Global Counsel

ASEAN Insurance Markets

Integration, regulation and trade | October 2015

Foreword

In building a regional market for trade in financial services and insurance over the last two decades ASEAN policymakers have had to confront significant obstacles. The varying levels of development and openness across the region have made both domestic reform and regional integration sensitive and incremental. As it does everywhere, financial services liberalisation in ASEAN raises important questions of prudential stability, consumer protection, regulatory capacity and business integrity. It is politically sensitive and practically complex.

This report has two aims. The first is to set down in one place an assessment of the state of play in insurance services trade across the main markets of ASEAN and at the level of regional market integration. This highlights the barriers to cross border trade and freedom of establishment that remain across the region, but it is also testimony to how far regional policymakers and businesses have pushed insurance market opening, reform and consolidation over the last decade. The scope for foreign ownership in the sector is growing as the benefits of foreign participation are better understood and growing regulatory capacity is increasingly making the prospect of cross-border trade a realistic one.

The second aim of this report is to set out some of the wider drivers of insurance policymaking in ASEAN to help better understand what is driving reform – or in some cases holding it back. At a general level, a deepening market for insurance is contributing to wider ASEAN policy aims in economic risk management, capital market deepening, healthcare provision and infrastructure financing. This potential for this market at the regional level is now well understood. While insurance market liberalisation has not been included in some of the initial headline goals of the ASEAN Economic Community process for reasons of political or policy sensitivity, commitments to liberalisation have nevertheless been made and the prospect of future regional competition has spurred regulatory and sectoral reform across the region.

A range of challenges remain for ASEAN policymakers and insurance firms. An important one is addressing the wide range of regulatory capacity across the region, which will take time and resources. Ensuring fair and equal treatment for foreign and domestic firms is another. A third, especially given the way that ASEAN lacks the kind of strong institutional centre that defines the single market of the EU, will be ensuring that, over the years ahead, this liberalising trend is accompanied by strong push for regulatory convergence. The EU’s own experience testifies to the difficulty of reversing regulatory divergence after the fact.

We are very grateful to the wide range of practitioners and policymakers who agreed to share their experiences in the production of this report. This report does not represent any individual views other than those of the authors.

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Contents

Executive summary

The role of insurance in a growing region

The ASEAN region is one the most dynamic in the world and central to some of the most important global trends. It is growing, urbanising, plugging into global supply chains, and deepening and integrating its own regional market. Measured by total GDP, it is a regional market already considerably larger than Brazil or India. In the next five years it is expected to grow by half again, as much (in terms of USD) as France and Germany combined. Disposable income in ASEAN is rising, financial penetration rates are growing and capital markets are deepening. These rates of change are very varied across the region, but they are present everywhere.

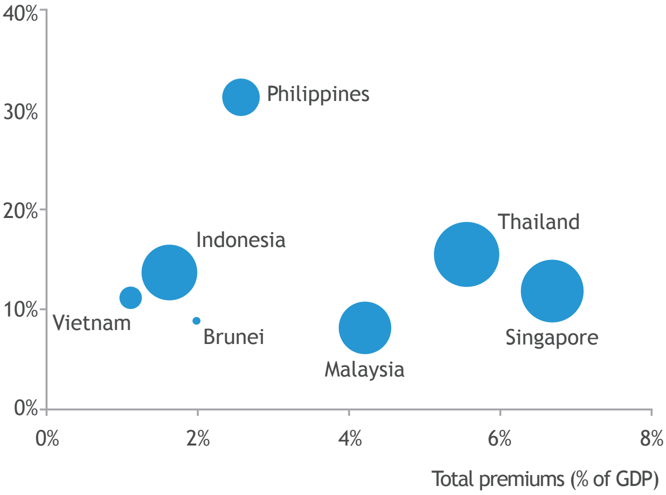
As in many growing economies, a market for insurance is both a consequence and contributor to this growth. Annual insurance premiums in ASEAN doubled between 2009 and 2014 to over $85bn. This reflects strong demand for non-life insurance, and a growing market for life insurance, as incomes rise sufficiently to fund it. The range of products varies between markets, as do distribution channels, which remain on the whole highly dependent on traditional broker and agent networks, but they also are expanding and diversifying, particularly via the growing importance of bacassurance and online distribution channels. Increasing lifespans, rising incomes and rising healthcare expenditure all suggest considerable scope for the sector to grow and mature over the years ahead.

This report looks at the role of policy choices in the ASEAN region over recent years in deepening the prospects and potential of regional and domestic markets, both by encouraging greater regional integration and with greater foreign participation in the insurance sector. Some of these choices have been made in the context of unilateral regulatory or market reforms, some as part of the regional integration process and some as contributions to bilateral or multilateral trade negotiations. In combination, these three core dynamics are laying the foundations for a regional market for insurance with the potential to be one of the deepest and most dynamic in the global economy.

Central to all three of these processes is the role of foreign participation in these markets. This is a process of both great sensitivity and great importance. As an insurance sector develops, the role of foreign firms - in providing reinsurance, temporary specialist insurance beyond the capacity of domestic players, or simply injecting capital into the domestic sector - can be an important driver of each stage of market development. The questions that ASEAN states have sought to answer in the sequencing of these steps are at the heart of this report.

Figure i: ASEAN insurance market performance

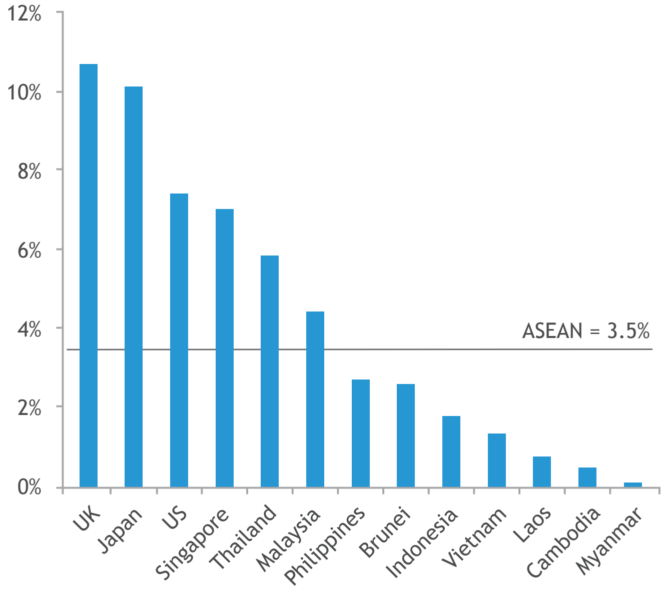
Total premium growth, av. 2009-2014



Note: bubble size indicates total premiums (USD bn)

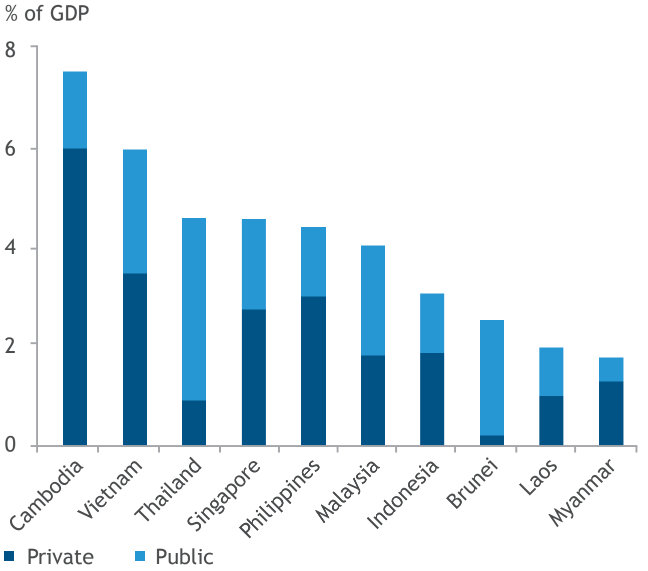
Figure ii: market penetration in 2014

Total premiums (% of GDP)



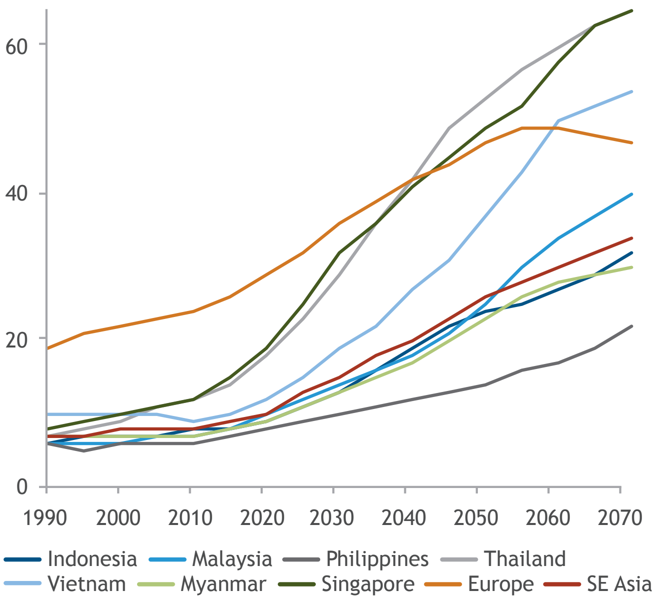
Source: Swiss Re, IMF, GC calculations

Figure iii: health spending



Source: World Bank World Development Indicators

Figure iv: old-age dependency ratios



Source: United Nations World Population Prospects
Note: defined as over-65s as a percent of working-age population

The social and economic role of the insurance sector

The development of the ASEAN insurance sector is also playing an important role in addressing economic, social and policy challenges.

- **In many ASEAN countries, public systems of social protection are under-developed and they are complemented by insurance products.** As none of the ASEAN states will seek to build centrally-funded social welfare systems on the European model, the role of private insurance will remain integral both to private and public provision. Lengthening life spans create a similar need to hedge the growing costs of healthcare over longer lives.

- **The insurance sector also has the capacity to play an important role in sustaining high levels of investment in ASEAN.** This is especially true in vital infrastructure, which is now the single most important bottleneck to future growth. Sustaining fiscal stability means that this will not be funded purely by governments. Private capital is essential.

- **ASEAN infrastructure investment requires large pools of capital that are long term and stable.** The insurance sector is an important means of mobilising the disposable income of a large number of people with small amounts of wealth into large pools of investible capital. The maturity profiles of most insurers mean that they are generally a reliable source of long-term, patient capital.

- **Insurers are also underpinning the development of liquid markets for sovereign debt in ASEAN.** Foreign insurers are an important part of this picture in ASEAN. They add diversity to the institutional investor base while maintaining a focus on safe domestic assets and are much less prone to capital flight than foreign portfolio investors'.

Section 1 of this report sets out the regional picture in more detail, examining the public policy incentives that are driving policymakers to pursue a reformed and integrated insurance market in ASEAN, and the way in which both regulatory reforms and market opening can potentially contribute to that aim.

Incremental opening...

ASEAN policymakers have long understood the growth and stability benefits of a strong insurance sector. They have also recognised the role that cross-border trade in services and the participation of foreign insurers in domestic insurance markets can play in building stronger and more dynamic sectors. However, most ASEAN states have made limited commitments at the WTO level or in bilateral negotiations in insurance, and actual conditions of market access are in most cases much more open than the binding commitments agreed with external partners. This is often an attempt to maintain a degree of policy flexibility on liberalisation. In particular, the WTO obligation that regional integration commitments should go further than those made at the GATS level means that ASEAN states have been reluctant to tie their hands regionally by making ambitious GATS commitments.

The regional integration agenda has provided clear impetus, but building a regional market for insurance in ASEAN has nevertheless been an incremental process. Insurance was not included in the ASEAN Economic Community blueprint of 2007, which targeted services trade liberalisation in a range of other areas. Nevertheless, seven ASEAN states have made commitments to liberalise their insurance sectors, although it is unlikely that these commitments will be fully realised in the next three to five years.

This incremental progress reflects a range of things:

- **Insurance, like banking, remains highly politically sensitive in some ASEAN markets.** This has made some ASEAN states reluctant to make commitments on permitted foreign establishment and full foreign ownership of insurers. This is beginning to change for domestic policy reasons linked to sectoral reform and consolidation. At the same time, competition and investment regimes are also being upgraded.

- **Regulatory capacity remains very varied across the region.** This makes building the trust and mutual recognition to liberalise cross-border trade in insurance an incremental process. ASEAN states have, however, made a range of commitments in this area. Making them work will mean a greater degree of harmonisation in regulatory approaches and capacity.

- **Financial market sophistication and development is also highly variable across the region.** This has reinforced a general view among policymakers that regional liberalisation in financial services would be 'ASEAN minus X' – a process in which markets at an earlier stage of development would not be required to make the same commitments as more developed ones on the same timescale. This means that Cambodia, Laos and Myanmar in particular will remain far more focussed on improving regulatory and market infrastructure than on opening their insurance markets to trade for the foreseeable future.

- **Sensitivities around the free movement of professionals across borders in ASEAN remain high.** This is largely because many ASEAN states are concerned with the need to develop their domestic skills base in sophisticated markets like banking and insurance. This has held back commitments and freedom in posting foreign staff. This remains one of the least tractable constraints on trade in insurance in ASEAN and a key area where industry and regulators need to seek mutually beneficial solutions.

- **There is no institutional centre with the power to plan and implement a regional market in insurance.** ASEAN has always been a decentralised grouping. It has no equivalent to the central institutions of the European Union, which have the power to legislate common rules for all member jurisdictions and to enforce targets for integration. This means that even as ASEAN states have adopted collective and unilateral liberalisation targets, they have not necessarily harmonised the ways their insurance markets work or are regulated. The need for greater regulatory convergence, and a dedicated regional institutional framework with legislative and enforcement powers, remains one of the key challenges for ASEAN and AEC in the future. The ASEAN secretariat has begun to focus on this challenge.

Figure v: Key trends in ASEAN insurance policy

Policy area	Key recent developments
Foreign ownership	Restrictions of equity ownership by foreigners vary widely across the region; from very open in Singapore and Vietnam, to much more restricted in Thailand and Myanmar. Often driven by a desire to consolidate and strengthen capitalisation, the general regional trend is for the liberalisation of market access – typically unilaterally, and on a multilateral rather than preferential basis – except in Indonesia where the current administration is contemplating reversing liberalisation. ASEAN supervisors have a general bias towards local subsidiarisation.
Trade across borders	Cross-border trade in insurance and particularly life insurance remains relatively restricted in ASEAN, generally based on concerns about consumer protection and home-regulator capacity. Local licensing is generally required and local availability tests often apply. A number of ASEAN states have, however, committed to liberalise this trade.
Regulatory capacity and practice	The prospect of regional liberalisation has seen new capital rules introduced in most ASEAN states and regulatory standards rise across the region. Most ASEAN states now have technically independent insurance regulators, with the exception of Cambodia, Laos and Myanmar. However, foreign insurers can still face restrictive and sometimes opaque regulatory practice from some regulators. This can include restrictions on moving staff into markets or data out of them and limitations on the range of assets foreign insurers can hold. Unpredictability and limited consultation on regulatory change also remains an issue with some regulators.
Competition and investment policy	Driven to a great extent by ASEAN-level commitments, shifting views on industrial policy, and a desire to attract foreign investment, competition and investment frameworks have been upgraded across the ASEAN region in recent years, with varying degrees of effectiveness. Levels of investor protection remain varied.

Section 2 of this report looks at the state of play in each of the most important thematic areas of trade policy for insurers operating trading into and within the ASEAN market.

...but momentum for market reform

Although market opening and cross-border trade in insurance in ASEAN may be evolving gradually, regional aspirations to liberalise insurance have triggered important debates and action at the level of national policy.

- **Loose ASEAN commitments to liberalise insurance markets have nevertheless focussed the minds of policymakers on the prospect of greater regional competition.** Almost all ASEAN states have undertaken reform of regulatory frameworks for insurance and introduced measures designed to encourage consolidation and competitiveness. This has raised and recalibrated capital levels across the region.

- **The desire to strengthen and consolidate domestic sectors has begun to shift views on foreign ownership and cross-border competition.** Most ASEAN member states have unilaterally liberalised cross-border trade restrictions on insurance (especially non-life insurance services) over the last five years alongside a more open approach to foreign ownership, generally as a way of encouraging foreign capital investment and greater sectoral consolidation and stability. Some aspects of cross-border trade have also been liberalised, although local availability tests remain widespread. Practices like fronting continue in some markets, ultimately limiting the full benefits of competition.

- **The prospect of an increasingly integrated regional market for insurance has had an important effect on attitudes to regulation and supervision, driving something of a race to the top.** Supervisors across the region recognise that as the ASEAN market is liberalised for cross-border trade in insurance, the jurisdictions with the most effective, transparent and accountable regulatory systems will be inherently attractive as regional bases. This has made liberalisation in general a driver of sounder regulation.

- **Competition and growth have encouraged a greater focus on regulatory capacity in order to match the needs of an increasingly sophisticated sector.** Regulators across the region have been given greater independence and are building capacity. Although problems remain, almost all regional regulators have markedly increased their sophistication and professionalism over the last five years. There is also a greater focus on converging practice with regional capacity. For example, the Thai regulator has provided regulatory capacity support for Laos, Myanmar and Cambodia.

Figure vi: Insurance services subsectors included in AEC Blueprint for liberalisation in 2015

Insurance sub-sectors	Member countries committed to liberalisation
Primary life insurance	Indonesia, the Philippines
Primary non-life insurance	Brunei Darussalam, Cambodia, Indonesia, Malaysia, the Philippines, Singapore and Vietnam
Reinsurance and retrocession	Cambodia, Malaysia, Indonesia, the Philippines, Singapore and Vietnam
Insurance intermediation	Cambodia, Malaysia, Indonesia, the Philippines, Singapore and Vietnam
Services auxiliary to insurance	Brunei Darussalam, Cambodia, Indonesia, Malaysia, the Philippines, Singapore and Vietnam

Source: Annex 1, ASEAN Economic Community Blueprint, the ASEAN Secretariat, 2008

Section 3 of this report looks in more detail at recent developments in insurance market reform and opening the six largest markets in ASEAN (Indonesia, Malaysia, Thailand, the Philippines, Vietnam and Singapore) alongside the developing markets of Cambodia, Laos and Myanmar.

The role of non-ASEAN firms and trading partners

Insurers from outside the ASEAN region have made valuable contributions to the development of local insurance markets over the last decade, and in many cases are now integral to some parts of the sector. These firms bring both the capital and expertise required to meet the rising local demand for insurance products, ideally driving up both the quality of technical expertise in the local industry and the capacity of the regulator itself. However, at this stage it is unclear whether non-ASEAN foreign insurers will reap the benefits of integration in the same way as their local counterparts.

- **It is unclear whether non-ASEAN insurers will be are accorded 'ASEAN insurer' status in an evolving regional single market.** If this status was to be linked to ultimate ownership rather than domicile, then it would create a serious impediment to non-ASEAN firms being an integral part of regional market building. Restricting non-ASEAN firms in this way would make little sense for markets that have already liberalised and welcomed foreign capital to underpin the development of their domestic sector.

- **Non-ASEAN trading partners also have an important role to play in supporting the development of a regional market.** Constructive advocacy from trading partners like the EU – both in the context of FTA negotiations and general commercial diplomacy – provides important support for domestic reform and global incentives to greater openness. The EU, like Japan, has now renewed its interest in negotiating a strategic trading framework with the ASEAN region as a whole. This makes sense for many reasons, not least because it provides a strategic platform for negotiating on questions such as ASEAN insurer status, although the mismatch between the ambitions of the EU in areas such as regulatory reform and market access, and the appetites of ASEAN states remains large. These may have to be recalibrated – in both directions – if a region to region agreement is to be realistic.

Looking ahead

The prospects for a deep and integrated market in insurance in ASEAN are considerable. The challenge for both ASEAN policymakers and insurance firms over the years ahead lies in sustaining the momentum behind strong national and regional markets in insurance to support economic growth and social and economic policy goals. Key challenges include:

- Continuing to strengthen regulatory capacity, independence, transparency and accountability at the national level, and continuing to ensure that the prospect of greater regional competition and market integration remains a driver of rising regulatory standards.
- Converging regulatory capacity across the region to support greater cross-border trade.
- Continuing to reform restrictions on foreign ownership to encourage new capital inflow and sectoral consolidation both where domestic firms are weak and undercapitalised, and where foreign firms can fill important product gaps in the market.
- Harmonising regulatory standards as much as possible across the region in order to reduce duplication of regulatory compliance costs for firms operating in multiple ASEAN markets.
- Clarifying the status of non-ASEAN insurers in the evolving "ASEAN Insurer" concept.

The 'ASEAN Insurer' concept

The extent to which non-ASEAN insurers will benefit from the AEC-led liberalisation of ASEAN insurance markets still remains unclear. Under the AEC framework, only 'ASEAN insurers' will be permitted to take advantage of enhanced market access resulting from the regional liberalisation process. However, ASEAN countries have yet to agree on a definition for what constitutes an 'ASEAN insurer'. Essentially, much will depend on which of two rules will be chosen to determine the eligibility of an insurance company to 'ASEAN insurer' status.

