

MACAU SAR, CHINA

Law and Practice

Contributed by:

Carlos Eduardo Coelho

MdME

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Contributed by: Carlos Eduardo Coelho, MdME

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in Macau, in such diverse sectors as banking, insurance, finance, gaming, real estate, energy, construction, infrastructure, retail and telecoms. The team currently consists of 40 fee earners, led by 12 partners, who are all recognised experts in their fields.

Author



Carlos Eduardo Coelho is a partner in the corporate/M&A practice at MdME, and head of the firm's insurance sector practice. He represents life and general insurers, reinsurers and

intermediaries in a wide range of commercial and regulatory matters. His experience includes advising on greenfield licensing, structural reorganisations, product development and localisation, distribution, policy review, outsourcing and regulatory compliance. Carlos often provides guidance to insurance companies in adapting to shifting market and regulatory trends, such as the introduction of trust frameworks and insurtech.

MdME

Avenida da Praia Grande, 409
China Law Building
21/F
Macau
China

Tel: +853 2833 3332
Email: mdme@mdme.com
Web: www.mdme.com

MdME

1. Basis of Insurance and Reinsurance Law

1.1 Sources of Insurance and Reinsurance Law

Insurance activities (including those of both insurance and reinsurance companies) are mainly regulated by the Macau Insurance Ordinance (MIO) (Decree-Law No 27/97/M, as amended by Law No 21/2020 and republished by Macau Chief Executive Dispatch No 229/2020).

Financial activities and financial institutions in general are regulated by the Macau Financial System Act (FSA) (Law No 13/2023), the most recent updates of which came into force on 1 November 2023. Insurance, reinsurance and pension fund management activities fall within the scope of FSA regulation, which classifies such entities as “financial institutions”.

Articles 962 to 1063 of the Macau Commercial Code provide the general legal framework applicable to insurance contracts.

Private pension funds activities (which can also be pursued by life insurance companies) are regulated separately by the Legal Framework for Private Pension Funds (Decree law No 6/99/M, as amended by Law No 10/2001 – hereinafter “Private Pension Funds Law”).

Insurance intermediaries’ activities are mainly regulated by the Macau Insurance Intermediaries Ordinance (MIIO) (Decree-Law No 38/89/M, amended by Administrative Regulation No 27/2001 and 14/2003). However, Macau’s Legislative Assembly has passed Law No 15/2024, the new Insurance Intermediary Activities Ordinance (IIAO), which is set to replace the existing Macau MIIO from 1 August 2025 onwards.

A number of general laws are relevant for insurance activities, such as the Consumer Protection Law (Law No 9/2021), the Standard Contractual Clauses Law (Law No 17/92/M) and the Data Protection Law (Law No 8/2005).

The MIO, the FSA, the MIIO and the Private Pension Funds Law are further enhanced by a set of binding instructions or regulatory guidelines issued by the regulator of the Macau financial sector, the Monetary Authority of Macau (AMCM), by way of notices or circulars.

Macau is a civil law jurisdiction, meaning that legal rules are codified under a set of legal statutes created by the legislature, rather than being based on previous judicial decisions or precedents, as is the case in common law jurisdictions. Previous judicial decisions may be relevant for guidance purposes but they are not legally binding, so they are not as relevant as they would be in a common law jurisdiction.

2. Regulation of Insurance and Reinsurance

2.1 Insurance and Reinsurance Regulatory Bodies and Legislative Guidance

Insurers, reinsurers and insurance intermediaries are regulated by AMCM, which operates under the authority of the Macau Chief Executive. The Insurance Supervision Department within AMCM is the dedicated unit for the insurance sector. AMCM will issue binding instructions or regulatory guidelines, by way of notices or circulars, to exercise its supervisory functions over the insurance industry in Macau. Under the MIO and the FSA, AMCM is also vested with the following powers:

- to promote and encourage insurers and reinsurers to adopt appropriate standards of conduct, and proper and prudent business practices;
- to supervise compliance with the laws and regulations that regulate insurers and reinsurers and the functioning of the financial market;
- to carry out (extraordinary) inspections of insurers and reinsurers;
- to commence and conduct administrative infringement proceedings, propose respective sanctions to the Chief Executive and effect the collection of fines;
- to urge the suppression of practices that are incompatible with the nature of insurers and reinsurers, and the suppression of situations that are likely to affect the regular functioning of the markets; and
- to submit to the Chief Executive proposals of laws to regulate matters under its supervision.

