchange Act…" as "specified insurance contract." Specified insurance includes variable life insurance, variable annuity insurance, and insurance in foreign currency. The specified insurance contract has market risks because there is the potential for surrender value, maturity benefits and pension funds to vary significantly due to the state of management and exchange rate fluctuations and, considering the strong investment nature, customers are protected through the mutatis mutandis application of the sales and solicitations regulations of the Financial Instruments and Exchange Act pursuant to Article 300-2 of the Insurance Business Act.