Under the domicile rule, which is applied in the EU, ASEAN-domiciled subsidiaries of non-ASEAN insurers would be regarded as domestic companies, and would therefore be able to take full advantage of any new market access and national treatment provisions resulting from the AEC integration process. For instance, under this rule, a fully foreign-owned subsidiary of a French insurance company incorporated in Singapore would be permitted to take advantage of enhanced cross-border market access resulting from the AEC to service the Indonesian market.

In contrast, if ASEAN countries decide to apply 'ultimate-ownership' as the rule for determining eligibility to 'ASEAN insurer' status, a combined company after M&A would still be considered a foreign entity with foreign ownership status, and would therefore enjoy 'less than equal market' access rights compared to local insurers when trading within the ASEAN region.

1. The economic and policy context: rapid growth and structural changes in the ASEAN economies

The ASEAN economies are among the most dynamic in the world and are central to some of the most important global economic trends. These include urbanisation, the emergence of integrated international supply chains, and the growth of a new middle class whose consumption choices are shaping global demand. In 2015 the combined size of the ASEAN economies is estimated to be over USD 2.5trn, substantially higher than Indian or Brazilian GDP. Over the next five years, the ASEAN economy is expected to grow by almost 50 percent, or around USD 1.2trn – as much as France and Germany combined. This is one of the reasons why ASEAN is an attractive location for foreign investors in a wide range of sectors.

The rapid expansion of financial sectors in ASEAN – including, through the development of local capital markets, the greater provision of insurance services and increasing product penetration – is, to a great extent, itself a consequence of the dynamism in the ASEAN economies. Perhaps more than in any of the other financial services sectors, the rapid development of the region's insurance industry has been boosted by relatively sustainable growth drivers – such as rising per capita income, expanding middle classes, economic diversification favourable demographics, and urbanisation – all of which contribute to growing levels of social and economic insurable risks.

The aggregate picture hides much variation across countries (Fig. 1) and the considerable diversity within ASEAN suggests that there is plenty of scope for these trends to continue in many countries. While Singapore and Malaysia account for just less than one percent and five percent of the ASEAN population respectively, they contribute almost 12 percent and 13 percent of its GDP. Indonesia dominates ASEAN due to its scale, with over 40 percent of the population, while accounting for over a third of GDP. To a large extent, the opportunity for growth and the state of development of different regional insurance markets reflects these varying levels of economic development.

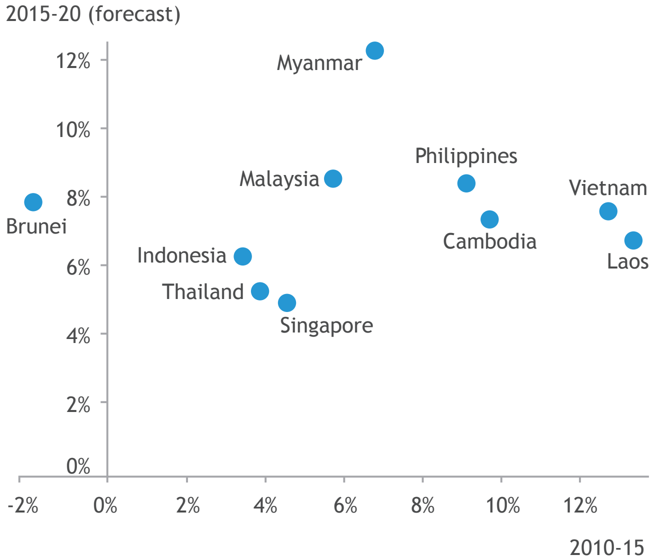
Figure 1: the ASEAN economy in 2015

	GDP(e), USD bn	Population	Per capita GDP, USD
Indonesia	896	255	3,511
Thailand	386	69	5,612
Malaysia	328	31	10,654
Philippines	308	101	3,037
Singapore	296	5.5	53,604
Vietnam	204	92	2,233
Myanmar	69	52	1,334
Cambodia	18	16	1,146
Laos	13	7.0	1,816
Brunei	11	0.4	26,804
ASEAN	**2,529**	**628**	**4,027**

Source: IMF, GC calculations

Among the larger ASEAN economies, the economic underperformers (those with the greatest untapped potential in terms of growth), are the Philippines, Vietnam and especially Myanmar, which is only now fully opening up to outside trade and investment. These are, however, among the fastest growing ASEAN economies (Fig. 2). Over the past five years, each has seen nominal growth (in terms of USD) average around seven percent or higher. The same economies are also forecast to remain the fastest growing in the region over the next five years, with Myanmar standing out with a forecast nominal growth rate of the dollar economy of 12 percent on average each year until 2020.

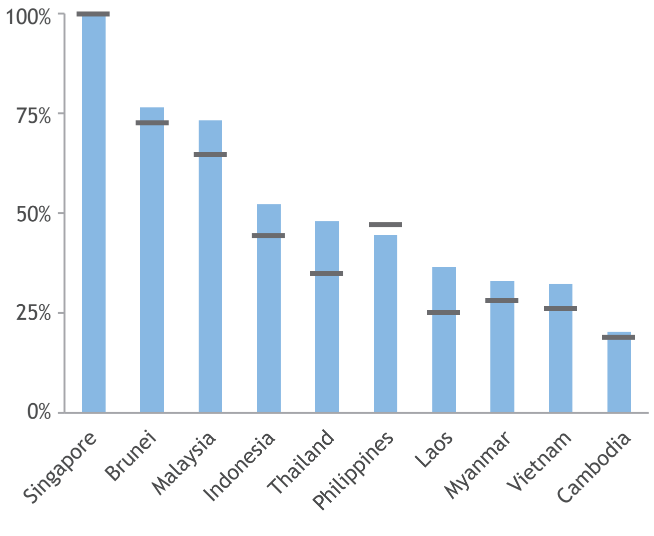
Figure 2: ASEAN growth rates



Source: IMF, GC calculations

This rapid growth partly reflects – and is partly also driving – rapid urbanisation in each country, which in turn has consequences both for consumer behaviour and the provision of public services. Although urbanisation has been notably rapid in Thailand, Indonesia and Malaysia (Fig. 3), there is still considerable room for further growth in urban centres in these countries, as urbanisation rates remain well below the average for high-income countries around the world. This is one of the factors that is creating a need for, and contributing to the growth of, insurance services in the region.

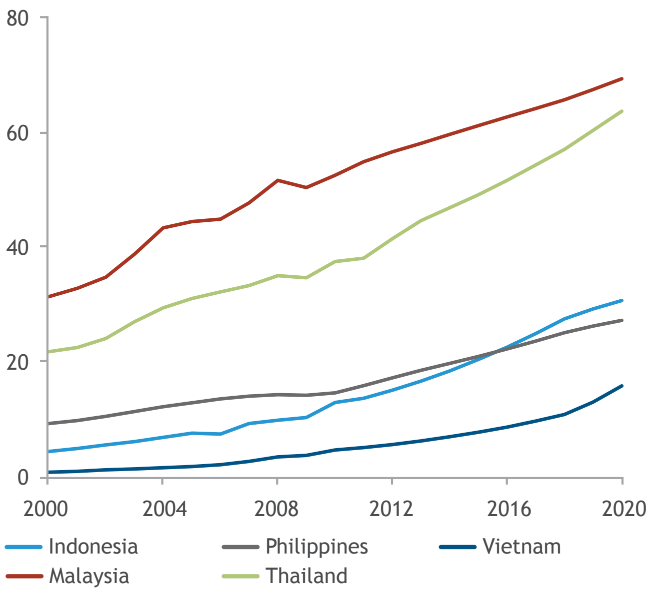
Figure 3: urbanisation rates



Source: World Bank World Development Indicators

The estimated combined size of the middle class in five of the largest ASEAN countries (Indonesia, Philippines, Vietnam, Thailand and Malaysia) is just over 150mn. This is a quarter of ASEAN's total population. This middle class is forecast to continue to grow rapidly over the next five years, with Indonesia and especially Vietnam growing particularly fast (Fig. 4). The combination of growing urban centres and an expanding middle class will not only increase demand for financial services and insurance, but also create more demand-led product innovation, as the region's population increasingly seeks manage risks related to real estate investments and saving solutions to provide post-retirement income. This in turn will have important implications for distribution channels.

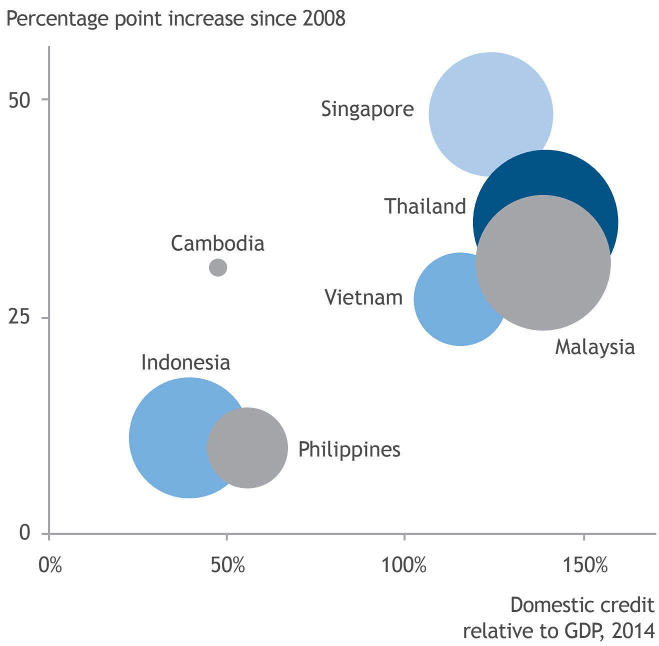
Figure 4: the expanding ASEAN middle class



Source: Brookings Institution
Note: defined as people living in households earning or spending between USD 10 and USD 100 per person per day (2005 PPP USD) and estimated in 2012.

The amount of domestic credit in an economy provides a measure of the scale, if not the scope, of financial sector development, although in some cases it may also indicate a build-up of risk in the financial system. Among the major ASEAN economies, both Indonesia and the Philippines have a way to go before they match their wealthier neighbours in the region in terms of the scale of the financial system (Fig. 5). Whether and how they will bridge the gap, without increasing risks, will be important for their growth prospects, as it will be for some of the smaller ASEAN economies.

Figure 5: domestic credit relative to GDP



Source: CEIC
Note: bubble size indicates absolute value

However, the scope of financial sector development is just as important. Here the insurance sector plays a critical role. This is partly about providing products that allow for a better sharing of risk, but it is also about helping to meet the demand for services, such as health and social care, and about intermediating savings and investments in a way that not only creates financial security for individuals, but also helps to finance long-term investments that support growth. Policymakers in ASEAN are now clearly focussed on these challenges.

The expanding insurance market in ASEAN

In 2015, total insurance premiums in the ASEAN region are forecast to reach just over USD 87bn, more than double the amount generated in 2009. The increase has been seen across both the life and non-life segments (Fig. 6), but particularly the former, which has grown by 116 percent. There is typically a correlation between rising disposable income and life insurance, and this is borne out across the ASEAN region. Total premiums are expected to grow above ten percent in each of the next two years.

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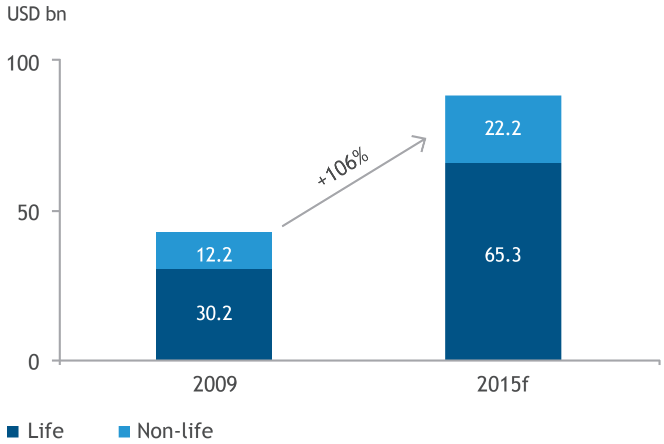
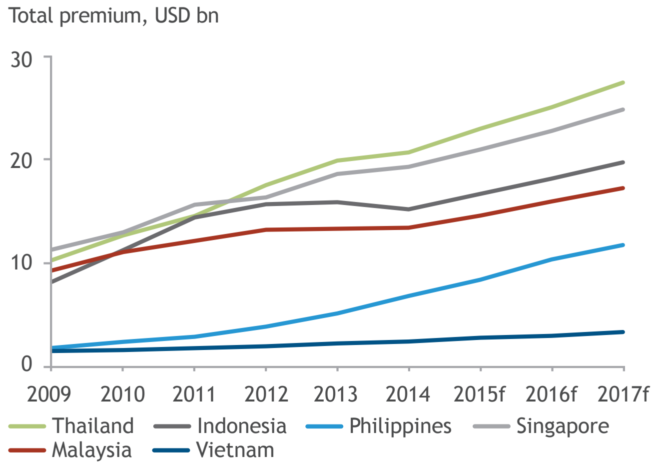
Figure 6: aggregate ASEAN premiums



Source: Swiss Re

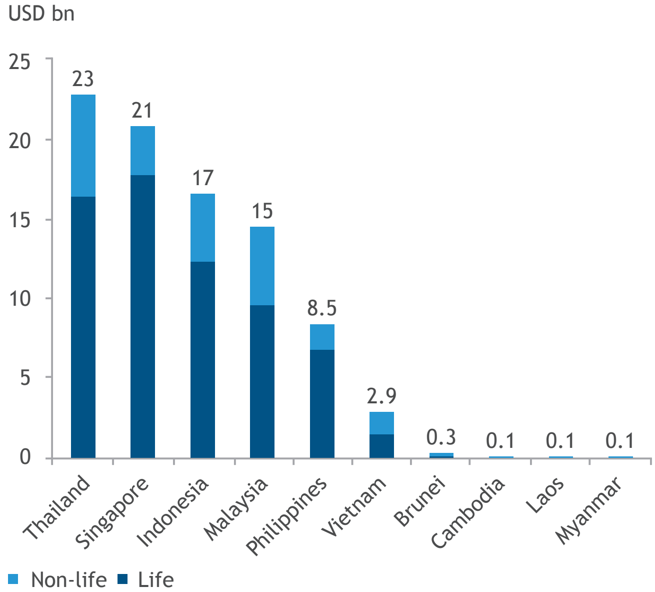
Among the larger ASEAN countries, the Philippines has seen the fastest growth at over 370 percent between 2009 and 2015. The previously underdeveloped life segment was the main driver of growth due to a rapidly expanding middle class and the easing of regulations on life insurance sales by the regulatory authority, the Philippine Insurance Commission. Total premiums have also more than doubled in Indonesia and Thailand, and in Vietnam, life premiums more than doubled during this period. In terms of the total size of the market, this is dominated by Thailand, Singapore, Indonesia and Malaysia, although both the Philippines and Vietnam are catching up (Fig. 7).

Figure 7: premiums over time



Source: Swiss Re

Figure 8: premiums by segment in 2015



Source: Swiss Re

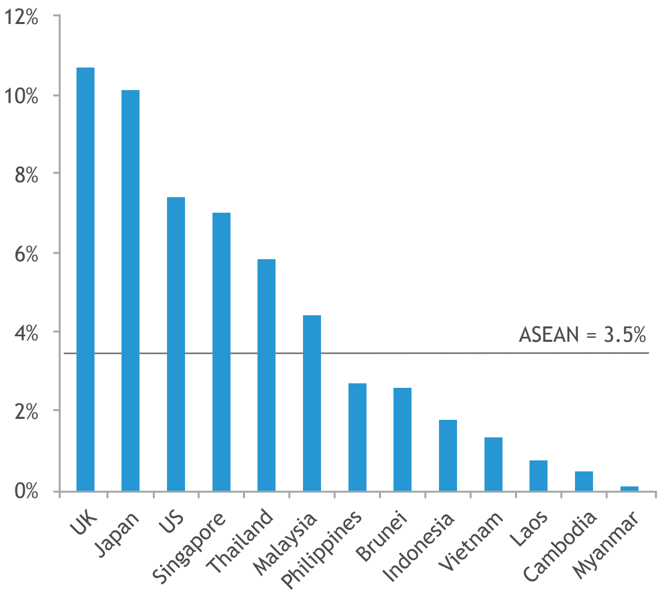
The range of insurance products offered in ASEAN varies significantly across the region, reflecting differing levels of economic and financial development. While Singapore is rapidly consolidating its status as the regional hub for specialist complex insurance and reinsurance products, the small insurance sectors of countries like Vietnam, Laos and Cambodia are overwhelmingly focussed on the provision of primary simple products. The life insurance segment in these markets also remains far less developed than non-life, in part due to the greater propensity among lower income brackets, to insure against property rather than to purchase saving and life assurance products. This is a result of the introduction of a range of compulsory insurance laws for fire risk and motor vehicles across the region, as a means to incentivise better risk and cost management, but also as a means to stimulate growth in domestic insurance sectors. While the effectiveness and compliance levels of these laws varies across the region, all ASEAN member states have implemented a relatively extensive list of compulsory insurance laws, and many – including Vietnam, Malaysia, Cambodia and the Philippines – have introduced new laws in the last five years.

The importance of different distribution channels also varies across the region, again in ways that reflect underlying levels of development – in particular, levels of financial and digital infrastructure. Low levels of digital penetration in most markets mean that insurance is chiefly sold via what would be seen as 'traditional' distribution channels in the US or Europe, such as agents and brokers. Low banking penetration in economies such as Vietnam, Laos and Cambodia considerably limits the development of bancassurance; although in Cambodia these distribution arrangements are spreading rapidly as financial inclusion improves. The spread of the internet in the region is also contributing to the growth of direct online insurance sales. However, even in more sophisticated and urbanised insurance markets as in Singapore, the bulk of insurance sales takes place via commission-based agents and brokers, despite the authorities' attempts to stimulate direct insurance sales in a number of non-life segments.

A picture of the maturity of each insurance market emerges when considering penetration rates, as measured by premiums relative to GDP (Fig. 9). Not surprisingly, the market with the highest penetration rate is Singapore, although it still remains relatively modest when compared to more developed insurance markets such as in the UK or Japan. Both Thailand and, to some extent Malaysia, are also relatively mature markets. Other countries, including ASEAN's three most populous countries - Indonesia, the Philippines and Vietnam - are notably under-developed. In average across the ASEAN region, the size of the insurance sector as a share of GDP is less than half the average of advanced economies, although it is somewhat higher than the average for emerging markets. ASEAN's growth potential for insurance remains very large.

Figure 9: market penetration in 2014

Total premiums (% of GDP)



Source: Swiss Re, IMF, GC calculations

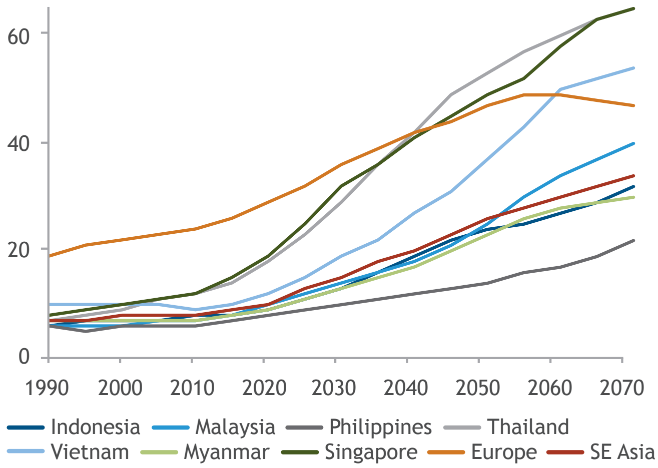
Insurance and wider public policy challenges

The economic and social characteristics of ASEAN economies suggest there is considerable scope to expand the demand for insurance services. Increasing per capita income, lengthening lifespans beyond the working age, and rising healthcare expenditure in societies with only weak traditions of universal public healthcare, are all creating growing levels of insurable risk. ASEAN economies are not the sort of social welfare states that are recognisable in Europe, creating an important role and commercial opportunities for the private insurance of health, life and employment risks.

The insurance industry is well placed to help ASEAN member governments address a wide range of economic and social policy challenges. In many ASEAN countries, public systems of social protection are under developed, as they are in the majority of emerging economies. Insurance products can therefore be a key complement for basic social safety nets in areas like healthcare or the provision of post-retirement income. Moreover, the role played by private insurance in filling the gap will become more important both as demand grows and as policymakers seek to manage the growing strains on public provision, in part because of the inevitable large contingent liabilities that will emerge in many countries, as populations age as is the case in Europe and Japan.

Dependency ratios in ASEAN countries will remain well below those in Europe for a while (Fig. 10). However, two features stand out from this picture. The first is how some ASEAN countries – notably Thailand and Singapore over the next decade, and Vietnam in the decade after that – are on the verge of major demographic change, with the old-age-dependency ratio set to rise significantly. The second feature is just how rapid this transition promises to be, not just in these countries, but in others as well, albeit somewhat later. ASEAN may be younger than Europe, but when ASEAN countries do start to age, they will do so much faster than countries in Europe.