In 2014, AMCM entered into a co-operation agreement with the Hong Kong Insurance Authority and the China Insurance Regulatory Commission, setting out a framework that enables the regulators in these jurisdictions to share information to facilitate the performance of their supervisory and monitoring functions relating to insurance fraud.

In line with the Outline Development Plan for the Guangdong-Hong Kong-Macau Greater Bay Area (GBA), several entities have issued guidance on supporting the development of the GBA through opening up the financial sector. Such guidance features initiatives that enable insurers in Hong Kong and Macau to expand their business into the GBA Mainland market, including empowering Hong Kong and Macau insurers to establish servicing centres in GBA Mainland cities to facilitate after-sales services, thereby

improving customer experience and efficiency. These services shall include renewals, policy servicing and claims.

2.2 Writing of Insurance and Reinsurance

Insurers and reinsurers that intend to carry on insurance or reinsurance services in Macau on a regular basis must be authorised to do so before commencing operations, and will operate on either the life or the non-life branch.

Composite licences are not granted. Despite there being no limitations on Macau residents taking out insurance in a different jurisdiction, Macau-related insurance products provided by non-authorised insurance companies are not enforceable in Macau, with the only exception being as stipulated under Article 6 of the MIO. Insurers and reinsurers can carry on such business through Macau-incorporated subsidiaries or branches of foreign insurers.

The main criteria that will be considered for granting the licence (for either Macau-incorporated subsidiaries or branches) are as follows:

- the financial capability of the company, including the minimum capital requirement;
- the suitability of the shareholders, directors and key managements; and
- the adequacy of corporate governance and business plans.

In addition to the above, and in order to be permitted to establish a branch, a foreign insurer must be licensed and have been in operation for more than five years in its country or territory of origin, and will only be permitted to carry on the classes of insurance it is licensed to operate in its home jurisdiction.

Reinsurance

The sale and distribution of reinsurance products in Macau is a licensed activity that can only be carried out by authorised reinsurance companies.

There are no limitations on Macau licensed insurers reinsuring the risks of their insurance contracts to overseas licensed reinsurers, but this does not mean a foreign reinsurer is able to do its business in Macau freely and directly.

A reinsurance company may register in Macau by means of a local incorporated company or representative office. The requirements are contained in the MIO and are similar to those for the incorporation of an insurance company (with some specificities).

A representative office is an office that represents an insurer or a reinsurer whose head office is overseas, and is not permitted to conduct, directly and in its name, any operations that come within the scope of activity of such insurer or reinsurer. This means that representative offices are merely proxies of the reinsurers they represent, and their exclusive scope of business shall be to place the reinsurance contracts with the entities they represent.

The representative offices may:

- accept reinsurance contracts on behalf and for the account of the entities they represent; and
- attend to the interests generated in Macau as a result of the reinsurance contracts accepted.

The representative offices shall not be permitted to:

- practise acts that transcend or contradict the actions listed above;
- retain any portion of the premiums in respect of the reinsurance contracts placed with the entities they represent; nor
- acquire immovable property other than what is indispensable for their installation and operation.

2.3 Taxation of Premium

Insurance contracts are subject to stamp duty, which is calculated and levied from the customers by the insurers and submitted to the Macau Tax Bureau by the insurer on a monthly basis, pursuant to Article 24 of Decree Law No 17/88/M, amended by Law No 24/2020.

Nevertheless, such stamp duty has been exempted as an annual tax benefit in the Macau Annual Budget Law over recent years (from 2006 onwards, including for 2025).

3. Overseas Firms Doing Business in the Jurisdiction

3.1 Overseas-Based Insurers or Reinsurers

Overseas-based insurers or reinsurers are not permitted to conduct insurance or reinsurance business in Macau, unless they are authorised to do so. However, there are no limitations on overseas-based insurers or reinsurers accepting Macau residents or companies taking out insurance or reinsurance in a different jurisdiction of their own volition, provided that the overseas-based insurers or reinsurers have not actively promoted their services and/or marketed their products in Macau.

Overseas insurers or reinsurers have to go through a licensing process in order to be allowed to carry out insurance or reinsurance business in Macau, with the only exception being the acceptance of specific insurance products as stipulated under Article 6 of the MIO.

Please see **2.2 Writing of Insurance and Reinsurance** regarding the admissible exceptions for overseas-based reinsurers.

There is no recognition of overseas licences through passporting or an equivalent process in Macau.

3.2 Fronting

Fronting is specifically permitted for general insurers in Macau.

