

## Myanmar permits foreign investment into the insurance sector

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January 2019


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The Myanmar government has at long last announced that foreign insurers will be entitled to seek market access to its insurance sector in 2019.

On 2 January 2019, the Myanmar Ministry of Planning and Finance (the **MoPF**) made an announcement (Announcement No. (1/2019), the **Announcement**) setting out the key guidelines underpinning the liberalisation of the Myanmar insurance sector and the path to market entry for foreign insurers. This note builds on our previous publication: *Liberalisation of the Myanmar Insurance Sector, September 2017*.

## Market Entry Options

The Announcement sets out three potential routes to market entry for foreign insurers into each of the general and life insurance sectors, as follows:



*Life insurance  
companies*

Two options are available as follows:

**Option 1 (100% Licence):** Three life insurance licences will be issued to foreign life insurers following a tender process, each of which will entitle them to establish 100% wholly owned life insurance subsidiaries

**Option 2 (Local JV):** Foreign insurers with an existing life/composite representative office in Myanmar shall be entitled to form a joint venture with a local life insurer\*



*General insurance  
companies*

Foreign insurers with an existing general/composite representative office in Myanmar shall be entitled to form a joint venture with a local general insurer\*

\* At present there is no clarity what proportionate equity interest in such a joint venture the foreign entity will be entitled to hold, but it is anticipated that it will be up to 35% (being the upper threshold under the Myanmar Companies Act at which a Myanmar Company is treated as a foreign invested company). See below for more details.

The Announcement also confirms our understanding that the Financial Regulatory Department of the MoPF (the **FRD**) has requested that all locally licensed composite insurers split their existing life and general insurance businesses into separate entities, as a basis for forming new foreign invested joint ventures. Myanmar Insurance, the state-owned insurer, is also expected to separate its constituent life and general insurance businesses (as well as its reinsurance business) and potentially look for a joint venture partners for each category as a consequence of the liberalisation plan.

The Announcement also specifically cites that the liberalisation plan includes insurance brokerage, but provides no detail on how it will apply to this sector and whether there will be a separate regime for insurance brokers. It is likely that the “Local JV” option will remain the favoured option where any regulatory licensing requirements become necessary for brokers. This is explained in further detail below.

## 100% Life Insurance Licensing Process

The FRD director U Thant Zin has suggested that the 100% life licensing process (which is being run by PwC Myanmar) will have an expected timeline of 16 weeks, which is expected to operate broadly as follows:

### *EOI Round* (Jan/Feb 2019)

We understand that in mid-January 2019, the FRD will request expressions of interest (**Eol**) from each of the representative offices of the foreign life or composite insurers based in Myanmar, in each case asking them to confirm their interest in making an application for one of the three life insurance licences to be tendered. The FRD will expect responses to the Eols by the end of January / start of February. The content of the responses is anticipated to only require certain high level information, including: (i) confirmation of their request for a life licence; (ii) basic identification details of the insurer (including certain recent financial statements of its parent); and (iii) an overview of how the insurer intends to enter and operate in the Myanmar once licensed. It is not expected that a full business plan will be required at this stage.

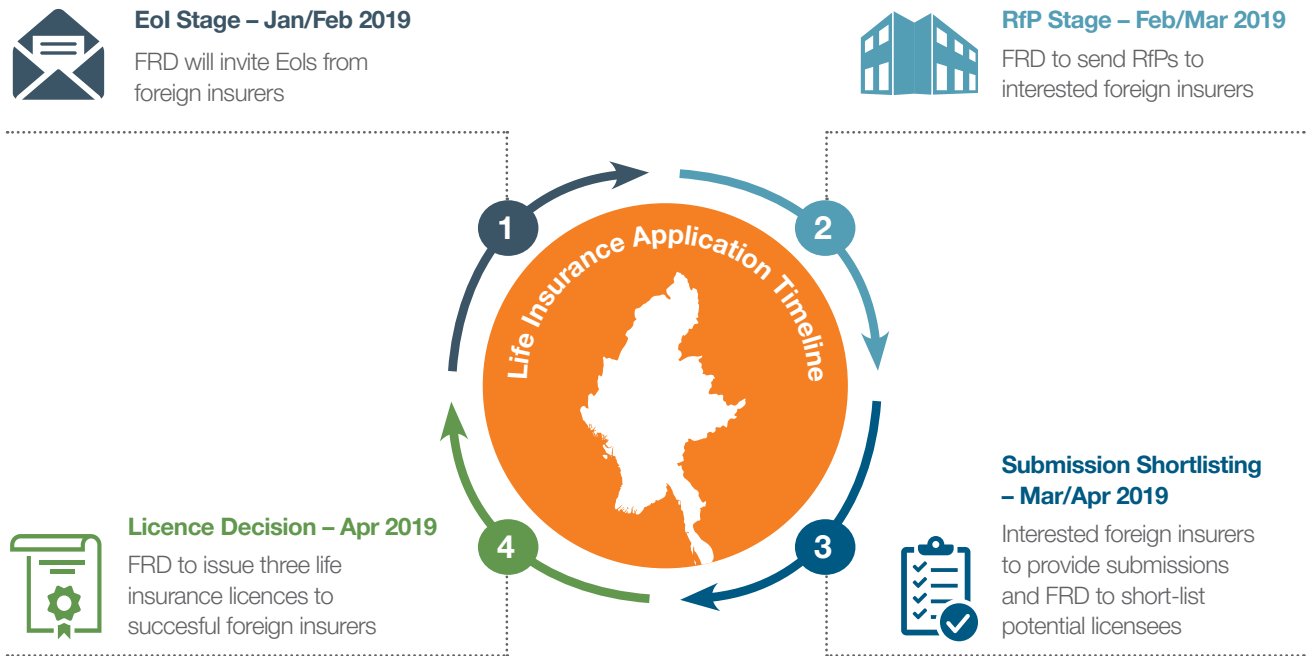
### *RfP Round* (Feb/Mar 2019)