Figure 10: old-age dependency ratios



Source: United Nations World Population Prospects
Note: defined as over-65s as a percent of working-age population

Falling birth rates and lengthening life expectancies are increasingly forcing individuals who would have traditionally relied on their children to provide for them in their retirement, to find alternate solutions. This is already impacting savings behaviour, as people of working age in ASEAN countries consider their prospects for retirement and how they will cope with ill-health in old age. While in more developed ASEAN markets such as Singapore, formal pension systems cover over four-fifths of the labour force, in less developed economies such as Vietnam, where coverage remains at a low 13 percent, the insurance sector has a role to play in helping individuals save for post-retirement income.

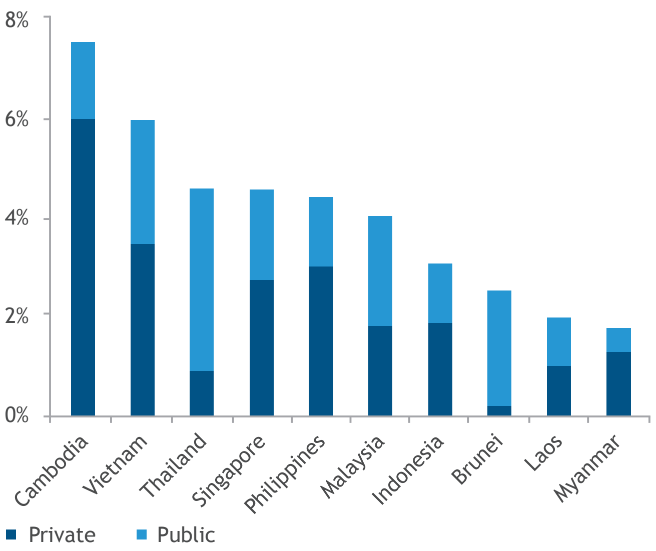
Current spending on health as a share of GDP across ASEAN countries varies, as do the splits between private and public provision across the regional market, with no clearly discernible pattern relating to either income levels or political traditions. This underlines a point that is as true in ASEAN as it is in many other regions of the world: country differences and idiosyncratic circumstances matter, limiting the scope for common prescriptions for public policy challenges to be applied across countries.

However, what is clear is that each country does face challenges. The solutions must therefore be tailored to each country's circumstances, but in most if not all cases, there is scope to increase the contribution that can be made by private insurance in providing these solutions. For instance, Indonesia, Malaysia and the Philippines are currently considering the introduction of universal health insurance systems with a wide scope for the participation of private insurance companies.

In many ASEAN countries, including Indonesia, the Philippines and Vietnam, over half of healthcare costs are currently paid by private expenditure (Fig. 11). However, what this figure does not show is the extent to which private expenditure is out-of-pocket rather than covered by insurance. Because of this, health issues do not only mean treatment costs, but also directly affect the income of the patient and his or her family. The uncertainty this creates can in turn distort household spending decisions, with more precautionary savings being held. This has important macroeconomic consequences as it dampens an important potential source of domestic demand.

Figure 11: health spending

% of GDP



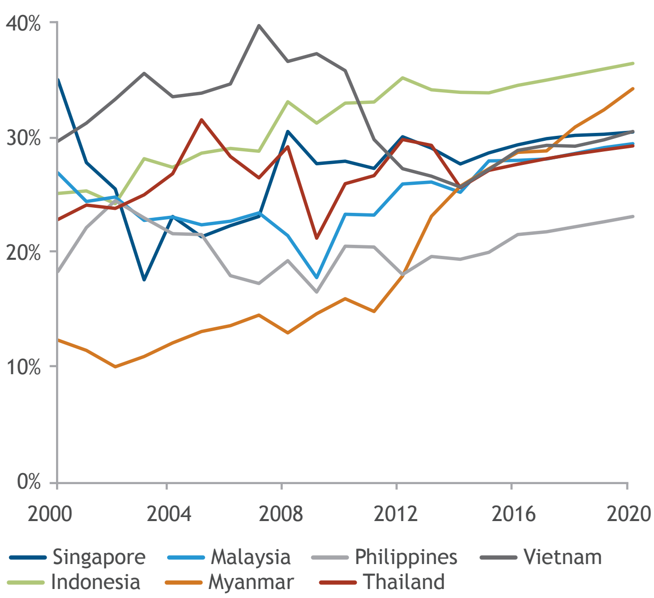
Source: World Bank World Development Indicators

Beyond these direct contributions to socioeconomic policy objectives, the development of the insurance industry plays an important indirect role in supporting the region's wider economic development agenda. The new global framework for financing the United Nation's new sustainable development goals (SDGs) agreed in New York in September 2015, highlights the importance of strong and dynamic financial services sectors, including insurance, in helping emerging economies to bridge the financing gap of a wide range of sustainable economic development objectives. More specifically, a strong, diversified and mature insurance sector ensures more efficient capital allocation, by pooling and channelling individual savings into productive long term capital investment throughout the economy.

Overall, gross fixed investment rates are expected to remain high in all ASEAN countries (Fig. 12). This has been an important part of the successful growth model that has been adopted by many ASEAN economies for several years. For countries at an earlier stage of economic development, high-investment rates are often deployed to build manufacturing facilities that increase the capital stock, absorb rural workers and help to drive up labour productivity. Some lower-income ASEAN economies still face this challenge. This explains why investment rates in Myanmar, which has only recently opened up, are forecast to rise rapidly over the next few years.

Figure 12: gross investment rates

% of GDP

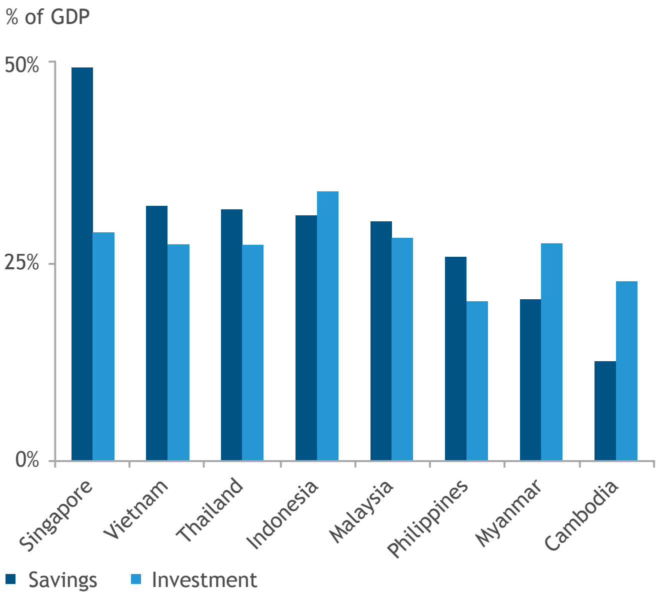


Source: IMF

All ASEAN economies, however, continue to need high levels of investment, even if in some cases the type of investment that is required has shifted in recent years. Arguably the greatest need now, particularly in large, middle-income ASEAN countries, is for infrastructure investment to overcome bottlenecks that threaten to hold back the continued growth in productivity.

While savings rates are also high in the region, providing a pool of funds to finance domestic investment, these remain inadequate to cover even the current investment needs of Indonesia, Myanmar and Cambodia. Moreover, this aggregate picture masks the deeper challenge for financing infrastructure investment in the region, which is to attract sufficient financing of the right kind. Infrastructure investment involves very large financial commitments up front, with income streams that are long-term and relatively stable, but vulnerable to political and regulatory risk. This requires a particular type of finance and a particular type of investor.

Figure 13: savings and investment in 2015



Source: IMF

Public financing for infrastructure is important, but limited in most countries because of the need to ensure a stable fiscal position. This means that private financing is essential. Securing adequate private finance requires the existence of deep and liquid domestic capital markets. A vibrant insurance industry, comprised of domestic and foreign players, can play a critical role in the development of local capital markets. This is partly because they can help to mobilise the savings of a large number of people with small amounts of wealth into large pools of investable funds. It is also because the portfolio needs of insurers (and pension funds) mean they are often the single largest and most reliable source of long-term investment capital. In Indonesia, for example, the current administration has made the development of effective public-private partnership (PPP) schemes to make finance infrastructure investment a priority, potentially creating greater scope for the insurance industry to contribute to the financing of much needed local infrastructure projects.

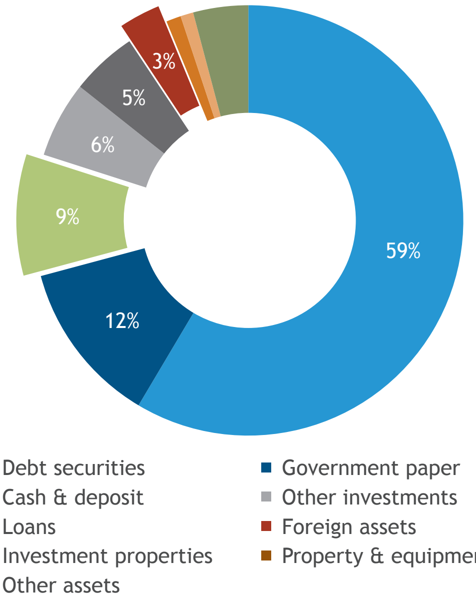
An overdependence on bank finance is regarded as an impediment to the development of long-term debt markets in many emerging economies. The problem is that bank liabilities, such as deposits, are short-term, which means banks are exposed to considerable maturity risk if they lend over very long horizons. Insurance companies and pension funds, by contrast, have long-term liabilities with a relatively predictable maturity profile. This means they are much better positioned to invest in very long-term assets. However, the market for the issuance of such assets must exist on a sufficiently large scale, and with an adequately large and diverse pool of both issuers and investors, if the market is to be liquid enough to keep the cost of issuance down.

The government can very often provide an important part of the solution by issuing sovereign bonds at different maturities to establish a benchmark yield curve that makes it easier to price bonds issued by other entities, including corporations. In most but not all ASEAN countries, this is already the case. Insurance companies, both domestic and foreign, hold substantial shares in government and corporate bonds in Indonesia, the Philippines, Singapore and Thailand - Prudential Corporation Asia held USD 15bn in ASEAN government debt in December 2014. But at most, this only deals with one side of the equation. Both the regulatory environment and market conditions must be sufficiently strong to attract a wide range of investors on the buy side.

Insurance companies and pension funds can be hugely important in helping to develop the investor base, but within limits. While they are long-term investors, their tendency to buy-to-hold devalues them as market makers, and if they are homogeneous in structure or pursuing similar investment strategies, then they may tend to buy and sell assets at the same time. In this regard, foreign insurance companies can help as they bring diversity to the institutional investor base. During a sharp market downturn, investment funds of foreign insurers are much less prone to capital flight. This serves as a key countercyclical stabiliser during periods of high capital market volatility. This concern remains very salient in ASEAN, which has proven vulnerable to swings in capital flows in the past, and which remains vulnerable to capital outflows now, particularly as global monetary conditions change.

It is important to note that while foreign insurers can bring greater stability to the market because they bring diversity to the investor base, this does not dilute the extent to which they are investors in local assets. Just as their investment horizon is shaped by their liability structure, so too is their preference for holding local currency assets, which is essential if they are to avoid currency mismatches on their balance sheets, given that traditionally their liabilities are entirely denominated in local currency. Malaysia provides an illustration of this. Fig. 14 shows the distribution of the types of assets held by all insurers operating in the country, whether owned domestically, foreign-owned or joint ventures. It shows how insurance companies overwhelmingly invest in safe domestic assets. Foreign assets account for just three percent of the total, while cash and deposits just nine percent, and almost 60 percent of assets are invested in debt securities.

Figure 14: asset allocation of Malaysian insurers

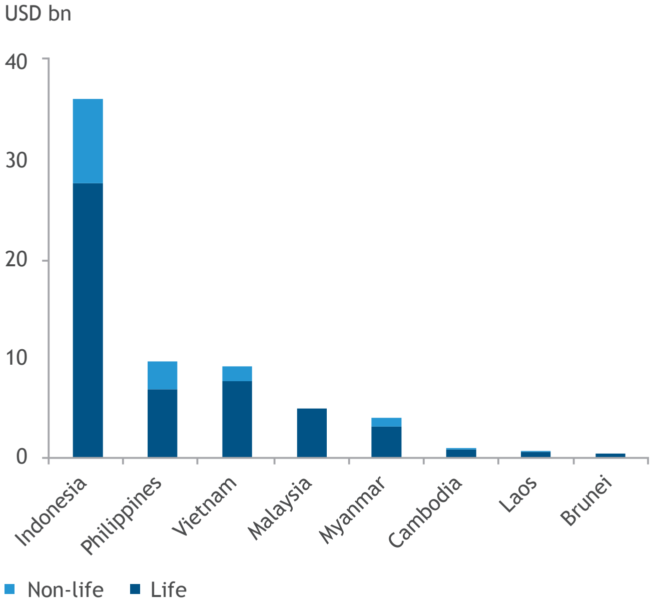


Source: CEIC

The room to grow

To get an approximate measure of the scale of the opportunity in ASEAN, one can calculate the additional premiums that would be generated in each country if the penetration rates rose to match the average of the top three markets of Singapore, Thailand and Malaysia in each of the life and non-life market segments (Fig 15). The picture that emerges is striking in two respects. The first is the sheer scale of the opportunity that exists in Indonesia alone, which would see an increase in premiums of USD 36bn if the average penetration rates of the top three were matched. This reflects both the large size of the Indonesian economy and the relatively low penetration rates in both segments at present. The other striking conclusion is the spread of opportunities across four other markets – the Philippines, Vietnam, Malaysia (in the life segment) and Myanmar – where the additional premiums in aggregate amount to USD 27bn. Myanmar is particularly noteworthy given the market has been relatively closed until recently. The scale of the future opportunity in these markets is, of course, even higher than these figures suggest, given that the same countries are also forecast to experience high growth in the dollar value of their economies in future years.

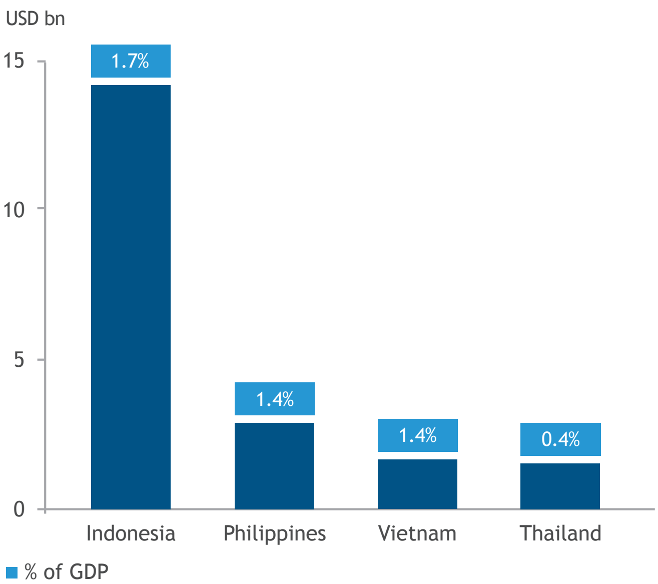
Figure 15: market potential



Source: Swiss Re, IMF, GC calculations
Note: defined as additional premia in 2015 from matching the average penetration rates of the top-three markets

A more sophisticated approach to measuring the level of under-insurance in the non-life segment takes into account how expected losses vary across countries and how the appropriate benchmark level of cover might vary with income levels. A report by Lloyds of London in 2012 takes this approach and concludes that, among the big six ASEAN countries, Singapore and Malaysia are moderately insured, meaning that they exceed the benchmark, but only by a narrow amount. However, the other four are under-insured to varying degrees (Fig. 16), but in each case by more than suggested by the simple measurement of converging premium rates at the current highest levels.

Figure 16: estimated non-life underinsurance



Source: Lloyds and CEIC

All of these factors suggest a regional market in which the potential for growth in insurance is considerable, where the dividends from that growth for both consumers and governments are important and the value of a diverse and healthy sector made up of domestic and foreign players is high. Policymakers across ASEAN are now focussed on how to encourage this, and this aim is central to the integration process anticipated for ASEAN financial markets as part of the wider creation of the ASEAN Economic Community. Foreign participants are already playing an important role in many national markets. According to Swiss Re, in 2012, foreign insurers or foreign-owned joint ventures accounted for just over 60 percent of premiums in the six biggest markets.

Realising the opportunities to expand insurance coverage in ASEAN countries depends on a combination of demand and supply factors. Many of the demand factors, such as rising disposable incomes, a growing middle class, and increasing urbanisation are set out above. The supply factors include the easing of regulatory barriers, the opening up of markets to foreign entry to bring in capital and expertise, and the combination of technical change and innovation, to allow new, better products to emerge and, create more effective distribution channels.

Getting this regulatory environment right implies some difficult trade-offs. On the one hand, policymakers will want to foster a sector that is attractive to investment, innovative and growing to meet rising and changing patterns of demand. Equally, policymakers must also ensure good market conduct that serves the interests of individual consumers of insurance, and limits systemic risks to the financial system and the economy. The remainder of this section assesses in more detail the relation between the development of local insurance sectors, market access liberalisation and the creation of enabling regulatory frameworks against the backdrop of the ASEAN regional economic integration process.

Insurance industry development and trade liberalisation

Foreign insurers can play an important role in the development of insurance sectors, especially at the first stages of market development. In the non-life segment, for instance, foreign insurers can help compensate for the limited capacity of domestic firms to meet demand for cover against large risks related to large scale commercial ventures or infrastructure projects (such as the building and operation of dams, power plants or oil rigs) and in the provision of commercial maritime, aviation and transport (MAT) insurance. Given the capital intensive nature and long term liabilities of the life segment, even if the development of a country's life insurance sector is initially purely driven by domestic investment, the point may come when international investment and expertise is needed to support its expansion into more complex life insurance product lines, such as unit-linked savings or pension products.

Provided the existence of an adequate regulatory foundation, the effectiveness of foreign competition in supporting the development of local insurance markets depends to a great degree on the conditions of market access faced by foreign insurers. Foreign insurers seeking to trade into and between foreign markets typically face a range of legal constraints raging from complete or partial market access prohibitions, to restrictions on the conditions under which market access is granted (Fig. 17). Although not strictly 'barriers to market access', it is generally accepted that the regulatory and legal framework that underpins the market – such as fundamental rights against expropriation without fair compensation and a range of other policies necessary for a level playing field between local and third country firms – are in practice key determinants of the openness of an insurance market to foreign competition. The presence of a state-owned insurer or reinsurer in local markets can also impact market development and regulation, as this more often than not involves the existence of market-distorting discriminatory regulatory measures – particularly (but not exclusively) against foreign providers – which usually create an institutional bias among domestic policymakers against market access liberalisation and non-discrimination against foreign investors.

Figure 17: Modes of services supply

	Criteria	Supplier presence
"Mode 1: Cross-border supply"	Service delivered within the territory of Member State A from the territory of Member State B	Service supplier from Member State B not present within the territory of Member State A
"Mode 2: Consumption abroad"	Services delivered outside the territory of Member State A, in the territory of Member State B, to service a consumer of Member State A	
"Mode 3: Commercial presence"	Service delivered within the territory of Member State A through commercial presenece of the supplier from Member State B	Service supplier from Member State B present within the territory of Member State A
"Mode 4: Movement of natural persons"	Service delivered witin the territory of Member State A with the supplier from Member State B present as a natural person	

Source: WTO

In practice, the effectiveness of foreign competition in supporting the development of specific insurance segments also depends on the type of market access granted to foreign insurers (Fig. 18). For instance, the capital intensive nature and long term cumulative liabilities of the life segment, and the fact that consumers are as a rule unlikely to commit a substantial share of their savings to unknown insurance companies out of reach of domestic regulatory authorities, means that the liberalisation of commercial establishments (Mode 3) is fundamental for effective foreign participation in local markets.