According to AMCM Notice 004/2021 “Requirements of Guaranteeing Technical Reserves due to Abnormally High Loss or Fronting Policy”, a Macau general insurer may underwrite insurance business through fronting policies. A fronting policy is defined under this AMCM guideline as the agreement pursuant to which the ceding company (Macau licensed insurer) transfers the risks it has underwritten to a reinsurer, keeping no more than 5% of such risk on its own behalf.

In situations where a fronting policy is put in place, the Macau licensed insurer must require prior approval from the regulator if it wishes to guarantee the technical reserve with the retained portion (ie, the capital insured minus the amount of reinsurance ceded). Several requirements regarding the approval request and the reinsurance company are also applicable.

4. Transaction Activity

4.1 M&A Activities Relating to Insurance Companies

M&A activities relating to insurance companies are not common in Macau; there have been only two (indirect) acquisitions of the whole shareholding of Macau insurance companies in the last few years.

Qualified Shareholding

Under the MIO, prior approval from AMCM is required for a direct or indirect acquisition or increase of a qualified shareholding. As defined in the MIO, a qualified shareholding generally means a shareholding of any shareholder that represents, directly or indirectly, at least 10% of the share capital or the voting rights of the insurer, or that, in any other way, bestows the possibility of exercising a significant influence on the respective management.

In addition, any subsequent and cumulative increase of more than 5% of qualified shareholding or voting rights must similarly be approved by AMCM. An acquisition or increase of a qualified shareholding without prior approval from AMCM shall result in a prohibition on the use of the acquired voting rights as stipulated under the MIO.

For Macau-incorporated insurers, certain modifications shall be subject to prior approval from the Chief Executive, including alteration of the share capital, merger, amalgamations, division or any other form of transformation, by means of an executive order that will be published in the Macau Official Gazette.

Despite the limited number of M&A transactions, there has been a significant growth in the Macau insurance industry in recent years, especially due

to the border restrictions between Hong Kong and Mainland China, although these are no longer in place. This has prompted a rapid increase in the business volume of life insurance written in Macau (following increased demand from Mainland residents). In addition, GBA opportunities (see 2.1 **Insurance and Reinsurance Regulatory Bodies and Legislative Guidance**) have been driving more attention to the Macau insurance market. Therefore, the Macau insurance market has increased its attraction among foreign stakeholders who have been keen to establish a presence in the region.

5. Distribution

5.1 Distribution of Insurance and Reinsurance Products

The sale and distribution of insurance products is a licensed activity that can only be carried out by authorised insurance companies or by licensed insurance agents and brokers (“Macau licensed intermediaries”).

In addition to marketing and sales activities, all activities leading to the effecting or arranging of insurance contracts or insurance operations between policyholders and insurance companies should be conducted by licensed insurance intermediaries only, and should be conducted and take place in Macau.

Under the MIO, the types of insurance intermediaries are classified as:

- insurance agents (individual or corporate) – an insurance agent is qualified as an entity (intermediary) who acts in the name of and on behalf of one or more insurers, being competent to effect insurance contracts or insurance operations, or to finalise the settlement
- insurance brokers – an insurance broker is qualified as an entity (intermediary), organised as a corporate entity, who acts in the name of and on behalf of policyholders, with the exclusive object of carrying on insurance intermediary business; and
- insurance salesmen – an insurance salesman is qualified as an entity (intermediary) who is simultaneously an employee of an insurance company, of a corporate insurance agent or of an insurance broker and who acts, whilst carrying on insurance intermediary business, in the name of and on behalf of any such entity.

Bancassurance (when banks are licensed as corporate insurance agents) and direct sales are distribution channels commonly used in Macau.

The distribution of reinsurance products in Macau is not common as there is currently only one representative office of a foreign reinsurer established in Macau. Reinsurance contracts are normally entered into based on the internal relationships between the cedant insurer and the reinsurers.

6. Making an Insurance Contract

6.1 Obligations of the Insured and Insurer

The policyholder is subject to information disclosure obligations regarding risk, and should completely and accurately disclose to the insurer all information related to the risk assessment or evaluation that is known or ought to be known by the policyholder, no later than the conclusion of the insurance contract.

In particular, the policyholders must declare to the insurer, in a complete and unequivocal manner, all circumstances known to them or that they reasonably should know of that may influence the assessment of risk, regardless of whether they are included in the questionnaire sent to them. This obligation remains applicable throughout the duration of the policy.

Whenever the insurer has sent the policyholder a questionnaire to fill in, it is presumed that the circumstances mentioned in such questionnaire influence the assessment of the risk.

The insurer has regulatory obligations to proactively require information, including for assessing the suitability or financial capability of the client when negotiating certain types of insurance products.

