



# How Foreign Insurers Can Sell Insurance Products in Japan



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Many countries regulate the sale of insurance products by foreign insurance companies to their residents and citizens. Japan has similar regulations. This article will provide an overview of the laws and regulations governing the sale of insurance products to residents and citizens in Japan by foreign insurance companies without an insurance business license.

## A. Prohibited and Permissible Insurance Contracts of Unlicensed Foreign Insurers

The insurance business in Japan is regulated by the Insurance Business Act (the “Act”). As a general rule, to conduct insurance business in Japan, a license must be obtained from the Prime Minister.<sup>1</sup> Thus, a foreign insurer without a branch office or other local entity in Japan, or in other words, an unlicensed foreign insurer, is prohibited from concluding an insurance contract with any person with an address, residence or property located in Japan, or for any vessel or aircraft with a Japanese nationality.<sup>2</sup> It is important to note that the conclusion of such insurance contract is prohibited even if the entire act of doing so takes place outside Japan.

However, there are exceptions to this rule. The following contracts can be concluded by an unlicensed foreign

insurer:<sup>3</sup>

- a. reinsurance contracts;
- b. insurance contracts that cover, in whole or in part, Japanese ships used for international maritime transportation, the cargoes being internationally transported by such ships, and the obligations arising from such ships or cargoes;
- c. insurance contracts that cover, in whole or in part, Japanese aircrafts used for commercial flights, the cargoes being internationally transported by such aircrafts, and the obligations arising from such aircrafts or cargoes;
- d. insurance contracts that cover, in whole or part, launches into outer space, the cargoes being shipped by such launches (including man-made satellites), the means to ship the cargoes, and the obligations arising therefrom;
- e. insurance contracts that cover cargoes located within Japan, which are in the process of being shipped internationally (other than cargoes that fall under items (b) and (c) above); and
- f. insurance contracts that cover, in whole or in part, injuries or diseases contracted by overseas tourists during overseas tours, death directly resulting therefrom, and the luggage of such overseas tourists.

1. The Act, art. 3, para. 1.

2. *Id.*, art. 186, para. 1.

3. Order for Enforcement of the Insurance Business Act, art. 19; and Regulation for Enforcement of the Insurance Business Act, art. 116.



## B. Other Permissible Individual Contracts

In addition, an unlicensed foreign insurer may conclude an insurance contract if the person who wants to buy insurance from the foreign insurer obtains the prior approval of the Prime Minister on an individual basis.<sup>4</sup> However, such approval will not be given in the following cases:<sup>5</sup>

- a. the contents of that insurance contract are in violation of Japanese laws and regulations, or are unfair;
- b. in place of concluding that insurance contract, it would have been easy to conclude an insurance contract with a licensed Japanese insurance company, foreign insurance company, etc., which would have equivalent or more favorable conditions relative to that insurance contract;
- c. the conditions of that insurance contract are significantly less balanced compared to the conditions that are normally attached if an insurance contract similar to that contract would have been concluded with a licensed Japanese insurance company, foreign insurance company, etc.;
- d. there is a risk of an unjustifiable infringement of the interests of the insured and other relevant persons due to the conclusion of that insurance contract; and
- e. there is a risk of an adverse effect to the sound development of the insurance business in Japan or harm to the public interest due to the conclusion of that insurance contract.

Therefore, the types of insurance contracts that can be approved by the Prime Minister are limited. However, based on a recent opinion issued by the Financial Services Agency (“FSA”) of Japan,<sup>6</sup> if a foreign company is the policyholder and the insured persons are employees thereof who are working in its Japanese office, then it is highly likely that approval can be obtained. Additionally, in the past, when applying for such approval, the applicant was required to submit a Japanese version of the insurance policy, but nowadays, if the policy is in English, the application for approval will be accepted even without a Japanese version. Therefore, the costs associated with the application have decreased.

## C. Insurance Business License Requirement

If a foreign insurer wishes to engage in the insurance business in Japan on a more serious basis, without having to obtain the individual approval mentioned above, then it should obtain an insurance business license. By doing so, in principle, the foreign insurer will be able to sell the same types of insurance products as Japanese insurance companies, but it will also be subject to strict supervision by the FSA.

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4. The Act, art. 186, para. 2.

5. *Id.*, para. 3.

6. See <https://www.fsa.go.jp/en/news/2021/20210419/20210419.html>.