Figure 18: Insurance industry development and market access liberalisation

	Insurance sector development	Implications for foreign competition and trade policy
Non-life insurance	**The starting point for in the development of an insurance market is typically the non-life or general insurance segment. The expansion of the non-life insurance market usually follows the wider economic development process and the growing demand from governments, businesses, individuals and investors for cover against a growing range of insurable risks.**	
Very large commercial risks	At an early stage of sectoral development, risks related to large commercial or infrastructure projects (such as the building and operation of dams, power plants or oil rigs – are typically insured by governments or parastatal authorities.	Insufficient local insurance capacity to cover large risks often needs to be complemented by large foreign insurers (typically European, US or Japanese) on a cross-border basis (Mode 1).
Freight movement: Marine, aviation and transport (MAT) risks	At an early stage of sectoral development, risks related to freight movement are often covered in international insurance markets.	Because of its importance to overall trade, freight insurance – or marine, aviation and transport (MAT) insurance – is usually among the first insurance lines to be liberalised. Insofar as these are covered abroad (typically in international hubs such as London or Singapore), liberalisation of cross-border market access (Mode 1) is required.
Smaller commercial risks	Insurance for smaller commercial risks is typically developed at the early stages of development of the sector.	Insofar as demand can be fully covered by domestic insurers, market access liberalisation may not be a priority in the first instance, but may become necessary if the sector is to expand. Where there is a question-mark over domestic capacity, authorities often condition market access on economic needs or domestic availability tests.
Compulsory lines insurance	The introduction of compulsory insurance laws such as third-party liability motor insurance are typically an early driver of non-life insurance sector development. Given their high level of profitability, authorities often confine compulsory insurance lines to domestic insurers in the early stages of sectoral development.	Insofar as demand can be fully covered by domestic insurers, market access liberalisation may not be a priority in the first instance. However, the confinement of profitable compulsory insurance lines to domestic insurers creates additional strong incentives for industry incumbents to oppose future market access liberalisation.
Reinsurance	The development of reinsurance virtually always follows the life and non-life segments. Subject to the size of the market, it is practically always preferable to have reinsurance and retrocession arrangements under which domestic 'direct' insurers can seek reinsurance cover with foreign reinsurers.	Global reinsurers further spread local risks by retroceding to retrocessionaires. Even where domestic capacity is seen as adequate, it is always prudent to reinsure against geographically concentrated risks (such as hurricanes or floods) externally.
Life insurance	**The development of the life segment usually follows the non-life insurance industry.**	
Life insurance: Life insurance with savings elements; Group life; Pension products.	Life insurance typically begins as individual term status-protection insurance. As the demand for saving solutions for post-retirement income grows with the emergence and expansion of the middle class, the life segment typically branches into the provision of endowment and mortgage-linked insurance products, and pension products.	The fact that consumers are as a rule are unlikely to commit a substantial share of their savings to unknown insurance companies out of reach of domestic regulatory authorities means that the liberalisation of commercial establishment (Mode 3) is fundamental for effective foreign participation in local markets.

As detailed in Section 2, the degree of openness of ASEAN insurance markets to foreign competition varies markedly across the region. While foreign insurers face relatively few market access restrictions in Singapore and Vietnam, Myanmar's insurance markets remain closed to foreign participation. The conditions under which foreign insurers are granted access to local markets also varies by country and across insurance segments. For instance, cross-border supply in non-life insurance is not permitted in Indonesia but allowed in Singapore, and while insurers are permitted to own up to 100 percent of locally incorporated subsidiaries in Vietnam, they face foreign ownership caps of 25 percent in Thailand and 70 percent in Malaysia.

The different levels of market access liberalisation across ASEAN countries are only partially reflected in their WTO commitments. Although the region's insurance markets have been mostly liberalised on an MFN basis, this is typically the result of domestic reform rather than multilateral negotiations. As a general rule, domestic legislation on market access goes far beyond the commitments by ASEAN countries under the WTO GATS or WTO accession protocols. With the notable exception of Vietnam's insurance commitments included in its WTO accession protocol, the GATS insurance schedule of ASEAN countries is a poor indicator of the degree of real market access openness across the region. For instance, while Singapore's insurance market has been largely open to foreign competition since the 1970s, this is not reflected in Singapore's WTO commitments, and although the Philippines's GATS commitments are generally seen as relatively ambitious, they fall short of the country's market access regime.

The reluctance of ASEAN countries to match their commitments under the GATS or the WTO Financial Services Agreement to national legislation is partly explained by the political and policy backlash of the 1997 Asian financial crisis on financial services liberalisation. However, this is also a reflection of wider domestic and trade policy strategy considerations. Under the terms of the GATS, commitments that countries make in regional or bilateral trade agreements must be deeper than those they have made in their GATS schedule. This means that by keeping their GATS commitments unbound, ASEAN have sought to preserve a large degree of policy flexibility in regional and preferential trade negotiations, which is also a feature of African markets. These wider strategic considerations about market access liberalisation are made evident even in rough comparisons between the financial services provisions in the most ambitious FTAs between ASEAN and non-ASEAN countries (such as Singapore's) with GATS schedules.

Singapore's trade agreements with South Korea, the EU and the US are among the most ambitious FTAs in the region. These agreements include dedicated financial services chapters featuring ambitious disciplines on market access and national treatment, at least when compared to other ASEAN FTAs. The common characteristics of these agreements with Singapore's GATS financial services schedules, are the traditional prudential carve-outs from market access and national treatment disciplines, and that the disciplines on market access liberalisation are less ambitious for cross-border supply than for commercial establishment.

However, while Singapore's FTA commitments in financial services and insurance go beyond the country's GATS schedules, as a general rule they fall short of creating substantial new market access in insurance, and typically simply bind existing national legislation to these agreements. Even where increased market access is granted – such as the Singapore's commitment to a streamlined approval process for new non-life insurance products in its FTA with the EU – these are typically left unbound and often later extended on an MFN basis to all foreign investors via new domestic legislation. Other ASEAN FTAs, including those from individual ASEAN countries and ASEAN-wide FTAs, have even shallower financial services commitments. Even, where these FTAs include provisions on services (financial or otherwise), these are often left unbound.

The regional dimension

Planned for 31 December 2015, the establishment of the ASEAN Economic Community (AEC) constitutes a key milestone in the region's economic integration process. The AEC ultimately targets the creation of a competitive production area aimed at the free flow of goods, services, capital and skilled labour, similar in many respects to the initial phases of single market creation in the EU. Within the wider context of the ASEAN project, the AEC has been conceived as the 'next' rather than the 'last' step of the regional economic integration process. Unsurprisingly, it is the establishment of a single market for services under the AEC that is expected to have the most impact on the region's insurance industry, although a growing goods trade and the resulting productivity is also expected to boost insurance and particularly non-life insurance activity.

The AEC, to a large extent, builds on past or existing ASEAN integration agreements, weaving them together into a more comprehensive and consistent liberalisation regime. Among these key frameworks are the 1992 ASEAN Free Trade Area (AFTA) agreement, which gradually reduced tariffs and non-tariff barriers according via the implementation of the Common External Preferential Tariff (CEPT), and the 1995 ASEAN Framework Agreement on Services (AFAS), which added 12 service sectors, including financial services, to the economic integration agenda. The richer ASEAN-6 (Singapore, Indonesia, Malaysia, Thailand, the Philippines and Brunei) have almost completely eliminated tariffs on imports from ASEAN partners while Cambodia, Laos, Myanmar and Vietnam now have an average tariff rate for imports from the region at just above 1 percent.

The 2007 AEC Blueprint identifies five priority service sectors to be liberalised by 2015: air transport, 'e-ASEAN' (including e-commerce and information infrastructure), healthcare, tourism and logistics. Restrictions on all four forms of trade in services will be lifted in those five sectors and foreign ownership caps are to be gradually raised to 70 percent.

The liberalisation of financial services, however, was left out of this list on the back of political sensitivities and the widely disparate levels of financial development and regulatory infrastructure. It was agreed that the liberalisation of the region's financial services sectors would be gradual, and would take into account national objectives and differing stages of economic and financial development. It was decided that the financial services liberalisation process would follow the 'ASEAN minus X' formula, which has been used to allow ASEAN countries ready and willing to liberalise to move ahead as a subgroup without being held back by others. Another important feature of the AEC financial services liberalisation is that the implementation deadline is extended to 2020 rather than 2015. This framework gives maximum flexibility to less developed markets to prepare their financial sectors and to join later.

Under the AEC Blueprint, ASEAN countries were given the option to indicate which of the insurance segments they were ready to commit to liberalise. Seven ASEAN member states have made commitments to partially liberalise market access to their insurance sectors by 2015. However, questions still remain on the exact modality and timing of liberalisation, and whether liberalisation should proceed on a bilateral or regional basis. Negotiations have often been difficult and complex. All this puts a question mark over whether the 2020 deadline will be met, and the liberalisation process is likely to move slowly into the next decade.

Figure 19: Insurance services subsectors included in AEC Blueprint for liberalisation in 2020

Insurance sub-sectors	Member countries committed to liberalisation
Direct life insurance	Indonesia, the Philippines
Direct non-life insurance	Brunei Darussalam, Cambodia, Indonesia, Malaysia, the Philippines, Singapore and Vietnam
Reinsurance and retrocession	Cambodia, Malaysia, Indonesia, the Philippines, Singapore and Vietnam
Insurance intermediation	Cambodia, Malaysia, Indonesia, the Philippines, Singapore and Vietnam
Services auxiliary to insurance	Brunei Darussalam, Cambodia, Indonesia, Malaysia, the Philippines, Singapore and Vietnam

Source: : Annex 1, ASEAN Economic Community Blueprint, the ASEAN Secretariat, 2008.

Given that only Thailand and Myanmar have foreign equity ownership caps lower than the 70 percent AEC benchmark, and that insurance companies are formally allowed to open branches or form joint ventures in any of the other ASEAN markets with the exception of Myanmar, the AEC is unlikely to significantly impact foreign establishment rights in the region. In the short term, the liberalisation of ASEAN insurance sectors is also unlikely to lead to greater freedom for insurance professionals to temporarily relocate to other countries within the ASEAN region. Differing qualification standards and languages have so far prevented mutual recognition arrangements and have impaired the cross-border activities of insurance agents. Restrictions on the movement of natural persons in insurance are unlikely to change. In principle, however, the AEC's integration of insurance markets should lead to the gradual liberalisation of the cross-border supply of insurance services, even if this is likely to happen on a bilateral basis and only cover 'simple' insurance products at first.

Nevertheless, the AEC process has given an important impetus to domestic reform, encouraging most individual ASEAN states to review their market access frameworks and to reflect in particular on the measures required to prepare domestic sectors to compete in the bigger regional and international markets. This has led to the implementation of a wide range of reforms across the region which, although not strictly related to the market access liberalisation process, are being carried to prepare local markets and regulatory frameworks for cross-border foreign competition. These reforms vary from gradual amendments to comprehensive overhauls of regulatory systems and investment regimes, in order to improve the stability and competitiveness of domestic insurance sectors and increase the attractiveness of their economies to foreign investment.

Most ASEAN countries have introduced, or are in the process of introducing, comprehensive changes to their insurance regulatory regimes. These reforms have in part been designed with the intention of increasing financial stability and improving the conditions of operations for insurance companies via more transparent and predictable regulatory processes. But they are also a means to mitigate the risk of regulatory arbitrage linked to cross-border market access liberalisation. Insurance regulation varies greatly across the region, especially with regards to licensing requirements, minimum capital/solvency requirements and foreign equity participation. Such reforms are an important first step towards a level playing field. They are expected to continue in the medium term, especially given that the transitions from solvency margin to risk-based capital regimes, which more developed jurisdictions have already undertaken, typically include long transition timeframes.

Figure 20: Recent developments in insurance regulation in ASEAN

	Recent and considered amendments to insurance regulation in ASEAN
Cambodia	In 2007, three regulations (prakas) amended the 2000 Insurance Law updating licensing, corporate governance and solvency requirements. Minimum solvency requirements were also increased and a 20% compulsory cession of each risk to state-owned Cambodia Re was introduced. In 2011, the Ministry of the Economy introduced new licensing and capital requirements for micro-insurance activities.
Indonesia	In 2014, a new insurance law replaced Indonesia's main insurance law, in place since 1992. In the 5 years to 2014, the 1992 law was amended by a series of regulations and decrees, which raised minimum capital requirements and introduced a series of changes to corporate governance and licensing requirements. Indonesia was the first ASEAN country to introduce risk-based capital regulation. In 2012, a new financial services "super" authority, the OJK, was created, with improved guidelines on transparency and predictability standards. The 2014 Insurance Law has further increased capital requirements and requires the separation between Islamic and conventional insurance activities into separate companies.
Laos	In February 2012, authorities published a new draft insurance law intended to replace the current 1990 Insurance Law. It foresees the creation of a dedicated insurance regulator – with new transparency and industry consultation guidelines - and a much awaited reform of prudential regulation, including changes to minimum solvency and capital requirements. The new law has not yet been implemented.
Malaysia	In 2013, authorities introduced the Financial Services Act and the Islamic Financial Services Act as the principal legislation regulating the Malaysian financial services sector. These two laws consolidate a large number of amendments to the previous 1996 Insurance Act and 1984 Takaful Act. The chief objective of these omnibus laws is to improve financial stability and consumer protection via new corporate governance guidelines and higher minimum prudential requirements.
Myanmar	In 2012, authorities issued 12 new licences to private insurance companies to open the sector to private participation. The government and the regulator are considering new measures to reform the country's prudential, consumer protection and prudential regulation in preparation for the liberalisation of insurance markets under AEC.
Philippines	In 2013, Manila implemented a wide range of amendments to the 1978 Insurance Code. These changes introduced significant changes to re-defined solvency requirements in order to bring Philippine prudential standards closer to international best practice. The new law also introduced a risk-based capital framework for insurance, increased the independence of the Insurance Commission and implemented new guidelines on transparency and predictability of insurance regulatory processes.
Singapore	In 2003, the Singaporean authorities introduced a risk-based capital framework for the insurance industry. The Monetary Authority of Singapore (MAS) has since introduced a number of measures increasing minimum capital requirements for insurers established in the country. In 2012 and 2014, MAS circulated two consultations in preparation for a reform of insurance prudential regulation – expected for January 2017 – which would bring the Singaporean regulatory framework closer to the European Solvency II regime.
Thailand	In March 2015, the new amendments to the 1992 Thai Life Insurance Act and the Thai Non-Life Insurance Act came into effect. The amendments have strengthened the independence and powers of the Office of the Insurance Commission (OIC) and markedly relaxed the conditions on which foreign investors may be granted authorisation by the OIC and the Ministry of Finance to own majority stakes in Thai insurance companies. The OIC – which has undergone significant changes to increase transparency and regulatory capacity – has introduced a range of measures increasing minimum capital and solvency requirements in the last 5 years.
Vietnam	Since the introduction of the current Insurance Business Law in 2000, Vietnam has implemented a large number of amendments to increase financial stability, consumer protection, and corporate governance and reduce the participation of the state in Vietnamese insurance markets. The authorities, however, are currently considering a comprehensive reform of the insurance industry, which would include a review of investment restrictions for insurers and the introduction of a risk-based capital framework.

ASEAN member states have also undertaken comprehensive reforms of their general investment regimes that are important for insurers. These have aimed to incorporate ASEAN guidelines – on investor protection, non-discrimination, and rights of recourse for foreign investors (now enshrined under the 2012 ASEAN Comprehensive Investment Agreement (ACIA) – into national investment laws. The ACIA agreement contains enhanced investor-state dispute settlement provisions to be incorporated into national investment laws. While the agreement does not explicitly cover the services sector, and therefore insurance services, it requires the introduction of important legal concepts and investor protection rights that could later be extended to the insurance industry. Although there is no immediate plan to expand the framework to insurance services, the implementation of the ACIA constitutes an important element of the market and legal infrastructure necessary for the eventual creation of a single ASEAN market for insurance.

The convergence of ASEAN investment regimes – at least in terms of basic investment protection rights – is also expected to foster a more predictable investment environment across the region. The growing inclusion of standardised definitions of investment that explicitly encompass covered and portfolio investments, is likely to allow insurers to better execute their asset-liability management and manage risk as capital regimes are liberalised across the region. A wider range of financial instruments would increase competition and effectiveness, and also push up returns.

This section examined the central role played by the insurance industry in economic and financial development and its contribution to social policy objectives in areas such as healthcare and post-retirement income. The section also discussed how foreign investment in insurance could help the development of a diversified and efficient domestic insurance industry, and outlined ASEAN's initiatives to integrate the region's insurance markets under the AEC. The next section looks at ASEAN's insurance market from a trade policy perspective, providing an overview of the main policy and regulatory barriers impacting market access, the conditions of operation in which third-country insurers operate in the region, and the direction of domestic insurance policy from a regional perspective.

2. **Policies:** trade policy issues for insurers in ASEAN by theme

Like all commercial services providers, third country insurers face a range of legal and regulatory restrictions limiting their ability to trade within and between ASEAN markets. These issues might be categorised under four broad headings, and are often grouped in this or similar ways in trade and investment agreements:

- **Conditions of market access,** covering the terms on which third country insurers can locate in, or sell into, an ASEAN market (modes 1 and 3), including permitted levels of foreign ownership and requirements on branching or local subsidiarisation for the establishment of commercial presence;

- **Conditions of market operation,** covering the way in which local regulation and supervision impact on third country insurers, and any other rules or regulations that directly or indirectly advantage local players over foreign ones;

- **Competition issues,** especially the way in which competition policy disciplines unfair practices that privilege local firms or state-backed actors;

- **Investment protection issues,** especially the rights of recourse available to third country firms in the face of unfair treatment and the extent to which they create a level playing field for local and foreign firms and protect the interests and assets of inward investors.

These barriers affect different types of insurers in different ways. For instance, restrictions on cross-border market access (mode 1) have a greater impact on foreign insurers specialising in MAT insurance and cover against large commercial risks than restrictions on commercial establishment (mode 3) since cover for these type of risks are traditionally supplied on a cross-border basis from highly developed insurance centres such as Tokyo and London. In contrast, general non-life and retail life insurance is usually supplied from local markets, making third country insurers more exposed to the conditions and terms under which third country insurers are permitted to establish and operate in local markets.

Beyond these strictly trade-related market access issues, it is commonly accepted that the ability of foreign insurers to service local consumers also depends on the wider regulatory and legal framework that underpins local insurance markets. For instance, given the capital intensive nature and long term cumulative liabilities of life insurance, the conditions under which third country suppliers operate in local markets – such as the protection of fundamental rights against expropriation without fair compensation or the existence of a body of laws ensuring a competitive level playing field between local and third country firms – is arguably as important as market access conditions.

The state of play of each of these areas – i.e. the general conditions of operation, levels of investment protection, non-discrimination and market access issues faced by third-country insurers – varies considerably across the ASEAN region. Differences in market access for foreign insurers reflect in part key national policy preferences and priorities such as a desire to consolidate and rationalise fragmented domestic insurance sectors. To a large extent they also mirror the period when countries joined the GATT and the WTO. Countries like Vietnam and Laos that joined the WTO in the 2000s when the global agenda for services liberalisation was more developed and EU and US pressure for access was at its height, tend to be more open. In contrast, those such as Myanmar or Thailand that joined the GATT prior to the 2000s have much greater legacy restrictions. As discussed in Section 1, ASEAN countries' GATS commitments generally fall short from national legislation on market access, which as a rule are left unbound in their GATS Schedule. With the exception of Vietnam, this is true for open insurance markets such as Singapore as well as for more protected ones such as Thailand.

The ASEAN region is no exception to the global tendency for financial services sectors to be relatively heavily regulated and relatively closed to third country competition. Different levels of financial and regulatory development result in equally varied conditions of market operation for third country insurers across the region. As elsewhere, most ASEAN regulators and policymakers are seeking to strike a balance between adequate and effective systems of prudential, consumer protection and conduct regulation and market access frameworks that encourage competition, consolidation and growing choice. These efforts are not only compatible with, but also necessary, to ensure financial stability of domestic and regional financial markets throughout the process of liberalisation of insurance markets in ASEAN. Nevertheless, national financial and investment regulatory frameworks in the ASEAN region often present restrictions and inefficiencies that unnecessarily increase the cost or even feasibility of international competition and trade, which in some cases can be counterproductive to the insurance market's development and stability.

Under the wider ASEAN economic integration project, most ASEAN member states have, or are in the process of, updating their competition and investment regimes. These initiatives include the establishment of competition authorities and comprehensive bodies of competition law to foster competitive level playing fields in domestic markets by limiting the market impact of restrictive business practices such as cartels, monopolies and unfair competition from state-owned enterprises (SOEs) as well as establishing effective competition authorities to enforce new laws. Similar reforms have been undertaken to make national investment regimes friendlier to foreign investors. Yet, as this section shows, the effectiveness of these competition and investment reforms, where they have been completed, has been varied, and much can still be – and is being – done to bring ASEAN conditions of market operation in line with international best practice.

Market access

Third country insurers and reinsurers face a wide range of barriers that partially or fully restrict their ability to trade services in ASEAN insurance markets. These typically take the form of equity caps on foreign ownership, requirements to operate in joint ventures with local companies, restrictions on the type of corporate structure permitted for establishing commercial presence – such as locally incorporated subsidiaries or branches – or limitations on their ability to provide cross-border insurance directly via the internet. Market access via commercial establishment or cross-border trade is also often conditioned on public interest or domestic availability tests and the need to be 'admitted' in local markets by national regulators through the obtaining of a licence.

Ownership caps and forms of commercial presence

Countries with highly competitive and developed insurance sectors such as Singapore and, to a lesser extent, Malaysia, and countries which either liberalised unilaterally in the late 1990s and early 2000s (such as Indonesia and the Philippines) or in the context of their WTO accession process (such as Vietnam) allow foreign insurers to own majority control stakes in their operations in their respective domestic markets. Cambodia, Laos, the Philippines, Singapore and Vietnam all have 100 percent foreign ownership caps in all insurance segments, while foreign insurers are permitted to own 80 percent of controlling shares in joint-ventures in Indonesia. In Malaysia, foreign investors can own 70 percent of locally incorporated publicly-listed subsidiaries, with stakes over 70 percent considered by the regulator on a case-by-case basis.