Disclosure obligations are applicable in consumer or commercial contracts.

6.2 Failure to Comply With Obligations of an Insurance Contract

The consequences of a party failing to comply with its obligations depend on whether the policyholder has failed to comply with the information disclosure obligations with or without bad faith.

- Policyholder acting with bad faith – within one month of the acknowledgement of such non-compliance, the insurer is entitled to terminate the insurance policy and recover any claims paid. The insurer is also entitled to the matured premium, until the moment it informed the policyholder of its intention to terminate the policy.
- Policyholder acting without bad faith – within two months of the acknowledgement of such non-compliance, the insurer is entitled

to either terminate the insurance contract or propose a new premium to the policyholder. If the policyholder does not reply or refuses to pay the adjusted premium within 15 days of the date the amendment is notified, the insurer is entitled to terminate the policy within one month.

6.3 Intermediary Involvement in an Insurance Contract

As noted in 5.1 **Distribution of Insurance and Reinsurance Products**, insurance agents (individual or corporate) act in the name of and on behalf of insurers; insurance brokers act in the name of and on behalf of policyholders; and insurance salesmen are employed by the insurer, corporate insurance agent or insurance broker and act in the name of and on behalf of any one of said entities.

Insurance intermediaries have to follow detailed conduct requirements and principles applicable to their insurance intermediary activities, as currently set out in the MIIO and in several notices and circulars issued by AMCM, such as Notice No 008/2021-AMCM – Ethics for Insurance Intermediary Activities and the Guidelines on Conduct Requirements for Agents' and Brokers' Activities (Circular No 009/B/2021-DSG/AMCM and Circular No 010/B/2021-DSG/AMCM, respectively).

In particular, Macau licensed intermediaries are obliged to:

- act honestly, ethically and with integrity;
- treat clients fairly and act in their best interests;
- act with due care, skill and diligence;
- possess appropriate levels of professional knowledge and experience, and only carry on

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- insurance intermediary activities in respect of which they have the required competence;
- comply with personal data protection laws and regulations, and keep customer information confidential;
- make the disclosure of information to the client that is necessary for them to be sufficiently informed prior to making any material decision related to a contract of insurance;
- take into account the client's overall conditions and provide suitable advice to the client thereafter; and
- ensure the funds of the client are promptly and properly accounted for.

Furthermore, with the entry into force of the IIAO in August 2025, it is clear that insurance intermediaries will also have to fulfil the following obligations:

- avoid taking actions regarding the insurance contract, other insurance-related contracts or related documents without the policyholder's consent;
- report in detail to the insurer about the risks they will underwrite and notify the insurer of any changes to the underwritten risks that may affect the terms of the insurance contract or other related contracts, as well as any facts that could impact claims;
- handle properly and submit timely all premiums or other related amounts collected from clients to the insurer;
- comply with applicable laws and regulations for insurers and insurance intermediaries, and not engage in contracts or activities that violate such regulations;
- negotiate or conclude insurance contracts or provide other insurance intermediary services on behalf of clients only with insurers licensed to operate in the Macau Special Administra-

tive Region, unless otherwise stipulated by law;

- avoid engaging in unfair competition, especially spreading false information about insurers or other intermediaries that could damage their reputation or providing incorrect information to clients for personal gain;
- avoid underwriting risks in their own name; and
- engage only in business activities authorised by AMCM.

Proper internal monitoring measures and procedures are also required to be established by corporate insurance agents, insurance brokers and insurers that conduct business through insurance intermediary distribution channels.

6.4 Legal Requirements and Distinguishing Features of an Insurance Contract

An insurance contract is specifically defined in the MIO and the Macau Commercial Code as a contract according to which the insurer undertakes to indemnify – within the agreed limits, against payment of a premium and upon occurrence of the event covered by the contract – the loss or damage so incurred by the insured or to settle a capital sum, a rent or other payments stipulated therein.

Legal Requirements of Insurance Contracts

The legal requirements are regulated under the Macau Commercial Code. The insurance contract must:

- be in writing;
- be written in a clear manner;
- be dated and signed by the insurer; and
- include other minimum mandatory elements as stipulated under Article 969 of the Macau Commercial Code.

In particular, the insurance policy must contain at least the following elements:

- identification and domicile of the parties, and of the insured and the beneficiary if applicable;
- the nature of the insurance;
- the interest covered;
- the risks covered;
- the capital insured;
- the beginning and termination of the contract;
- premiums and applicable additional amounts; and
- excesses, mandatory deductibles and all other conditions agreed by the parties.