Following submission of the responses to the Eols, there will be a further round in which the FRD will issue a licence Request for Proposal (**RfP**) to certain shortlisted bidders. The contents of the RfP response are not yet clear, but it is expected that more detailed information will be required as a basis for the licence application, including more detailed items such as: (i) a business plan; (ii) details of the relevant personnel to be involved in the business and their qualifications; (iii) shareholder information; (iv) ratings and capital information; (v) endorsement (or other comfort) from the home regulator (if required); and (vi) expected product suite and details.

### *Decisions* (Apr 2019)

The FRD is expected to decide on the allocation of the three licences in April 2019. It is not clear what criteria they will apply in awarding their licences – the government’s political and diplomatic imperatives were important in previous rounds and the identity of the successful bidders may be based on certain of these factors again. The FRD may also adopt a two tier shortlisting of applicants, both at the Eol stage or the RfP stage.

We await more clarity on this process later this month in further announcements expected to be made by the FRD. The diagram below indicates the anticipated process and timelines.



## Establishing Local JVs

Many existing insurers with representative offices in Myanmar, particularly the general insurers, will welcome the Announcement as consent to move toward and form a partnership with an existing domestic insurance licensee. A critical question will be what proportionate equity threshold foreign investors will be permitted to hold in a domestic insurer under the “Local JV” option. This remains to be confirmed, but under the Myanmar Companies Law, a company will only be considered a ‘foreign’ company if greater than 35% of its shares are held by foreign shareholders. Therefore, the current untested view is that an insurance joint venture with one of the incumbent domestic insurers will permit foreign investment of up to 35% of the shareholding in the domestic entity.

We anticipate that the MoPF will be required to approve any acquisition of, or investment in, a joint venture interest in a domestic insurer by a foreign insurer (in addition to any approvals required under the relevant entities’ insurance licence). Further, whether the foreign insurer acquires a 100% licence or enters into a joint venture, it remains likely that a permit from the Myanmar Investment Commission (the MIC) will be required if the investment by the insurer falls into one of the categories prescribed under the Investment Law (for example, if the investment is more than USD100 million or considered strategic to Myanmar). Even if a permit from the MIC is not required, a foreign investor may wish to apply for an “Endorsement” from the MIC (if permitted) to benefit from certain land rights and other incentives. How the Investment Law, and liberalisation of the insurance sector, will interact and whether any privileges under the Investment Law will be available or necessary will become clearer as parties start to enter into joint ventures later this year.

# Conclusion

The Announcement is a welcome step forward for the insurance sector in Myanmar after many false dawns and promises to open up to foreign participation in a vital component of the Myanmar economy. There remain a number of areas of legal clarification, but these are expected to be addressed as foreign insurers are finally permitted to invest and operate in the country in 2019.

# Team

A&O has extensive first-hand experience of involvement in all of the Myanmar Government's bidding processes over the last six years, as well as on market entries by a number of foreign financial institutions. Our team in Yangon and our broader Myanmar relationship team are well positioned to advise you on any questions you may have regarding entry into the Myanmar insurance sector.

Please get in touch with any member of the team below if you have any questions or in the event that you would like a copy of *Liberalisation of the Myanmar Insurance Sector, September 2017*.



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