Thailand and Myanmar are the only ASEAN markets where foreign insurers' operations are in practice limited to minority stakes or barred from participation altogether. In Thailand, foreign insurers are only allowed to own 25 percent without special approval from the authorities. Stakes between 25-49 percent of equity require authorisation from the Office of the Insurance Commission (OIC) and above 49 percent from the Ministry of Finance. A new insurance law, expected to be implemented in late 2015, would raise foreign equity caps to 49 percent and relax the conditions under which foreign majority ownership would be permitted by the OIC and the Ministry of Finance upon recommendation from the OIC. The new insurance law which took effect in March 2015 has significantly relaxed the conditions under which foreign majority ownership is permitted by the OIC and the Ministry of Finance. In Myanmar, while foreign insurers are technically legally allowed to own up to 100 percent of a locally incorporated subsidiary, in practice the market remains closed to foreign competition.

Restrictions on the type of corporate structure required for the establishment of commercial presence in the insurance sector also vary across the ASEAN region. This reflects a mix of prudential policy and an instinctive desire to protect local incumbents. As in other jurisdictions globally, not least since the 2008/9 financial crisis, there is a general bias among ASEAN regulators to local incorporation and capitalisation over branching. While sometimes justified on prudential and financial stability grounds, these rules can also act as a check on foreign competition and a form of protection for the domestic industry. In Cambodia, Indonesia, Laos and Malaysia, foreign insurers seeking to obtain an operating licence must establish locally incorporated legal entities. In Indonesia, it is also stipulated that a foreign insurer must establish a joint venture with a local company, and Malaysia requires that all insurance companies must be publicly-listed locally. Vietnam has wider scope for branching, although only in general insurance, with life insurers required to be locally-incorporated companies. Foreign insurers are allowed to enter the market in Singapore, the Philippines and Thailand via the establishment of a branch, although in Thailand, foreign insurers are only allowed to own minority stakes in branch offices.

Cross-border trade in insurance

There is a clear regulatory bias across the ASEAN region to limitations on cross-border sales of insurance products, generally rooted in concerns about consumer protection and prudential stability. For this reason, cross-border market access in insurance services – and life insurance in particular –remains generally more restricted than trade through commercial establishment. These restrictions can take the form of outright prohibitions or strict local availability tests. Furthermore, only locally licensed ("admitted") foreign insurers tend to be permitted to provide cross-border insurance services.

Precise levels of restrictiveness also vary according to insurance subsectors – cross-border market access is usually more restricted in life and some non-life segments than in reinsurance. As a general rule, cross-border transactions by non-admitted insurers are only permitted under very limited circumstances, generally when the insured risk is located outside the domestic market – such as in the Philippines – or when the local market for a specific insurance service does not exist, such as in reinsurance, or in specific subsectors where local capacity is limited such as MAT insurance.

Cross-border sales conditions reflect local regulatory and political preferences and the timing and context of initial sectoral liberalisation. They range from outright across-the-board prohibitions – such as in Myanmar – to virtually full access to all insurance segments in Singapore, Vietnam and Laos. In Indonesia, cross-border provision is conditioned on domestic availability tests. Jakarta permits cross-border market access in reinsurance but not in life and health segments, although in practice the Indonesian Financial Services Authority tolerates cross-border purchases of personal insurance products. In Cambodia and the Philippines, cross-border is limited to reinsurance. In theory, with the exception of automobile insurance, cross-border provision in the life, non-life and reinsurance segments by admitted foreign insurers is permitted in Thailand. However, as in Malaysia, a moratorium on new licences imposed by the insurance regulator restricts cross-border market access to foreign insurers already permitted to operate in Thailand.

Key trends in market access in insurance services in the ASEAN region

- **While insurance has not been identified as one of the five priority services sectors to be fully liberalised by December 2015, the creation of the ASEAN Economic Community (AEC) has prompted liberalisation in ASEAN insurance markets.** ASEAN member states have agreed to progressive regional liberalisation of the sector under the flexible two-speed 'ASEAN minus X' formula and several countries identified various insurance subsectors in which they committed to fully liberalise cross-border trade and to apply a 70 percent foreign equity cap minimum. Although little progress has been achieved to date in dismantling barriers to insurance trade to meet the 2020 deadline, the prospect of establishing an ASEAN single market for insurance has spurred a run of insurance reforms across the region including in Malaysia (2013), the Philippines (2013), Indonesia (2014) and Thailand (expected for 2015). With the exception of Indonesia, these have reforms relaxed restrictions on foreign participation.

- **A wave of new insurance legislation in the region has been to a large extent designed to improve the competitiveness and consolidation of domestic insurance industries, improving conditions of operation and in many cases lessening opposition to greater foreign participation.** With the prospect of more regional competition, countries with highly fragmented insurance markets such as Thailand, the Philippines and, to a lesser extent, Indonesia and Malaysia have instituted policies incentivising industry rationalisation and consolidation, notably via greater openness to foreign investment. Regulatory authorities in Malaysia and Thailand have instituted a moratorium on the issuing of new licences and relaxed (both formal and informal) restrictions on foreign investment to accelerate industry consolidation. In Thailand, the need to consolidate the highly fragmented Thai insurance sector and, more importantly, the need to address high levels of industry insolvencies in the aftermath of the 2011 floods have led to a markedly easinged of restrictions on foreign majority ownership in the March 2015 new insurance law.

- **The easing of cross-border trade and commercial establishment restriction in the region will continue to be shaped by a desire in countries such as Singapore, Malaysia and Thailand to establish themselves as regional insurance hubs.** With a highly competitive and internationally-orientated insurance sector supported by a strong legal and regulatory framework, Singaporean authorities see the removal of cross-border trade restrictions in insurance in the ASEAN region as crucial for its desire to become a regional hub for large international and specialised insurers. Decision makers in Malaysia see the liberalisation of commercial establishment and cross-border market access as a necessary part of becoming the global and regional market leader in Islamic and Takaful insurance. The recent relative shift towards the liberalisation of the Thai insurance market is also in part driven by the desire to become a sub-regional insurance hub for regional and foreign insurers willing to service the Cambodian, Laotian and Myanmar markets on a cross-border basis. These policy shifts, however, are unlikely to be bound at the WTO or in free trade agreements with non-ASEAN countries.

- **While in principle the 2007 AEC Blueprint foresees the eventual full liberalisation of cross-border trade of insurance services within ASEAN, as in other international markets, there is currently a clear regulatory bias for locally incorporated establishment over branching, and for limitations on cross-border sales.** Precise rules vary across the region, but there is an institutionalised preference for locally incorporated commercial establishment over cross-border supply. Cross-border sales where they are permitted are typically subject to a mix of local licensing and local availability tests. These regulatory instincts generally reflect prudential and conduct concerns, but they can also in practice act as a check on external competition for local providers. However, in preparation for the integration of insurance markets under AEC, ASEAN member states are in the process of implementing a set of reforms to bring their micro and macro-prudential regulatory frameworks closer to best practice and reduce the scope for regulatory arbitrage, which will benefit both ASEAN and third country insurers operating in local markets.

- **Foreign insurers are in some cases able to operate in restricted ASEAN markets by establishing 'fronting' arrangements, but these have limited benefits for local markets and consumers, and are best seen as a transitional phase to genuine regional competition.** Fronting arrangements are contracts under which a local insurance company cedes a share of the risks and premiums to a foreign insurer for a fee. While prohibited in many markets – such as in Indonesia – and rarely encouraged, fronting arrangements are accepted practices in countries where the insurance sector remains underdeveloped such as Myanmar (through state-owned Myanma Insurance), Cambodia and Laos. However, in these markets, fronting arguably creates an additional strong incentive for incumbents to resist liberalisation, as it would undermine such rent-seeking arrangements.

- **How the creation of the ASEAN single market for insurance will impact the conditions of market access for third country insurers is uncertain.** ASEAN liberalisation commitments in insurance are built around the concept of an "ASEAN Insurer" – a definition of which still needs to be agreed by ASEAN countries' authorities. If it is decided that the term "ASEAN Insurer" refers to all insurance companies – including locally incorporated subsidiaries of non-ASEAN insurers – the benefits for foreign insurers would be considerable. For instance, European or American insurers would be able to offer services in the Indonesian market by acquiring or building an insurer in Singapore. However, if the "Ultimate Ownership" principle prevails, the benefits accruing to foreign insurers under AEC would be markedly lessened.

Figure 21: Issues of market access for third country insurers in ASEAN

	Limits on foreign ownership*	Establishment of commercial presence via branching permitted*	Cross-border market access permitted*
Cambodia	Foreign insurers are permitted to own 100% of locally incorporated subsidiaries.	No. Commercial presence must be established via a locally incorporated and capitalised subsidiary.	Not permitted for life and non-life segments. Permitted for non- admitted reinsurers - with a 20% ceding obligation to Cambodia Re - and for marine cargo risks. Fronting is permitted conditional on compliance with 20% mandatory cession to Cambodia Re.
Indonesia	Foreign insurers are permitted to own 80% of locally incorporated subsidiaries. Joint-venture requirement.	No. Commercial presence must be established via a locally incorporated subsidiary.	Yes, for admitted insurers and reinsurers conditional on domestic availability tests. In practice, permission for cross-border provision of marine cargo insurance is usually granted by the OJK or for personal insurance purchased via the internet. Since January 2015, insurers operating in Indonesia must place 25-100% of their risk coverage with domestic reinsurers. Fronting is not permitted, although may be permitted on a case by case basis conditional on domestic availability tests.
Laos	Foreign insurers are permitted to own 100% of locally incorporated subsidiaries.	Yes, the current law allows commercial establishment via branching. Under the new law (not yet implemented) commercial presence must be established via locally incorporated subsidiaries.	Yes, for admitted insurers and non-admitted reinsurers. Fronting is permitted.
Malaysia	Foreign insurers are permitted to own 70% of locally incorporated subsidiaries. Foreign ownership above 70% is considered on a case by case basis by the BNM. All insurance companies must be public listed companies.	No. Commercial presence must be established via a locally incorporated public company.	Yes, for admitted insurers and reinsurers conditional on domestic availability tests. Exceptions on cross-border provision by non-admitted insurers are made for non-Malaysian ships and aircraft, international cargo risks and personal accident contracts. Fronting is not prohibited but is discouraged by the BNM. It is tolerated for energy exposures, aviation covers, and other complex liability risks conditional on the mandatory 20% cession to Malaysia Re.
Myanmar	Technically, nothing in the current legislation precludes foreign licensed insurers to own 100% of locally incorporated subsidiaries. In practice, however, the market remains closed to foreign participation.	Technically, nothing in the current legislation precludes licensed foreign insurers to establish commercial presence via branching. In practice, however, the market remains closed to foreign participation.	No. Only insurers with a licence to operate in Myanmar are permitted to carry out transactions in the country. In practice, however, cross-border access is feasible via fronting contracts with Myanma Insurance.

	Limits on foreign ownership	Establishment of commercial presence via branching permitted	Cross-border market access permitted
Philippines	Foreign insurers are permitted to own 100% of locally incorporated subsidiaries.	Yes. Foreign insurers may establish commercial presence via branching.	Not permitted for life and non-life segments. Permitted for international marine cargo and reinsurance conditional on domestic availability tests. Fronting is not prohibited but is discouraged by the IC, and is conditional on the mandatory 10% cession to PhilNaRe.
Singapore	Foreign insurers are permitted to own 100% of locally incorporated subsidiaries.	Yes. Foreign insurers may establish commercial presence via branching.	Yes, for licensed insurers and for non-admitted insurers part of the Lloyds of London syndication or if they have been approached by the buyer.
Thailand	Foreign insurers are permitted to own 25% of locally incorporated subsidiaries. Foreign ownership between 25-49% requires authorisation from OIC and above 49% from both the OIC and the Ministry of Finance.	Yes, foreign insurers may establish commercial presence via branching under the condition of obtaining approval from the Ministry of Finance.	Yes, for authorised life and non-life foreign insurers (with the exception of automobile insurance) and for non-admitted reinsurers. No provision in the law prohibits the purchase of insurance policies from non-authorised insurers, with the exception of compulsory motor insurance. This is generally viewed as meaning that buyers may purchase policies from insurers abroad provided that no local intermediaries are involved in the transaction. However, the OIC discourage the placement of risks with non-authorised insurers and little commercial placement of risk with non-admitted insurers due to regulatory burden. Nothing in the law prohibits fronting, although the OIC discourage 100% fronting, in practice requiring a cession to Thai Re of at least 0.5%
Vietnam	Foreign insurers are permitted to own 100% of locally incorporated subsidiaries.	Foreign life insurers must establish commercial presence via locally incorporated subsidiaries. General insurers are permitted to establish commercial presence via branching.	Yes, for admitted insurers and reinsurers. Cross-border provision of life and health insurance by non-authorised insurers is prohibited, but permitted for non-life insurance conditional on domestic availability tests, or if on the buyer be a majority owned foreign corporation, that the foreign insurer be established in a country with which Vietnam has signed an international trade agreement and that the transaction takes place via an authorised broker in Vietnam.

* MFN market access to foreign insurers as reflected in domestic legislation whether bound or not bound in WTO GATS schedules.

Conditions of operation

Despite a significant overhaul in the last decade of financial services regulatory infrastructure in the ASEAN region, as a general rule, regulatory environments and processes still remain opaque and unpredictable compared to best practice. Generally, trade-related constraints on conditions of operation take the form of limitations to the ability to temporarily transfer staff into local business units from abroad and nationality or residence requirements for upper management and board-level directors. The unpredictability of regulatory environments and processes can be particularly challenging for the insurance industry – and life insurers in particular – given its capital-intensive nature and long term cumulative liabilities. Put together, these constraints on conditions of operation can work as a check on the scale of third country insurers' operations by increasing operational costs and reducing profitability relative to local providers.

Several ASEAN countries also maintain a range of restrictions which, although not strictly barriers to third country investment, impair the conditions in which third country insurers operate. Among the restrictions most often cited by third country firms both from the ASEAN region and outside it are in-country data storage and processing requirements that can create duplication of costly storage facilities and disproportionately affect third country insurers. Regulations restricting the range of assets insurers are allowed to invest in can also undermine insurers' ability to manage risk efficiently and effectively and – by extension – their overall financial stability.

Regulatory transparency, consistency and predictability

Cambodia, Laos and Myanmar have the lowest regulatory capacity in insurance among ASEAN countries. These countries are still in the process of creating dedicated insurance regulators and effective insurance regulatory regimes. In Myanmar, the Insurance Business Regulatory Board (IBRB) remains institutionally close to the country's biggest insurer, Myanma Insurance, whose managing and general directors also head the IBRB – although Myanma Insurance itself operates outside the IBRB's reach. In Laos, the insurance sector is loosely supervised by the Ministry of Finance, although no specific department is directly responsible for it.

Malaysia's Bank Negara Malaysia (BNM) and the Monetary Authority of Singapore (MAS) remain the most respected and effective insurance regulators in the region. A 2013 World Bank and IMF assessment of the region's insurance regulatory authorities characterised both MAS and the BNM's regulatory processes as achieving a relatively high degree of transparency, consistency and predictability. The BNM was – and is – also singled out for the quality and technical competence of its staff, the comprehensiveness of its regulatory guidance, and the quality and effectiveness of its supervision.

Both the Philippines' Insurance Commission (IC) and Indonesia's Financial Services Authority (OJK) have achieved remarkable progress in improving the predictability, transparency and consistency of regulatory processes in recent years. However, stakeholder consultation is also widely cited as an area where these regulators are beginning to develop better practice after a number of years of sometimes opaque conduct. Regulatory capacity also remains a policy concern in the Philippines, where the IC has been stretched in supervising and enforcing insurance regulation, such as the ban on cross-border provision of personal insurance products. There are also some reports of improvements in the past practice of unofficial pressure on third country insurers from the OJK in particular – often in the form of 'advice' – on issues such as repatriation of profits or advertising and marketing without clear or transparent justification.

Thailand's Office of Insurance Commission has also undergone a striking transformation in the last few years. The OIC has reviewed several of its regulatory process benchmarks and has implemented a comprehensive hiring programme to attract qualified staff with technical expertise. However, while the transparency and predictability of regulatory processes have improved markedly, it still remains below best practice in the region.

Temporary transfer of staff from abroad and nationality and residence restrictions on senior management

While arguably not a major barrier to third country investment, restrictions on the ability to temporarily transfer staff to local business units impacts the operating conditions of third country insurance companies, particularly in less developed markets where skilled local staff can be scarce. While all ASEAN countries require third country companies to seek authorisation for temporary staff transfers from abroad, the predictability of the process and the stringency of criteria companies are required to meet to be granted authorisation – such as domestic market availability tests and other bureaucratic hurdles – varies considerably across the region.

In Indonesia, the Philippines and Vietnam, third country insurers willing to temporarily transfer staff to local business units from abroad must prove that a local alternative is not available in the domestic market. Authorities in Cambodia and Thailand restrict these transfers by annual labour market-wide quotas. In the case of Thailand, these are also linked to the amount of registered capital of the third country company. At one level, the political and policy motivation for these restrictions is understandable: the desire to ensure that sophisticated financial skills are transferred into the local workforce. However, staff mobility restrictions are a blunt instrument that can limit the effectiveness of operations.

Adding to the uncertainty of the process, the criteria under which national authorities assess staff transfer requests is not always clear. In the case of Cambodia and Malaysia, national authorities are not required to justify a transfer denial. Many ASEAN regulators also impose nationality or residence requirements on the board of directors of third country insurers. Indonesia, the Philippines and Thailand maintain legal nationality requirements on the members of Boards of Directors, while Indonesia, Malaysia and Singapore impose residency restrictions.

In-country storage and processing of customer data

In-country storage and processing of customer data is becoming an increasingly sensitive issue in the ASEAN region as it is in other markets globally. The sensitivity of the data stored by insurers raises inherent policy concerns about data protection and the degree of liability insurers should incur in case of data privacy breaches. While Malaysia is so far the only country in the region requiring in-country customer data storage, this sets an important – and potentially problematic - precedent for third country insurers in the region. Vietnam's recent draft decree on the same issue could markedly raise the regulatory burden and unnecessary duplication costs related to data processing for insurance companies in the region.

Investment restrictions

Many ASEAN countries, particularly the less developed ones, maintain strict guidelines restricting the investment options of insurers. In Vietnam, Decree 46 restricts investment by insurance companies to government bonds, corporate bonds and equity, real estate developments or direct lending to corporations. In Laos, Article 95 of the new Insurance Law, which is not yet implemented, restricts insurers' investments to cash deposits in Laotian banks, government bonds, corporate bonds and equities, direct loans to corporates and real estate. It is worth noting however that given that the stock market has only been operating since 2011 and only two companies are listed, the investment options for insurers in Laos remain in practice very limited. Insurers face similar investment restrictions in Cambodia.

Key trends in conditions of operations for third country insurers in the ASEAN region

- **Even in advance of full regional liberalisation, and despite the fact the lack of progress in implementing liberalisation targets for 2020, the positioning for future regional insurance hub status has already begun and effective regulation is central to this.** One of the most fruitful imperatives created by the prospect of cross-border competition and regional integration in insurance has been the need for individual markets to aim to design regulatory systems that equip their insurance markets for foreign competition and for regional hub status. While the position of Singapore as the primary regional hub for specialist insurance and reinsurance is unlikely to be threatened by the eventual integration of ASEAN insurance markets, Malaysia and, to a lesser extent, Thailand are also vying to become regional and sub-regional hubs in their own right. The clear regulatory process benchmarks included in the Malaysian 2013 Financial Services Act and the Islamic Financial Services Act further reinforces Malaysia's lead as a regional hub for Islam-compliant (takaful) insurance. The recent reforms of Thailand's insurance regulator and the 2015 insurance law expected also support the authorities' intention to transform the country in a sub-regional insurance hub for companies servicing the Laotian, Cambodian and eventually Myanmar markets on a cross-border basis.

- **The gradual move towards creating an ASEAN single market for insurance has been a key driver of regulatory reform in the last decade, markedly improving the transparency, consistency and predictability of regulatory processes across the region.** The drive for greater intra-regional regulatory compatibility has inherently pushed regulators towards greater transparency, and the global debate on stricter capital and risk requirements has been a clear benchmark for rule-makers. Under the guidance of national authorities, the ASEAN Secretariat has been working on the creation of new protocols for bilateral consultations on regulatory processes, and more uniform approaches to regulatory reviews and impact assessments across the region. These reforms have come to be seen as key prerequisites for the liberalisation of domestic insurance markets, while at the same time setting a much clearer single benchmark for the region.