Policy wording that determines causes for termination, exclusion, nullity of the policy, restrictive or risk exclusion provisions must be highlighted in order to be valid. Applicable law does not prescribe any specific form of highlighting for such wording.

Risk and Insurable Interest

Risk

The law specifically requires the existence of risk to be insured (with some limitations for carriage insurance). An insurance contract shall be void if, at inception, there is an absence of risk, or if the incident has already occurred.

Insurable interest

The law also requires an insurable interest at the inception of a life policy. Such requirement is expressly stated for property damages insurance; there is no such express reference for life insurance, but it likely applies to these policies as well. Such insurable interest relates to the insured, and the expression of such interest differs between life insurance and damages insurance.

In life insurance policies, the insured is the person whose life or health is covered under the policy and, as such, the insurable interest in a life insurance policy is almost inherent and is presumed when the insured is simultaneously the original policyholder. When the policy is taken out by a third party, the insured would have to consent in writing to the policy. Therefore, such consent may also arguably create the presumption that the person insured has an interest in the policy.

6.5 Multiple Insured or Potential Beneficiaries

As a general rule, the insurance policy shall contain the identification details and address of the beneficiary, who can be the policyholder or anyone named by the policyholder (which does not need to be the insured person if this is different from the policyholder). Unnamed beneficiaries such as the heirs of the policyholder can be appointed.

Life insurance policies have the specific possibility of not designating a beneficiary at the inception of the policy. If no beneficiary is designated and there are no objective criteria for such determination until the death of the policyholder, the legal and contractual benefits of the policy will be transferred to the estate of the policyholder (ie, to its legal heirs).

Multiple beneficiaries and the respective proportion in receiving the benefits of the insurance are allowed.

The designation of a beneficiary could be made by means of a contract, by a written instruction to the insurers or by will. The policyholder, subject to its own discretion, can revoke the designation of the beneficiaries, unless it is an irrevocable

cable beneficiary (in which case the beneficiary shall have to consent).

There are also the following specific regulations in respect of the interpretation of the clauses of designating the beneficiaries:

- if it is designating the heirs of the insured as the beneficiary, it is interpreted that these are the legitimate or testamentary heirs, in accordance with general rules;
- if it is designating the spouse as the beneficiary, it is interpreted that said spouse is the one to whom the insured is married at the moment of death; and
- if the designation is made in favour of various beneficiaries, the insurer shall distribute the benefit equally, unless there is a declaration to the contrary by the policyholder.

6.6 Consumer Contracts or Reinsurance Contracts

The position of consumer contracts is the same as detailed throughout this section, with there being no difference in respect to the legal requirements and distinguishing features.

Macau law contains no specific rules for reinsurance contracts, which shall generally be governed by the principle of contractual freedom of the contracting parties.

7. Alternative Risk Transfer (ART)

7.1 ART Transactions

There is no specific regime nor an established practice of local Macau insurers resorting to ART transactions.

However, subject to regulatory approval, it is possible that local insurers may consider ART

transactions for the purposes of risk mitigation within their risk management and internal control systems.

7.2 Foreign ART Transactions

There is no specific regime for the recognition of overseas ART transactions.

8. Interpreting an Insurance Contract

8.1 Interpretation of Insurance Contracts and Use of Extraneous Evidence

The interpretation of the general and special conditions of the insurance policy shall comply with the general principles of the interpretation of legal transactions (contained within the Macau Civil Code). As a general rule, contracts are interpreted with the meaning that a normal recipient placed in the position of the actual recipient would take from the clauses in the contract. Based on such principle, the interpreter shall consider:

- the general knowledge that a reasonable person, normally clear, thoughtful and prudent in the specific kind of transaction, would have; and
- the facts and circumstances of which the parties to the contract were actually aware when they executed the contract.

This general rule is subject to the following exceptions:

- the contract shall not be found to have a meaning that one of the parties could not reasonably expect to be attributed to it;
- if one of the parties was aware of the real intention of the other party and if such intention differed from what is derived from the

contract as construed according to the general rule referred to above, the contract shall stand with the meaning corresponding to the real intention of such party; and

- where the law imposes a written form for the contract, its clauses cannot be construed to have a meaning that does not bear at least a minimal correspondence to the text of such document, unless such meaning corresponds to the real intention of the issuer and the reasons imposing the adoption of a written form do not preclude that the declarations stand with a meaning that corresponds to the true will of the parties.

Although the interpretation of the declaration shall be done on a casuistic basis, doctrine and jurisprudence have construed some circumstances or criteria to aid the interpreter. For example:

- the terms of an agreement should be read in context (ie, as a whole) and not as isolated provisions;
- the terms of an agreement should be read considering the business interests of and the objectives pursued by the parties;
- business practices, the business environment and business language should be considered; and
- the parties' commercial and legal sophistication should be taken into consideration.

This means that there are no specific restrictions on extraneous evidence, and market or industry practice may be used as evidence.

If the above-mentioned circumstances or criteria for interpretation lead to a doubtful result, Article 970 No 2 of the Macau Commercial Code provides a special criterion applicable to insurance contracts, according to which any general

or special clauses drafted by the insurer shall be interpreted in the manner most favourable to the insured party.

Such rules are applicable to consumer contracts indistinctively but not to uniform policies (eg, car insurance), which are regulated by specific regulations.

8.2 Warranties

Warranties are generally identified as one of the contractual terms between the parties, and it is not necessary to expressly autonomise them as a standalone section. There are no specific regulations on warranties, which are treated the same as the other contractual terms. A breach of warranties by either party will be considered as a breach of the insurance contract.

8.3 Conditions Precedent

Conditions precedent are generally identified as contractual terms pursuant to which the insurer shall reject a claim or disclaim its liabilities if such conditions are not met. Instead of specifically regulating the conditions precedent, the law requires policy wording that determines causes for termination, exclusion, nullity of the policy, restrictive or risk exclusion provisions to be highlighted in order to be valid.

Regulatory guidelines also impose an obligation of clear disclosure in the policy documents of key or infrequent exclusions to clients, and a breach of such obligation may lead to non-compliance with regulatory obligations.

9. Insurance Disputes

9.1 Insurance Disputes Over Coverage

For both consumer contracts and reinsurance contracts, disputes and/or complaints over cov-

erage under an insurance contract can be handled as follows:

- directly between the complainant and the insurer;
- through a mediation process pursuant to the “Mediation Scheme for Financial Disputes” launched by AMCM, the Macau Consumer Council and the World Trade Center Macau Arbitration Center;
- through courts of law; or
- through arbitration.

The limitation period to initiate proceedings depends on the types of insurance and the entity to which the complaint and/or dispute is proposed. As a general rule, the beneficiary should communicate with the insurer within eight days from the day of the event or accident, if no other longer time limit is stipulated in the insurance contract.

For disputes regarding policy terms, premium payments or other claims in general, the law stipulates the following statutes of limitations:

- five years for a life insurance contract, health insurance and insurance against accidents;
- two years for a general insurance contract; and
- three years for civil liability insurance (derived from the practice of illegal acts).

There is no limitation period in respect of the submission of complaints and/or disputes to AMCM.

The same rule applies to unnamed beneficiaries (such as group insurance policies) for non-life insurance contracts and other third parties, provided that their rights against the insurance contracts are verified. For life insurance con-

tracts, if there is no designation of beneficiary and no objective criteria for such determination until the death of the policyholder, the legal and contractual benefits of the policy will be transferred to the estate of the policyholder (ie, to its legal heirs).

9.2 Insurance Disputes Over Jurisdiction and Choice of Law

Macau law does not state specifically that the policies issued by Macau licensed insured companies must be subject to Macau law. As such, pursuant to the general principle of contractual freedom, it is possible for policies issued by Macau-authorized insurers not to be subject to Macau law. Nevertheless, it is normally advisable for policies issued by authorized insurers to be subject to Macau law, due to the following considerations:

- the rules on insurance policies contained in the Macau Commercial Code (and the MIO) are of an imperative nature, which means that such rules always have to be followed, regardless of the law applicable to the policy; and
- pursuant to the MIO, only Macau courts are competent to give judgments on actions arising from insurance contracts or insurance operations entered into in Macau or in respect of persons or entities who were resident or domiciled in Macau on the date of such contracts or insurance operations, or in respect of the assets located therein or of the risks situated therein.

Governing law should be Macau law if there is no relevant connection to any other jurisdiction – eg, if the insurer, policyholder, insured and risks covered are all based in Macau, or if there is no verifiable interest of the parties in choosing a different law.

9.3 Litigation Process

In Macau, the litigation process commences with the submission of a statement of claim to the relevant court, which, depending on the nature of the claim, could be different sections of the Judicial Base Court. The civil section has general competence to try any matters that do not fall within the specific matters attributed to any other sections.

The initial stage of the proceedings is based on initial written submissions. In a typical civil proceeding, after submission of the statement of claim, when no grounds for preliminary rejection of statement of claim are found, the respondent will be summoned to provide the defence. There may be further pleadings if the respondent invokes any counterclaims.