- **Although consistently cited as a problem for third country insurers, restrictions on the temporary movement of people are unlikely to be relaxed in the short and medium term in ASEAN.** At the heart of this policy choice is a concern about domestic skill levels and building sophisticated capacity in their domestic labour pool through skills transfer from third country to local staff. In the region, only Brunei and Singapore have committed to liberalise temporary movement of insurance professionals under the ASEAN Framework Agreement on Services. Virtually all ASEAN countries are likely to oppose relaxing domestic availability tests, or improving the predictability and transparency of authorisation processes. Indonesia, the Philippines, Thailand and Vietnam all see these measures as key incentives for third country insurers to provide training for local staff, which is seen as key in the development of their respective domestic insurance markets.

Figure 22: Restrictions of operation for third country insurers in ASEAN

	Restrictions on temporary transfer of staff from abroad	Other restrictions
Cambodia	The temporary transfer of staff into local business units from abroad is restricted by annual labour market wide quotas. Authorities are not required to justify a denial to an application to temporarily transfer third country staff in-country.	75% of reserve funds must be invested in country. Limited investment options for third country insurers stipulated by law.
Indonesia	Temporary transfer of staff from abroad into local business units conditional on domestic availability tests and conditioned on training of domestic alternatives to substitute third country staff. Nationality and residence requirements on the composition of boards of directors.	Overseas investments may not exceed 20% of total investments. Investments in derivatives are only allowed for hedging purposes.
Laos	Temporary transfer of staff from abroad into local business units conditional on domestic availability tests and conditioned on training of domestic alternatives to substitute third country staff.	Limited investment options for third country insurers stipulated by law.
Malaysia	Authorities are not required to justify a denial to an application to temporarily transfer third country staff in-country. Residence requirement on the composition of boards of directors.	In-country data storage and processing requirements
Myanmar	Not permitted	Not permitted
Philippines	Temporary transfer of staff from abroad into local business units conditional on domestic availability tests.	
Singapore	Residence requirements on the composition of boards of directors.	
Thailand	Nationality and residence requirements on the composition of boards of directors. Temporary transfer of staff from abroad into local business units restricted by annual quotas linked to the company's registered capital.	Insurance premium rates regulated by the OIC.
Vietnam	Temporary transfer of staff from abroad into local business units restricted by annual labour market wide quotas.	Limited investment options for third country insurers stipulated by law. Recent draft decree on data processing and storage could to increase regulatory burden.

Competition policy

Despite the progress achieved in the last ten years, competition policy and law remains at its infancy in several ASEAN countries. Third country investors in the region continue to face unfair competition resulting from business collusions, cartels and SOEs benefiting from preferential regulatory treatment or explicit or implicit state subsidies. Where they exist, competition authorities in the region are often underfunded, vulnerable to political influence and sometimes lack clear guideline rules on commercial confidentiality during investigations.

The establishment of an effective competition authority and body of law

To date, only Indonesia, Malaysia, Singapore, Thailand and Vietnam have established both dedicated competition authorities and a significant body of competition law. Of these, Singapore, Indonesia and, to a lesser extent, Malaysia have well established competition systems, which forbid anti-competitive business collusions such as cartels – with both civil and criminal sanctions in the case of Indonesia and Malaysia – and clear guidelines on merger controls. Competition authorities from these countries have also been very active in their investigations in the last decade in a wide range of economic sectors. Other ASEAN member states have weaker competition regimes, or have yet to create effective competition authorities and bodies of competition law.

While Thailand and Vietnam have implemented a complete competition policy framework, the effectiveness of their competition systems remains below best practice. The Thai Trade Competition Commission (TCC) was established by the 1999 Thai Competition Act and is chaired by the Minister of Commerce, but few cases have been reported and investigated by the TCC since its establishment. Vietnam's competition law prohibits anti-competitive business collusions such as cartels, abuse of dominant/monopoly positions and provides guidelines on merger controls. The law also prohibits state agencies from performing activities considered to undermine market competition, including discriminating between companies or allowing for anti-competitive practices in specific sectors. However, the law does not cover state monopolies and public utility sectors and does not include disciplines on state subsidies. Furthermore, it appears that the Vietnamese authorities often refrain from enforcing some provisions of the Competition Law due to insufficient information and resources.

The Philippines established the Office for Competition in 2011, but does not yet have a single body of competition law. Instead, Manila adopts a sectoral approach to competition policy, with over 30 different competition-related elements in industry specific and consumer welfare laws. In Laos, the 2004 Decree on Trade Competition provides for the creation of a body of competition law and the establishment of a competition authority – the Trade Competition Commission within the Ministry of Industry of Commerce – but the decree has not yet been implemented. A reform proposal is expected to be voted by the National Assembly Conference this year that would amend the decree ahead of a renewed push for implementation. Currently, relevant ministries are responsible for issuing notices to address "disruptive anti-competitive behaviour" in specific sectors of the economy.

Cambodia and Myanmar have no comprehensive competition authorities or bodies of law in place. In Cambodia, a 2012 proposal that foresees the creation of a competition body of law and the establishment of a single competition authority also has not yet been implemented. Myanmar's draft regulation on Competition has yet to be approved by the Parliament.

Key Trends in competition policy in ASEAN

- **The emergence of comprehensive sets of competition policy and laws throughout the ASEAN region has been driven to a large extent by the ASEAN Economic Community project.** The objective of transforming ASEAN into "a highly competitive single market and production base" fully integrated in the global economy – stated in the 2007 AEC Blueprint – provided the scope for establishment of the ASEAN Experts Groups on Competition (AEGC). Drawing on member states experiences and international best practice in competition policy, in 2012 the AEGC completed a comprehensive set of Guidelines on Developing Core Competencies in competition policy for ASEAN. These guidelines – which focus on institution building, enforcement and advocacy – have been used by competition authorities in the region to reform and strengthen the quality of domestic competition laws and the effectiveness of enforcement of competition agencies.

- **Despite these common guidelines, competition policy across ASEAN differs greatly both in terms of substance and practice.** These differences reflect the varied levels of economic development in the region, but also disparate economic structures, the role of the state in the economy and strengths and weakness in the domestic technical expertise needed to design, implement and enforce competition policy. In Vietnam, large parts of the economy controlled by politically-influential SOEs fall outside the scope of competition law and policy. Only large and already competitive markets such as Singapore, Indonesia and Malaysia have successfully established effective competition authorities and body of laws.

- **Much like the rest of the ASEAN economic integration process, improvements to competition policy will be gradual and at different implementation speeds.** Competition policy will remain under the control of ASEAN Member States, which are very likely to continue, either officially or unofficially, to carve out economic sectors or activities according to the structure of their economies and the level of development of their markets.

Figure 23: Competition framework in insurance in ASEAN

	Established competition authority	Effective competition body of law	Anti-competitive agreements, abuse of dominant position, merger control and main exemptions
Cambodia	No. Creation planned in the draft National Competition law.	Draft law, not yet implemented.	Last version of draft law does not prohibit anti-competitive mergers. SMEs whose profits are exempt from taxation are exempted from the law.
Indonesia	Komisi Pengawas Persaingan Usaha (KPPU).	Law No. 5/1999 concerning the Prohibition of Monopolistic Practices and Unfair Competition.	Article 51 exempts the establishment of monopoly or concentration by SOEs under public interest objectives.
Laos	The Ministry of Industry and Commerce – Division on Consumer Protection and Competition.	New competition law expected to be submitted to National Assembly in 2015.	n.a.
Malaysia	Malaysia Competition Commission.	Competition Act 2010.	No prohibition against anticompetitive mergers. The law does not apply to energy and telecom sectors.
Myanmar	No	No. Law in drafting	n.a.
Philippines	Department of Justice – Office for Competition.	No. Competition law is spread over 30 laws and sector-specific regulations.	Some activities carried out by cooperatives fall outside the scope of competition laws as well as some segments of the energy sector.
Singapore	Competition Commission of Singapore (CCS).	Competition Act (revised in 2006).	Government activities, telecom, media, energy, airport services are exempted.
Thailand	The Trade Competition Commission	Competition Act (1999)	Competition issues in the telecom sector are under the responsibility of the National Telecom Commission are exempted from the disciplines of the Competition Act
Vietnam	The Vietnam Competition Authority and the Vietnam Competition Council.	The Law on Competition (2005).	SOEs, supply of public goods and SMEs are exempted from the Law on Competition.

Investment protection and rights of recourse

Third country investors face different degrees of investment protection and rights of recourse in the ASEAN region and operate in investment climates not always reflecting rights in theory guaranteed by national investment laws. For instance, investment protection is often diluted by slow and politicised judicial systems, weak transposition of international investment protection commitments into national laws, and undependable enforcement of national laws by local courts. Access to investor-state dispute settlement tribunals also vary significantly across the region, and, while on paper, most ASEAN countries allow repatriation of capital and profits, some official and unofficial barriers remain in many countries.

Non-discrimination

While ASEAN countries have made good progress increasing the protection against unfair expropriation without fair compensation and discrimination, these protections are not always grouped under a single statute applied to both domestic and foreign investment and, in many cases, fall short of international best practice. Only Malaysia, Thailand and Myanmar have not incorporated the principle of national treatment into their investment laws. In all other ASEAN states, it is integral to national investment laws or national constitutions, with the notable exception in some cases of land use and ownership. In Malaysia, foreign investor rights are treated in sectoral regulations, which give the authorities maximum flexibility in the pursuit of industrial policy, but also increase uncertainty in the operations of third country companies. In Myanmar, protection against discrimination is included in the Constitution, but only applies to Myanmar citizens.

Protections against expropriation

As a general rule, the principle of protection against expropriation without fair compensation is well integrated in all investment regimes in the region. However, in countries like Indonesia, Laos and Vietnam, improvements could be made to clarify provisions on compensation procedure guidelines and legal stability. The Indonesian 2007 Investment Law, for instance, provides that the government cannot undertake measures to nationalise or expropriate property unless such actions are stipulated by statute. The law also ensures that in such cases, compensation must be based on the market value of the asset prior to the announcement of the expropriation. Nevertheless, the law does not cover the procedural aspects of compensation such as timing, leaving them to be determined by international treaties where they exist.

While Vietnam's 2005 Investment Law improved considerably the rights of third country investors against unfair expropriation without fair compensation and due process, improvements could still be made by clarifying the rights and procedures of compensation in case of future changes to the investment law. Yet, despite these shortcomings, the 2005 Investment Law is still considered a model of progressive strengthening and harmonisation of its investment regime and should be seen as a model for countries such as Myanmar.

Laos's investment regime is relatively well regarded in terms of the protections granted against expropriation without fair compensation, covering government seizures, nationalisation or confiscation. Nonetheless, the compensation mechanism in case of expropriation provides that third country and domestic investors shall be compensated with the actual prevailing price of the asset "at the time of the transfer," while international best practice dictates that compensation should be made at market value of the asset before the expropriation decision is announced.

Repatriation of profits and capital

At least on paper, most ASEAN countries allow the repatriation of capital and profits by third country investors. However, some official and unofficial barriers remain in many countries. In Malaysia and Thailand, controls of third country currency remittances restrict the ability of third country investors to repatriate assets and profits. While in theory third country investors in Myanmar have the right to repatriate profits and assets, in practice they must seek special permission from the Myanmar Foreign Exchange Management Department. Furthermore, third country investors often face unofficial pressures from authorities, not to exercise their rights to repatriate capital and dividends. In Indonesia, despite legal freedoms, the OJK has been known to issue clear "advice" to third country financial services companies on this issue.

Right of recourse

Access and fair treatment by domestic courts remain far from assured in ASEAN and the ease with which foreign investors can avail themselves of investor-state arbitration mechanisms varies significantly across the region. Foreign investors cannot bring an investment case before an ICSID tribunal in Laos, Myanmar and Thailand – the latter having signed but not ratified the Washington Convention giving access to ICSID tribunals – and must pursue recourse through local court proceedings or domestic arbitration where they exist. In contrast, foreign investors in Malaysia and Singapore enjoy generally strong rights of recourse against expropriation without fair compensation, especially via commercial arbitration courts. While domestic legal proceedings in Malaysia can be protracted, it has become, alongside Singapore, an internationally recognised jurisdiction which encourages the resolution of investor-state dispute via arbitration courts.

Indonesia and Vietnam have also made progress in clarifying the circumstances and the process through which third country and domestic investors can challenge decisions by the authorities in domestic courts and international arbitration panels. In Vietnam, however, these mechanisms have been undermined by weak transposition of commitments in international agreements into local laws – notably as to the exact definition of a "foreign invested company." This lack of precision has seen local authorities and courts deny third country companies rights in principle assured by Vietnam's international commitments.

Trends in investment protection and rights of recourse

- **In the last three decades, ASEAN countries have all undertaken partial or comprehensive reforms replacing divergent domestic and inward investment regimes with unified investment laws.** Indonesia and less-developed ASEAN countries such as Laos, Cambodia and Vietnam – which are transitioning to market-based economic systems – have all replaced older investment regimes that differentiated between domestic and foreign actors with comprehensive investment laws covering both domestic and third country investments. Most of the region's investment regimes now include national treatment clauses – with the notable exception of Myanmar, Malaysia and Thailand. These clauses guarantee, at least on paper, that foreign investors will not be discriminated against relative to domestic actors in administrative decisions.

- **Behind this shift is a marked move from state-led industrial and economic development strategies towards export-driven growth strategies dependent on inward FDI and integration of domestic economies into global supply chains.** This is particularly true for Cambodia, Laos, Vietnam, and to a lesser extent Myanmar, where the lack of established consumer goods manufacturing has placed heavy emphasis on the need for foreign investment. This has emphasised the practical and symbolic importance of sound investment regimes. In contrast, countries with relatively mature industrial bases such as Malaysia, Thailand, the Philippines and Indonesia, while improving property protection provisions, have maintained weaker non-discrimination and national treatment provisions. In Indonesia, discrimination against foreign investors in government policy emerges periodically in economic-nationalist political instincts, such as the stipulation that foreign controlled insurance companies hold three times the minimum reserves required of Indonesian-owned insurers. In all three cases weak legal provisions on national treatment are intended to ensure maximum political flexibility in industrial policy.

- **From a regional integration standpoint, the 2012 ASEAN Comprehensive Investment Agreement (ACIA) will be the chief driver of investment policy in the region.** ACIA requires that ASEAN member states incorporate core principles of investment protection, national treatment principles and rights of recourse – including investor-state dispute settlement provisions –into domestic investment laws. ACIA also requires that, where necessary, member states amend national investment laws to ensure that definitions of "investment" encompass indirect and portfolio investments. These reforms are to be implemented on variable timeframes, with longer windows of implementation and flexibility for less-developed ASEAN countries and some scope to accommodate industrial policy objectives. The ongoing integration of ACIA into national laws is expected to contribute to more predictable investment environments and legal and judicial frameworks, which could eventually be extended to financial services sectors via bilateral or plurilateral trade negotiations, or through the expansion of the scope of ACIA itself.

- **Rights of recourse ensuring efficient, fair and equitable treatment by courts remains a key concern for third country investors in the region.** Most ASEAN member states have now – to varying degrees – incorporated into national investment laws the right of recourse by third country investors to international investor-state dispute settlement (ISDS) tribunals, such as ICSID or UNCITRAL. All ASEAN countries have also ratified the 1958 New York Convention on the Recognition and Enforcement of Third Country Arbitral Awards, which provides the legal framework for enforcement of ICSID decisions, although neither Laos, Myanmar or Vietnam are members of ICSID and Thailand has signed but not ratified it. Under ACIA obligations, ASEAN member states will very likely move to clarify domestic mediation provisions and improve transposition of internationally agreed ISDS clauses into domestic laws in the coming years.

Figure 24: Investment regime for third country investors in ASEAN

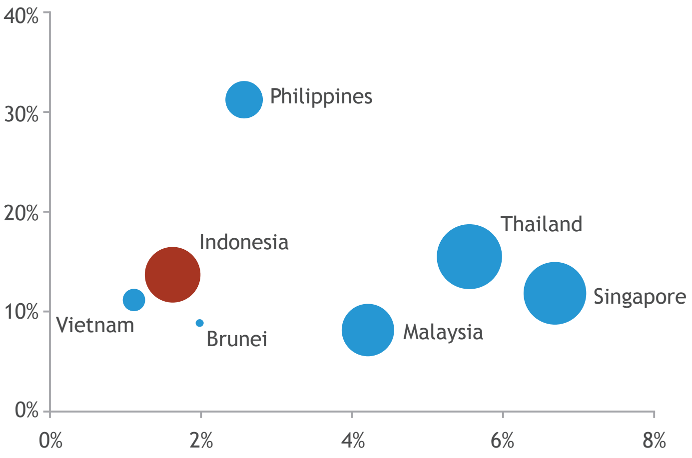
	National treatment assured by law	Protection against expropriation	Right of recourse to investment arbitration assured by law	Repatriation of capital and profits assured by law
Cambodia	Yes, except land.	Yes.	Yes. Member of the ICSID and New York Conventions.	Yes.
Indonesia	Yes.	Yes.	Yes. Member of the ICSID and New York Convention.	Yes.
Laos	Yes.	Yes.	No. Not a member of ICSD.	Yes.
Malaysia	No.	Yes.	Yes. Member of the ICSID and New York Convention.	Yes. But restrictions on third country currency remittances apply.
Myanmar	No.	Partial.	Unclear. Not a member of ICSID. Adhered to NY Convention.	Yes. In practice, however, special authorisation of the Third country Exchange Management Department is needed.
Philippines	Yes.	Yes.	Yes. Member of the ICSID and New York Convention.	Yes. Regulatory approval may be needed in specific circumstances.
Singapore	Yes.	Yes.	Yes. Member of the ICSID and New York Convention.	Yes.
Thailand	No.	Partial.	Yes. Signed but hasn't ratified ICSID and New York Convention.	Yes. But restrictions on third country currency remittances apply.
Vietnam	Yes.	Yes.	Yes. Not a member of ICSID.	Yes.

3. **Markets:** trade policy issues for insurers in ASEAN by country

Indonesia

Insurance market performance

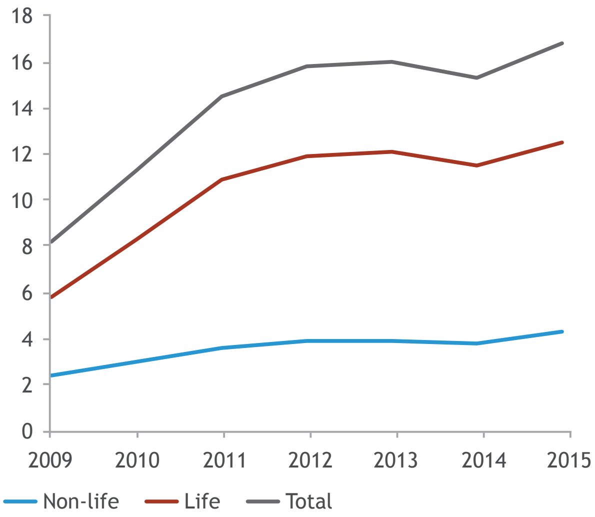
Total premium growth, av. 2009-2014



Note: bubble size indicates total premiums (USD bn)

Total premiums

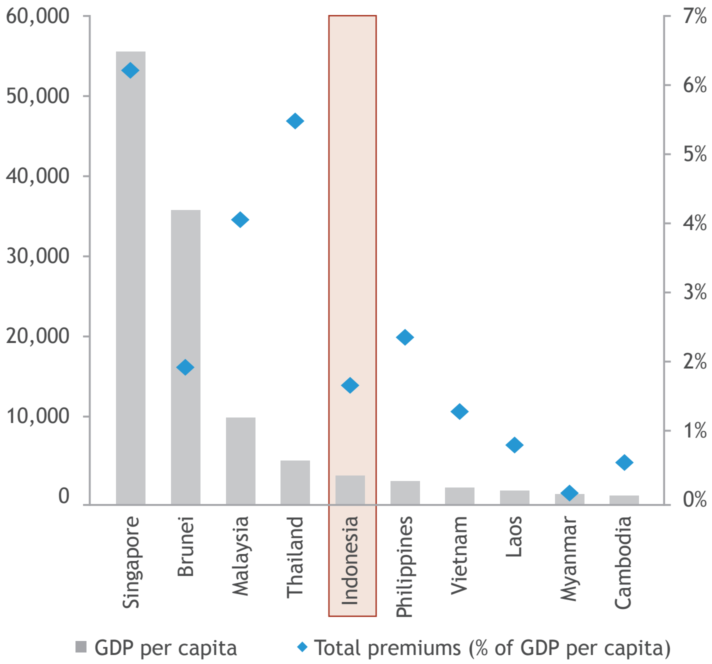
USD bn



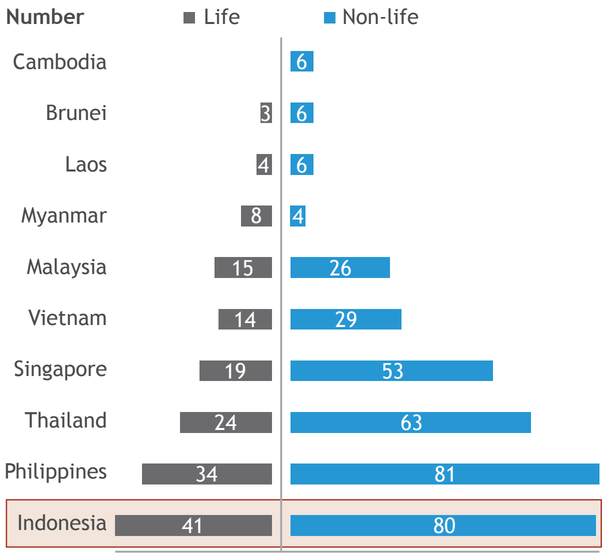
Note: 2015 data is assumed forecast

GDP per capita and premium spending

USD and % of GDP per capita



Market players



Since 2004, the Indonesian insurance industry has seen rapid expansion and diversification. Like many other countries in ASEAN, penetration of the insurance market in Indonesia is low and is only expected to expand marginally, from 1.7 percent of GDP in 2014 to 1.9 percent in 2015. Total premium per capita is below average for the region at USD 60.8 in 2014 against USD 127.4 for ASEAN as a whole, although this is skewed by Singapore's very high insurance concentration. The life sub-sector, accounting for just under 80 percent of total insurance premiums, is characterised by relatively high levels of foreign penetration, with six of the top 10 insurers in the segment being foreign controlled joint-ventures.