After the pleadings phase, the court will then issue an interim decision, setting out the list of material facts considered as established and disputed. The disputed facts should be further proven by documentary and testimonial evidence and other types of evidence.

The trial hearing is mainly oral in nature; written statements are admitted in exceptional cases, and the final arguments of matters of fact are produced orally before the court. The closing legal arguments can be produced orally, if the parties so agree; otherwise, they should be produced in writing before the final decision.

Finally, the decision may be appealed under the procedural rules.

9.4 Enforcement of Judgments

See 9.2 Insurance Disputes Over Jurisdiction and Choice of Law regarding the jurisdiction of Macau courts over the indicated Macau insurance contracts or insurance operations. A judg-

ment made by a Macau court is an enforcement title, which is a prerequisite to initiate enforcement proceedings.

Although the validity of a Macau insurance policy contracted with a foreign insurer is not affected, no claim may be brought in a Macau court for debts arising from an insurance contract or insurance management concluded or arranged by insurers that are not authorised to conduct business in Macau. In addition, judgments awarded by foreign courts on such insurance contracts or insurance management shall not be enforced in Macau.

Nevertheless, there is an exception provided by the MIO, pursuant to which such contracts can be subject to litigation or enforcement in Macau if the following conditions are verified:

- the Macau licensed insurers are unwilling or unable to accept certain insurance contracts;
- AMCM is given 15 days' prior notice; and
- AMCM does not oppose the conclusion of these contracts within the pre-notice period.

Enforcement of Foreign Judgments

Unless otherwise provided for in international agreements in force in Macau, foreign judgments can only be enforced in Macau after revision and confirmation by the Macau court. The procedures for the recognition of foreign judgments are as follows:

- application filed with the Macau Second Instance Court;
- service of court papers on the opposing party;
- defence by the opposing party within 15 days;
- reply by the applicant within ten days;

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- analysis of the case file by the Public Prosecutor;
- opposition by the parties within ten days if the Public Prosecutor raises any issues; and
- issuance of award by the Macau Second Instance Court.

9.5 Enforcement of Arbitration Clauses

Arbitration clauses can be included in both commercial insurance and reinsurance contracts, as long as the object of the clause relates to matters that can be subject to the regime of settlement under the law and the arbitration clause is stipulated in writing, which can be contained in a contract or in the form of a separate agreement.

The Macau Arbitration Law (Law No 19/2019) entered into force in May 2020. Arbitral agreements concluded before the entry into force of this law are valid and enforceable, unless any party objects within 15 days of the commencement of the arbitration. Arbitration clauses enforced after the law took effect shall follow the procedures under the new law.

9.6 Enforcement of Awards

An arbitration award is identical to a Macau court decision in terms of enforceability, meaning that the award can serve as an enforcement title in enforcement proceedings in Macau.

See **9.2 Insurance Disputes over Jurisdiction and Choice of Law** regarding the jurisdiction of Macau courts over the indicated Macau insurance contracts or insurance operations. Unless otherwise provided for in international agreements in force in Macau, foreign arbitral awards can only be enforced in Macau after revision and confirmation by the Macau court.

It should be noted that there are agreements for the recognition and enforcement of arbitration

awards between Macau and Hong Kong, as well as between Macau and China. The procedure for the revision and confirmation of foreign arbitration awards is the same as for foreign judgments (see **9.4 Enforcement of Judgments**).

Moreover, Macau is a party to the New York Convention through the extension declaration of its applicability made by China, with the reciprocity reservation (only awards from other signatory states can be enforced) and the commerciality reservation (only awards deemed commercial under national law can be enforced).

9.7 Alternative Dispute Resolution

The “Mediation Scheme for Financial Consumption Disputes” has been launched by AMCM, the Macau Consumer Council and the World Trade Center Macau Arbitration Center, and aims to provide more channels for resolving financial consumption disputes, including insurance disputes.

Members of this scheme should first adopt the mediation services provided by the World Trade Center Macau Arbitration Center to resolve any financial consumption disputes that are within the scope of the scheme.

The same procedure is applicable to consumer contracts and reinsurance contracts.

9.8 Penalties for Late Payment of Claims

The Macau Commercial Code specifically states that compensation corresponding to double the default interest rate shall be added to the amount due if the insurer fails to pay the claims, for reasons imputable to the insurer, within 60 days from its acknowledgement of the incident, situation and consequence.

9.9 Insurers' Rights of Subrogation

Subrogation of the insurers' rights in the position of the insured are typically stipulated as contractual terms.