Insurance Regulator: Otoritas Jasa Keuangan (OJK)

Indonesia trade policy issues for firms and policymakers

- Indonesia conditions cross-border supply of life, non-life and reinsurance on domestic availability tests.
- The Indonesian authorities are reportedly considering reducing the foreign equity cap from 80 percent to 49 percent for life insurers.
- Foreign insurers are forbidden from establishing commercial presence via branches, and must apply for an insurance operating licence via locally-incorporated joint ventures.
- Foreign insurance companies' joint ventures are required to maintain IDR 15bn in paid-up capital, while local insurance firms are only required to hold IDR 3bn.

Key trends in Indonesian insurance policymaking

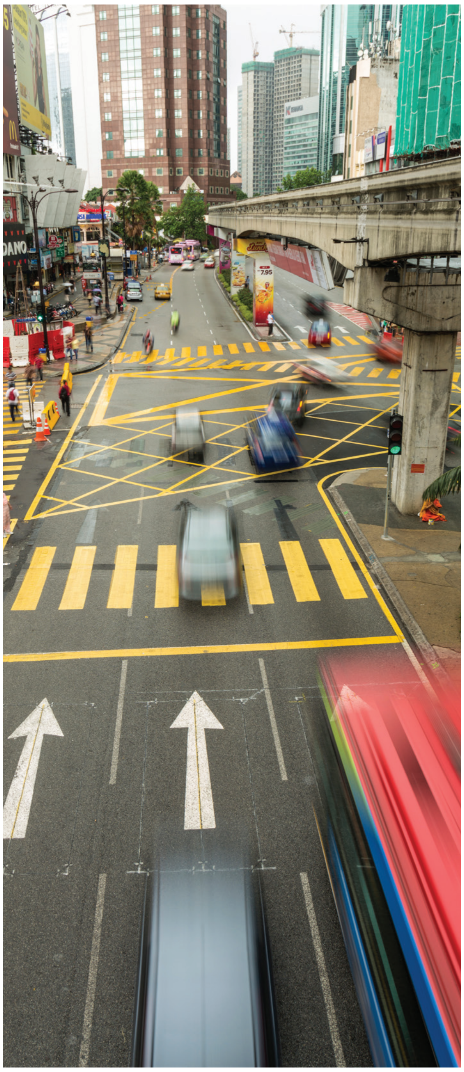
- **The last couple of years have seen trade and economic policymaking grow increasingly domestically-focused in Indonesia.** After two decades of relatively liberal trade and economic policy – resulting from Indonesia's commitments during the 1986-94 Uruguay Round of multilateral trade negotiations and from its engagements under the post-Asian Financial Crisis IMF rescue package – Jakarta's more traditional policy instincts for local production and ownership have gradually re-emerged as the key driver of industrial policy. A 2013 draft banking bill proposed to retroactively reduce Indonesia's 100 percent foreign equity caps in the banking sector to 40 percent. While the bill was dropped by the 2010-14 legislature due to "lack of time," the current legislature is considering introducing a new draft banking bill with similar reductions to foreign equity caps. In insurance, the authorities are also reportedly considering lowering the foreign equity caps from 80 percent to 49 percent, although no details have yet been made public. The authorities maintain that these policy proposals are intended to level the competitive level playing field in ASEAN, arguing that Indonesian financial institutions are currently put at a competitive disadvantage in ASEAN by Indonesia's more liberal market access regime.

- **Although the Indonesian insurance sector is relatively open to foreign competition by ASEAN standards, the current inward-looking policy trend could result in the gradual deterioration of market access conditions in the near future.** Foreign insurers are currently allowed to own up to 80 percent of locally incorporated subsidiaries on condition that these are established as joint ventures with an Indonesian legal entity. To obtain an operating licence, however, foreign insurers are required to maintain paid-up capital reserves five times higher than domestic insurers by the Indonesian Financial Services Authority (OJK). Cross-border provision of insurance and reinsurance by licensed foreign insurers is also conditioned on domestic availability tests – although direct purchase of personal insurance from non-admitted insurers via the internet is currently tolerated by the OJK. Foreign insurers also face conditions on their ability to temporarily transfer staff in local business units from abroad, such as proving that a local alternative is not available and commitments to providing training for local staff so that Indonesians can eventually replace the expatriated employee. While Jakarta's insurance sector commitments under the AEC – which cover all insurance services except for the life segment – could in theory markedly improve cross-border access for licensed ASEAN-based insurers, there are doubts that the current Indonesian administration will follow up on their commitments in the short to medium term.

- **An intensification of regulatory activism in insurance in Indonesia in the last decade has led to marked changes to prudential regulation, regulatory process and supervision and market structure.** Many of these measures have sought to increase sectoral stability via higher minimum capital requirements and improve the overall conditions of operations in which domestic and foreign insurers operate in Indonesia via the establishment of a new dedicated and more effective and transparent regulator (OJK) in 2013. However, despite a clear trajectory towards greater transparency and predictability, there are still some signs of an older practice of informal and sometimes unpredictable regulatory pressure.

- **Since its creation in 2013, the OJK has taken various measures to consolidate the presence of Indonesians in the domestic market.** A notable example is the introduction of the New Insurance Law in September 2014, which restricts the overall position of foreigners in an insurance firm's shareholding by closing the scope for foreign insurers to bypass the 80 percent foreign equity cap via a dual-layer PMA structure. In December 2014, the OJK proposed that insurance companies place up to 100 percent of their business for covers such as motor, life, health, personal accident, surety, credit and cargo, with domestic reinsurers. This suggests that policymakers envisage a more limited role for foreign firms in the future development of Indonesia's insurance market, and are strongly focused on greater knowledge and skills transfer to support local firms. Regulators may however find themselves constrained to be pragmatic given the already large presence of foreign capital in the market and the relatively weaker skills base in many purely local firms.

- **As in other ASEAN countries, however, the authorities drive to consolidate and rationalise the insurance sector is likely to boost foreign participation in Indonesian insurance markets.** With over 120 insurance companies in 2013, 79 of which are operating in the non-life segment, the Indonesian insurance market remains relatively crowded. The high fragmentation of the non-life insurance sector and its exposure to recurrent natural catastrophes has serious implications for both its profitability and its solvency. In preparation for the integration of ASEAN insurance markets under the AEC, the Indonesian authorities have introduced a number of measures increasing minimum risk-based capital requirements to boost sectoral stability and overall solvency. To increase industry rationalisation, new legislation implemented in October 2014 requires the separation of sharia-compliant and non-compliant insurance activities into separate companies. The recent increases in minimum risk-based capital are expected to further boost M&A activity and increase foreign participation in the Indonesian market, given the relatively weaker solvency position of Indonesian non-life insurers.



Key issue: building a domestic coalition for reform and the implementation of the AEC agenda

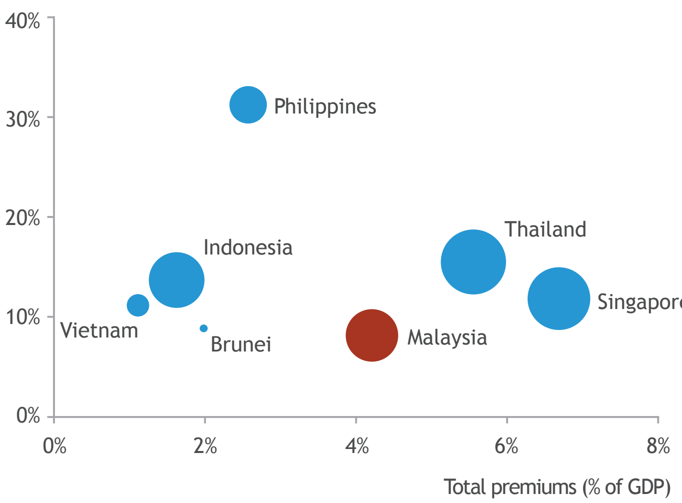
The politically difficult position of President Joko Widodo's governing coalition in the Indonesian parliament presents a practical challenge for the implementation of his government's economic policy agenda and Indonesia's AEC commitments on market access in insurance. Since assuming the presidency in January 2015, President Widodo has worked at rallying support for his comprehensive economic reform agenda in the parliament, where his governing coalition is in minority. Unlike previous Indonesian presidents, Widodo is not the leader of his party and his political position within his own Indonesian Democratic Party of Struggle (PDI-P) has further weakened his ability to dictate a clear agenda in the face of internal party disagreement.

While it is assumed that the Widodo administration in principle favours the full implementation of Indonesia's AEC commitments on insurance liberalisation, the weakness of the governing coalition in the parliament is likely to slow down implementation. The president's own PDI-P is divided on the merits of further liberalisation of the insurance sector and the party sends mixed messages about it intentions. This division reflects in part a belief among Indonesian policymakers that the Indonesian insurance sector is relatively open when compared to other ASEAN markets, and that further relaxation of foreign equity caps would further decrease Jakarta's leverage in future regional negotiations. This reticence to liberalise is however also political, since local insurers - and their supporters in politics - remain by and large unconvinced of the merits of greater foreign participation.

Malaysia

Insurance market performance

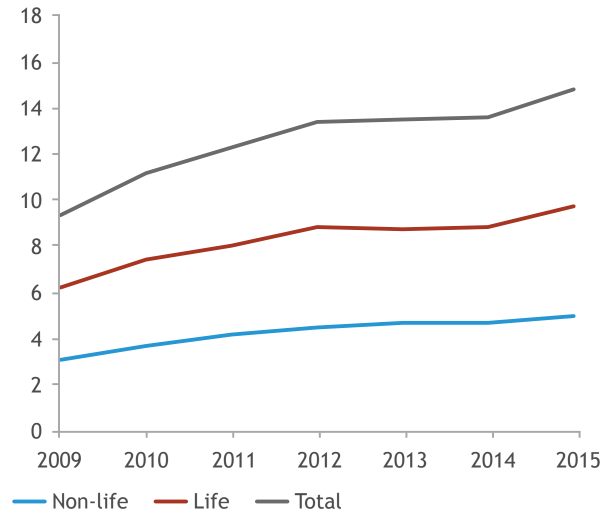
Total premium growth, av. 2009-2014



Note: bubble size indicates total premiums (USD bn)

Total premiums

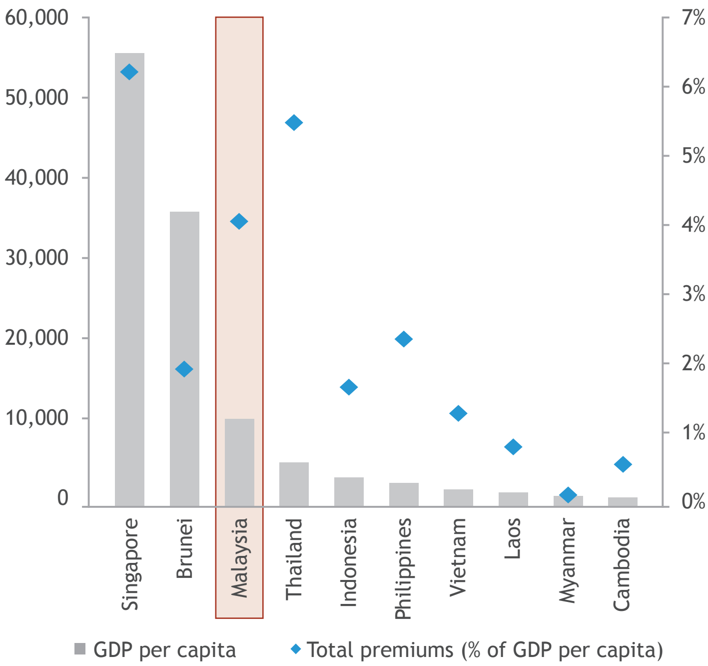
USD bn



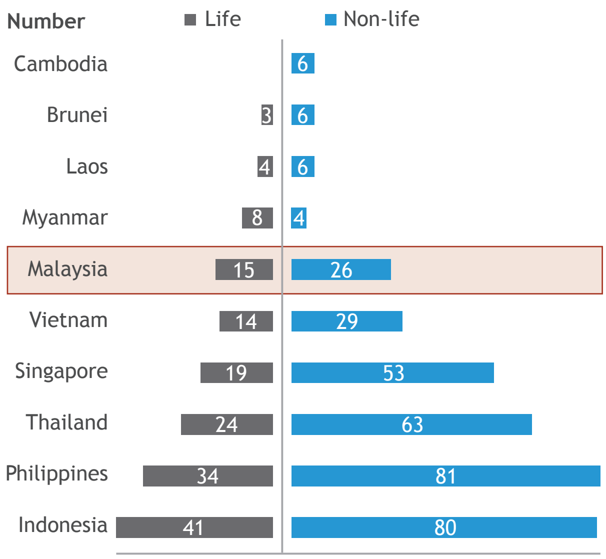
Note: 2015 data is assumed forecast

GDP per capita and premium spending

USD and % of GDP per capita



Market players



The Malaysian insurance market is competitive and diversified, and is rapidly emerging as a global centre for Islamic (takaful) insurance products. The market remains relatively overcrowded, particularly in the non-life segment, with 26 non-life and 15 life insurance companies in 2012-13. Malaysia has the third highest degree of market penetration in the region – with total premium as a share of GDP reaching 4.1 percent in 2014 and expected to grow to 4.5 percent in 2015 - and the third highest insurance concentration per capita in the region, at USD 446.10 per head in 2014.This is forecast to grow to USD 477.60 in 2015. While the performance of the Malaysian insurance market has been strong in the last five year by Western developed market standards, total premium growth remained below the ASEAN average.

Insurance Regulator: Bank Negara Malaysia (BNM)

Malaysia trade policy issues for firms and policymakers

- Foreign ownership is limited to 70 percent of locally-incorporated insurers.
- Foreign insurers are required to do more than 50 percent of their reinsurance business in Malaysia, and have 5 percent cession and local retention.
- Cross-border trade is conditioned on domestic market availability tests.
- The 'national treatment' principle has not been incorporated in Malaysian investment laws.
- Malaysia is currently the only country in the region requiring in-country data storage.

Key trends in Malaysian insurance policymaking

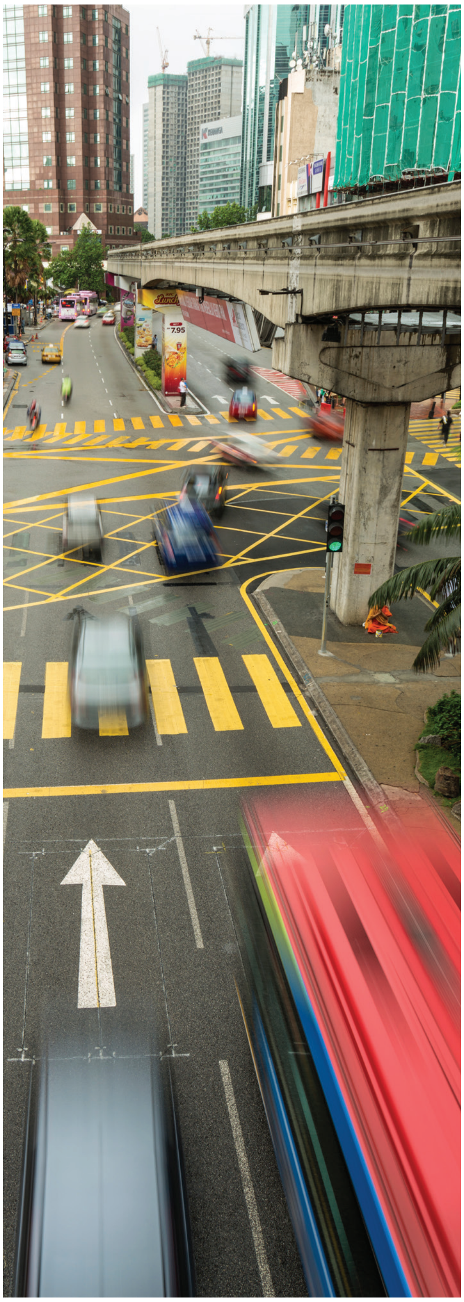
- **The development of the financial services and Islamic financial services industry lies at the heart of the Malaysian government's economic growth strategy.** Although the government's 2016-2020 Eleventh Malaysia Plan published in June 2015 has a much weaker sectoral focus on insurance than its predecessor - centring instead on wider economic themes such as productivity, skills, poverty alleviation and green growth - financial services remains implicit in many of the broader aims, including the development and diversity of capital markets subsectors such as private equity and venture capital, Islamic banking and stable long term investment. Rapid expansion of the economy, growing income levels and an ageing population have so far boosted premium income growth, including from takaful Islamic funds, to reach 7 percent in 2013. 2014 also saw substantial growth of the takaful insurance sub-segment by 9.9 percent, with this sector now accounting for 8.4 percent of total insurance assets in Malaysia.

- **Like much of Malaysia's trade policy, market access liberalisation in the insurance sector remains largely a function of industrial policy and the market remains somewhat restrictive for foreign entrants.** A change to the law on foreign ownership in 2009 raised foreigners' equity holdings from 49 percent to 70 percent of locally-incorporated insurers, with stakes over 70 percent considered by BNM on a case-by-case basis to determine if they contribute to 'consolidation and rationalisation' of the industry. However, the establishment of commercial presence via branches of foreign incorporated insurers remains prohibited and cross-border transactions subject to domestic availability tests across all three insurance segments. In the takaful segment, foreign investors are only permitted to own 49 percent of joint ventures, in an attempt to ensure the development of the domestic players.

- **Alongside these industrial policy programs, Malaysian insurance policymaking has to a great extent been targeted at boosting industry consolidation and rationalisation, notably via policy incentives to foreign acquisitions of weak local insurers.** While declining in recent years, the fragmentation of the Malaysian non-life insurance sector remains a concern for the regulator. As in Thailand, the BNM has introduced a general moratorium on the issuing of new insurance and Islamic insurance licences – although exceptions have been made on a number of new Islamic licences – to force companies wishing to enter the Malaysian market to acquire weaker local insurers and thus contribute to industry consolidation. In a push to improve industry rationalisation, the Financial Services Act 2013 (FSA) and Islamic Financial Services Act (IFSA) 2013 require composite insurers and takaful operators to relinquish their composite licences and split their life/family and general businesses into different entities over a five-year period. This will likely drive consolidation further, building on the existing flurry of merger and acquisition activity.

- **The current shortage of qualified insurance professionals remains a key concern for Malaysian policymakers and is an important challenge for industry development and to the relaxation of restrictions on foreign insurer's ability to temporarily transfer staff into local operations from abroad.** BNM estimates the financial sector needs an additional workforce of 56,000 by 2020 to fulfil human skills demands in critical areas such as risk management, wealth management, and Islamic finance and investment advisory services. The Malaysian government is aware of the country's vast human capital needs, having allocated approximately USD 18bn in various schemes to support development in this area in its 2014 Budget. However, some of the existing restrictions on foreign businesses and their staff will deter foreign investors from deploying the expertise the Malaysian authorities say is needed. These include BNM's ability to deny applications to temporarily transfer staff without justification, residence requirements on board directors, the need to inform the regulator of any material outsourcing arrangement and the requirement to maintain customer data storage in country.

- **In the next five years, the government intends to introduce a compulsory national health insurance system, "1 Care", the rollout of which will create opportunities for both domestic and foreign insurers.** The scheme is to be managed by the National Health Financing unit, which is part of the Ministry of Health. Participation in the scheme will be mandatory for all Malaysians, and it will be funded by contributions from employees, employers and the government. Complementary to this, the regulator has recommended further measures to allow the insurance industry to support the healthcare sector asking the insurance and takaful industries to offer more sophisticated medical and health insurance products, including the provision of long-term care benefits such as assisted living and hospice care. The regulator sees a place for 'strategic alliances' between domestic insurance companies and foreign financial institutions with specialised expertise in medical and health insurance and takaful to enable this development.