As a general legal principle, an insurer who has paid compensation is subrogated in the rights of the insured against liable third parties, up to the amount of such compensation. Nevertheless, the following specific limitations are stipulated under the Macau Commercial Code:

- for damage insurance, except for wilful conducts, subrogation shall not be admissible if the damage or loss is caused by the insured's descendants, ascendants, adoptees, lineal relatives by marriage, domestic servants or any other persons living with the insured in a common economy; and
- for life insurance, the insurer cannot subrogate itself in the rights of the insured arising from the incident against third parties, with exceptions for medical and hospital expenses paid by the insurer in case of an accident caused by a third party.

10. Insurtech

10.1 Insurtech Developments

There is still plenty of room for insurtech developments in Macau, but there have been recent developments with the enactment of the FSA, which introduced a legal framework for AMCM to grant temporary licences for financial technology projects on an experimental basis. The temporary licence allows qualified entities to carry out fintech/insurtech projects on an experimental basis, as long as the risks involved are within controllable parameters. Qualified entities include:

- academic or scientific research and development institutions;
- entities engaged in technological business; and
- financial institutions (including insurers, reinsurers and pension fund management companies) that conduct financial innovation projects outside the scope of their licensed businesses.

There are a few limitations for insurtech development in the market, such as regulatory requirements for non-Macau residents, especially for Mainland China customers, for all policy documents to be signed within the Macau territory, and strict regulations imposed on online sales or selling by means of non-face-to-face methods.

However, the use of different types of insurtech solutions – such as online claims portals, mobile apps for after-sale services or administrative services, or the use of AI solutions to improve offerings to policyholders – is becoming more widespread.

10.2 Regulatory Response

The regulatory sandbox established in the FSA demonstrates the progressive approach being taken to align with the overall vision in boosting modern financial development supported by technology and innovation. In line with this, the regulator has issued Circular No 008/B/2023-DSB/AMCM addressed to all financial institutions, setting out the relevant regulatory requirements in respect of trial projects for innovative financial technology.

Besides the legal framework and limitations mentioned in **10.1 Insurtech Developments**, the regulator is expected to continue to enact further regulatory requirements with regards to the implementation and granting of tempo-

rary licences for fintech/insurtech projects. The regulator has also been following market trends and incentivising stakeholders to develop solutions that would benefit Macau policyholders and improve the provision of insurance-related services.

11. Emerging Risks and New Products

11.1 Emerging Risks Affecting the Insurance Market

Catastrophe risks are seen as one of the emerging risks that affect the Macau market. As there have been more significant and more severe typhoons in Macau in the past few years, causing huge claims to be made to insurers, the regulator and the current stakeholders (particularly general insurers) are starting to pay special attention to these matters. Cybersecurity-related risks are another top concern of insurers nowadays within the Macau market.

In view of the rise of virtual assets, which may typically be used for activities related to money laundering and the financing of terrorism (a risk always raised by the regulator for the insurance industry), the Macau regulator upholds the position of excluding virtual currencies as legal currency and strictly forbids the insurance sector to use virtual assets for the payment of premium and claims.

11.2 New Products or Alternative Solutions

See 11.1 Emerging Risks Affecting the Insurance Market.

12. Developments in Insurance Law

12.1 Significant Legislative or Regulatory Developments

Enactment of the New Insurance Intermediary Activities Ordinance

The IIAO will come into force on 1 August 2025, replacing the existing MIO to address the significant growth and changes in the insurance sector in recent years. The IIAO refines the regulatory framework for insurance intermediaries, enhancing operational standards and accountability while increasing penalties for non-compliance.

Major key points include:

- the introduction of joint liability and Principal Responsible Approach for better supervision of insurance intermediaries;
- the implementation of a Prior Approval and Post-Notification mechanism to enhance regulatory clarity for AMCM; and
- the establishment of a comprehensive fit and proper assessment for individuals and legal entities in the insurance sector.

The new IIAO also extends the supervisory powers of AMCM and delegates said authority to impose sanctions for offences, including the suspension and revocation of intermediary licences.

Proposed Implementation of Risk-Based Capital Regime

Discussions regarding a risk-based capital (RBC) regime are currently underway, with implementation anticipated in 2027. This RBC regime will establish a structured approach to capital requirements based on the risk levels associated with various insurance operations. Its goals are to improve governance, enhance risk manage-

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ment practices and strengthen the overall stability of the financial system. Most importantly, it aims to bolster the industry's resilience and enhance protection for policyholders.