Key issue: the regional takaful market

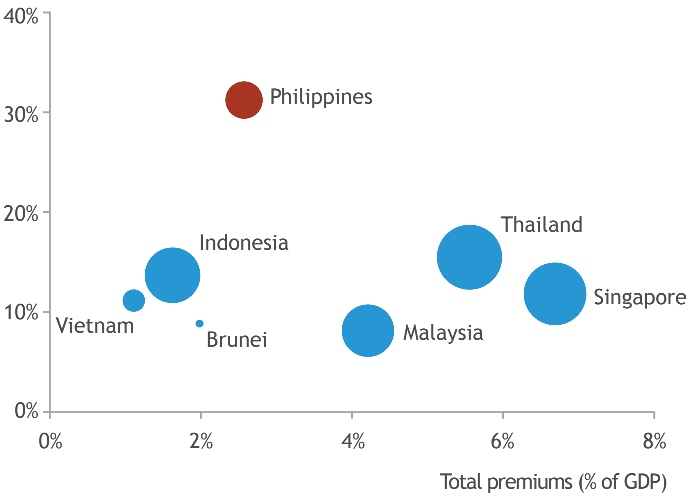
Kuala Lumpur's overarching financial services policy objective is to transform the country into the world's primary Islamic finance hub, initially through regional dominance in ASEAN. To achieve this objective, however, Malaysia will face fierce competition from Saudi Arabia, Dubai and Bahrain. Saudi Arabia's Tadawul stock market hosts the world's largest Islamic banks, but Bursa Malaysia has the largest and most liquid market for trading sukuk bonds. Iran also boasts a strong market, with the largest share of banking, takaful and fund assets in 2011 according to some sources, but faces restrictions due to international sanctions and differing interpretations of sharia principles. In 2014, the UK also threw its hat in the ring, announcing its ambition to become a global centre for the industry. The only sub-sector in which Malaysia currently dominates is the family takaful market, emerging in 2013 as the world's largest family takaful insurance market. This established position, as well as having an effective and well-regarded regulator that provides clarity to operators, should support Malaysia's ability to consolidate its role in this sub-sector, but a question hangs over its ability to compete with rival Islamic finance hubs in other areas.

To meet this objective, the Malaysian government is seeking to turn the island of Labuan's offshore market into the global international Islamic finance centre. To incentivise market development, the authorities hope to work with both local and foreign insurers to develop 're-takaful' services to expand and diversify the domestic offer of takaful products. Malaysian authorities are planning to give re-takaful operators greater flexibility to set up branches and subsidiaries than ordinary insurers, and the option to conduct business in international currencies. The BNM also wants to boost the role of the Labuan International Business and Financial Centre – a special economic zone of the Malaysian government – in priority sectors, such as insurance and reinsurance. Islamic banks and takaful insurers regulated by the Labuan Financial Services Authority are given flexibility to open offices anywhere in Malaysia, and granted a tax exemption for international currency Islamic finance businesses.

Philippines

Insurance market performance

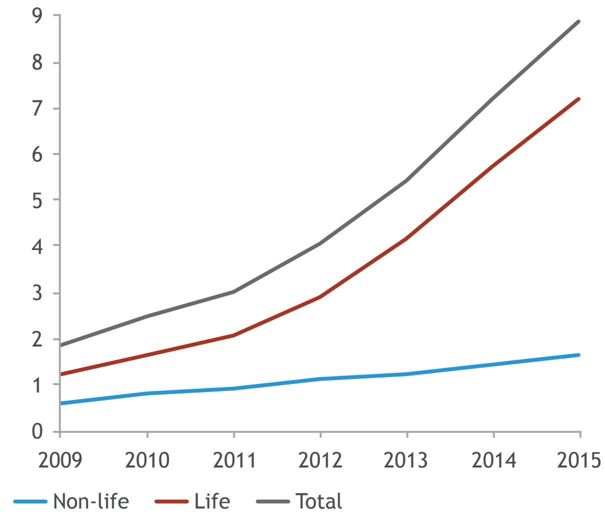
Total premium growth, av. 2009-2014



Note: bubble size indicates total premiums (USD bn)

Total premiums

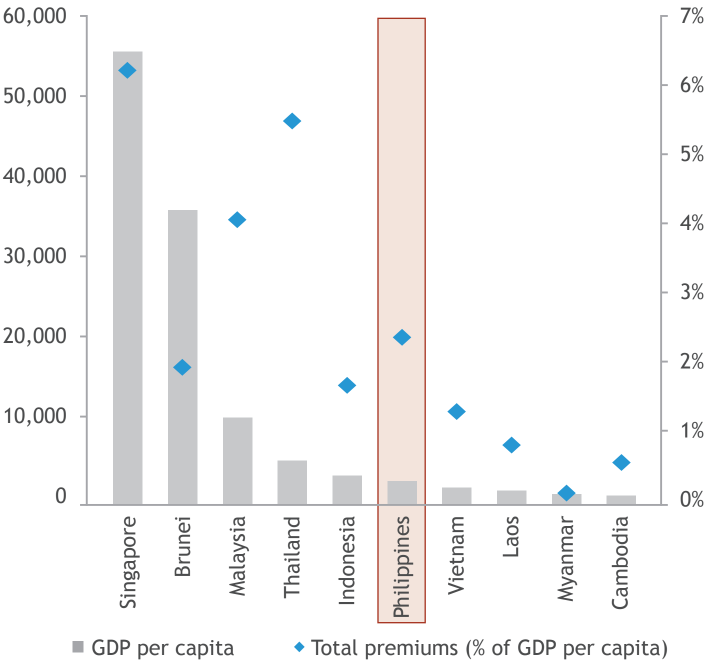
USD bn



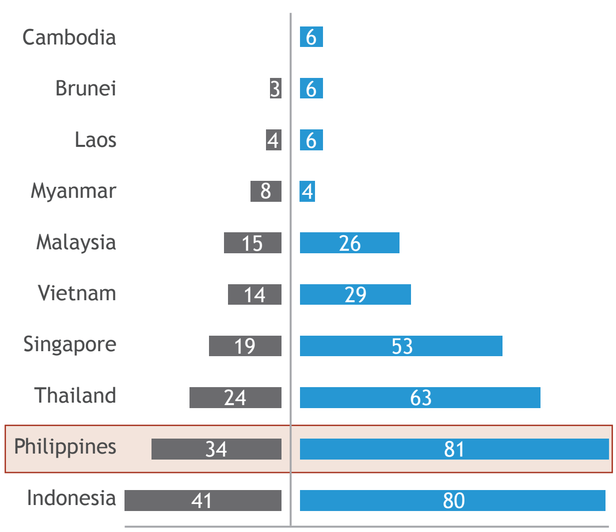
Note: 2015 data is assumed forecast

GDP per capita and premium spending

USD and % of GDP per capita



Market players



The Philippines is one of the smallest markets for life insurance in South East Asia, with low penetration rates but high growth rates in recent years. It is a highly fragmented market with a strong presence of foreign firms and no limits on foreign equity ownership. Market share is however concentrated in the top five and top 10.

Insurance Regulator: Philippine Insurance Commission (IC)

Philippines trade policy issues for firms and policymakers

- While in practice insurers are allowed to own 100 percent of locally incorporated subsidiaries and branches, the 1987 Philippine Constitution restricts property ownership by foreigners to 40 percent. This creates uncertainty regarding foreign insurers' protection rights against expropriation without fair compensation.
- Cross-border trade in insurance services is not permitted for life and non-life insurance and conditional on local availability tests for reinsurance.
- State-owned insurer Government Services Insurance Services (GSIS) has a monopoly of all government-related insurance business.
- The majority of the members of an insurer's board of directors must be residents of the Philippines.
- The temporary transfer of staff from abroad to local business units is conditional on domestic availability tests.

Key trends in Philippine insurance policymaking

- **Perhaps more than in other ASEAN-6 capitals, the authorities in Manila are strongly aware that fulfilling the objectives on insurance liberalisation in the AEC will require significant changes to insurance legislation and practice.** This includes new regulations to dismantle current barriers to insurance trade and boost the consolidation and competitiveness of the highly fragmented Philippine insurance industry. In the context of the AEC process, the Philippines, like Indonesia, has committed to partially liberalise all direct insurance subsectors: life and non-life, reinsurance and retrocessions, insurance intermediation and services auxiliary to insurance. The last decade has seen phased increases to minimum capital requirements (2006-2011), the introduction of risk-based capital prudential regulations (2007), the implementation of amendments to the Philippine Insurance Code (2013) and a set of additions to the list of compulsory insurance. Manila is also reportedly considering the implementation of a comprehensive economy-wide competition law to update and replace the current 30-odd sector competition-related laws and regulations. The preparation of the domestic market to greater integration of ASEAN insurance markets under the AEC will continue as the key driver of policy in the foreseeable future.

- **In 2013, Manila introduced a set of long-awaited amendments to the 30-year old Insurance Code which considerably improved the conditions of operation for both domestic and foreign insurers.** The Republic Act No 10607 foresees the introduction of IFRS accounting standards in the industry and included further phased increases to minimum capital requirements, which are set to increase every three years between 2016 and 2022. The Act also increased the independence of the Insurance Commission, by establishing a fixed six-year term for the Commissioner and granting the regulator greater financial independence. While there is evidence that the IC's lack of resources and capacity still weigh on the effectiveness of regulatory enforcement, these changes are nevertheless expected to increase the predictability and impartiality of the regulator and regulatory process.

- **The 2013 reform of the Insurance Code built on a decade of rule changes designed to increase the sector's financial stability and boost industry consolidation and is expected to further drive up foreign participation in the Philippine insurance market.** Compared to other big ASEAN economies, the Philippine insurance market remains small and highly fragmented, with over 80 non-life and over 30 life insurance companies. Between 2006 and 2013, authorities introduced measures requiring significant phased increases in minimum capital and requirements for statutory net worth for insurers and reinsurers. The regulator also implemented new risk-based capital regulations which considerably increased compliance costs for foreign and domestic insurers alike. These cost increases have served as a key disincentive to new market entrants and led to a rise in M&A activity which the Insurance Commission hopes will drive greater industry consolidation. Some local industry experts expect the minimum capital increases included in the 2013 reform to reduce the total number of insurance companies operating in the country by between 15 to 25 companies.

- **Under the AEC's current insurance liberalisation framework, Manila's commitments on insurance will nevertheless still require substantial changes to the current regulatory framework - meaning more pressure on the market.** To fulfil its commitments, Manila will have to amend the current restrictions to cross-border provision of life and non-life insurance and may have to review the monopoly of GSIS in government-related insurance business. The liberalisation of cross-border market access to ASEAN insurers will also increase the pressure on the government to review a range of regulatory irritants that impact on industry competitiveness.

Manila is likely to undertake a reform of insurance taxation in the next few years in order to simplify and reduce the high tax burden imposed on local insurers compared to other ASEAN insurance markets – a reform which is strongly supported by the regulator. If the enhanced regional market access rights resulting from the AEC market integration process are extended to ASEAN subsidiaries of third country insurers, these reforms have the potential of markedly improving the conditions for foreign insurers.

- **The view of the AEC liberalisation process as a driver of domestic regulatory improvement and reform of the GSIS monopoly remains the key factor underpinning local industry support for regional insurance market integration in the Philippines.** While high fragmentation and low competitiveness might in theory suggest opposition to liberalisation, local insurers traditionally link their lack of competitiveness to domestic regulatory and fiscal burdens and the GSIS monopoly on government-related insurance business. The role of GSIS is unique – and incongruous - in the ASEAN-6, having a monopoly on all government insurance business in the Philippines. It remains uncertain whether the reform dynamic triggered by the AEC process will see the GSIS monopoly dismantled, but such a move would have strong support from the domestic sector.

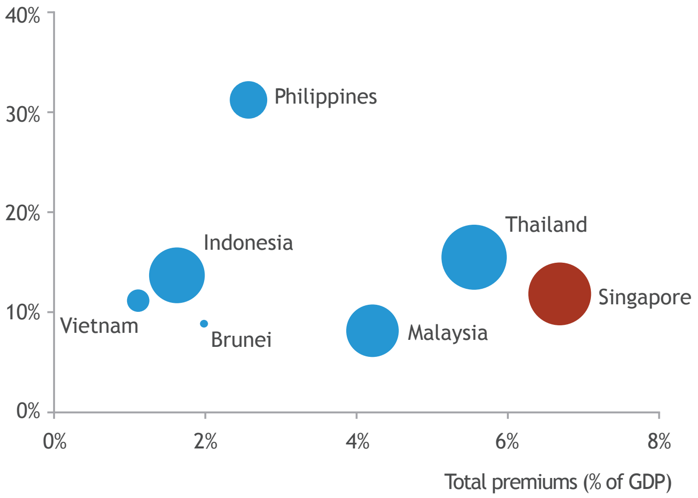
Key issue: Personality-driven politics and the 2016 presidential election

The 2016 Presidential elections have the potential to markedly change the economic and insurance policy direction in the Philippines. With power to set the economic policy agenda overwhelmingly concentrated in the Office of the President, Manila's recent drive to reform and liberalise its insurance sector stems to a large extent from President Benigno Aquino's generally favourable view of economic and trade liberalisation, including at the ASEAN level. The future of insurance policy therefore hinges to an important degree on the economic policy orientations of the next president and whether he or she will bring the same personal commitment to integrating the Philippines into regional and global markets. With the elections still a year off, it is hard to predict Manila's general policy direction post-2016. With politics in the Philippines strongly driven by personalities over opposing ideologies, the current lead contender and vice-president of opposition party United Nationalist Alliance, Jejomar "Jojo" Cabauatan Binay, Sr. is probably the most likely to continue Aquino's pro-liberalisation and pro-reform agenda. However, Binay's campaign has encountered problems and candidates less favourable to the current administration's economic and trade liberalisation agenda could emerge.

Singapore

Insurance market performance

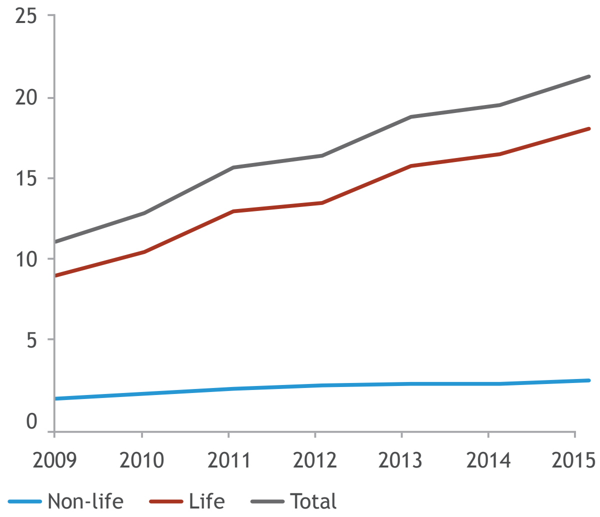
Total premium growth, av. 2009-2014



Note: bubble size indicates total premiums (USD bn)

Total premiums

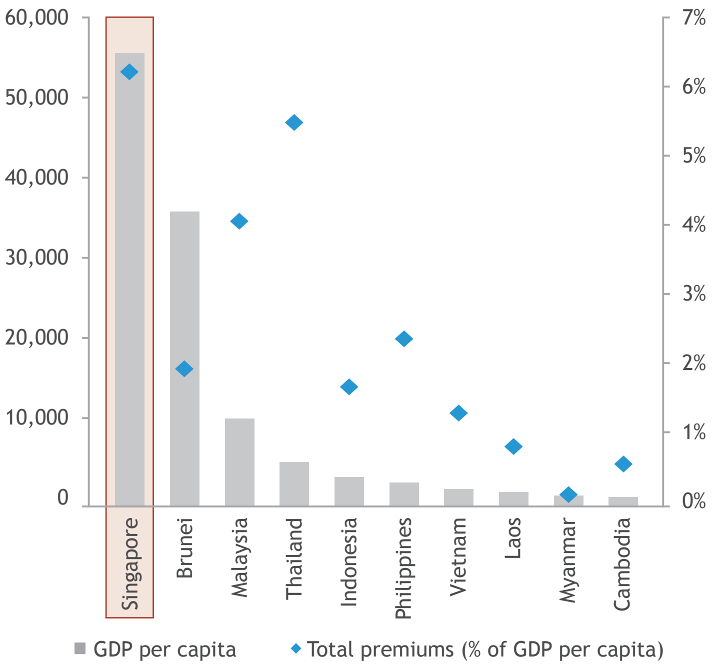
USD bn



Note: 2015 data is assumed forecast

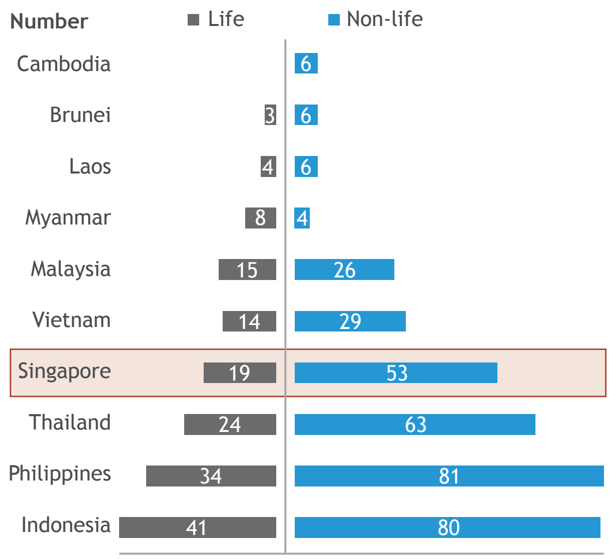
GDP per capita and premium spending

USD and % of GDP per capita



Market players

Number



Singapore is a mature insurance market with multiple providers and some recent consolidation between locally-licensed insurers, but no recent new entrants. It is the region's second biggest market by total premiums after Thailand. Total premiums per capita are far higher in Singapore than in any other country in ASEAN, at USD 3546 in 2014 and expected to rise to USD 3820 in 2015. Market share is highly concentrated in the top five (76.7 percent) and top 10 (95.9 percent) in the life sector, and also dominated, although not as heavily, by the largest firms in non-life. This includes a wide range of foreign players across both sub-sectors.

Insurance Regulator: Monetary Authority of Singapore

Singapore trade policy issues for firms and policymakers

- Market access commitments in Singapore's EU and US FTAs remain unbound and vulnerable to policy changes.
- Under the investment chapter of the EU-Singapore FTA, foreign investors have no right of appeal in decisions reached in ISDS tribunals. The EU's current proposals on ISDS may yet see this revisited.

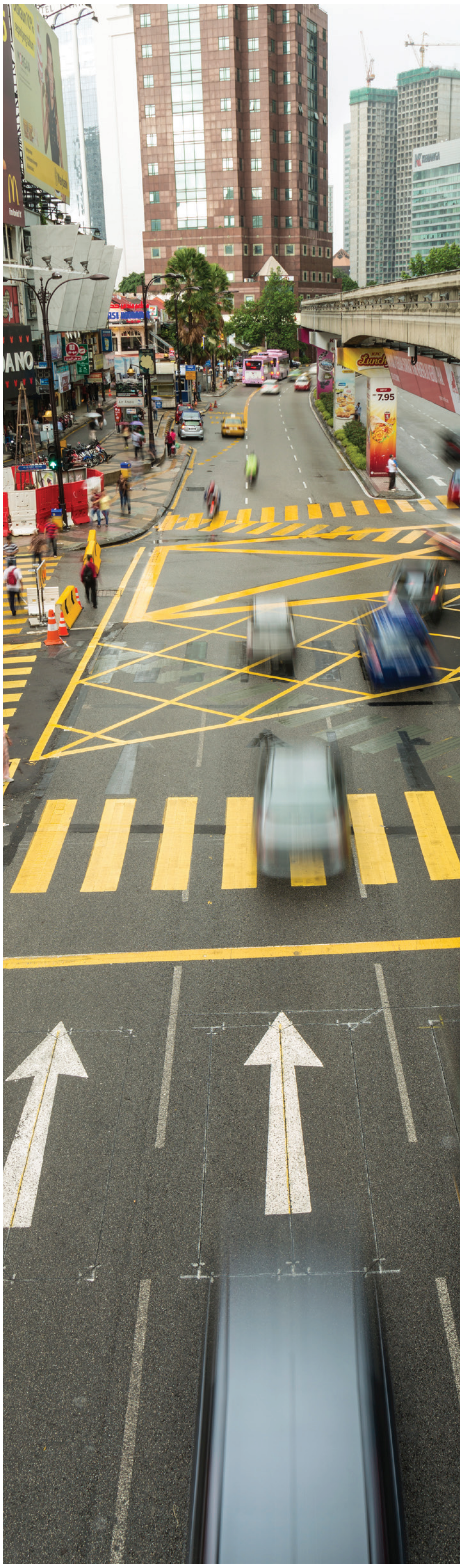
Key trends in Singaporean insurance policymaking

- **As an internationally orientated economy, insurance policymaking in Singapore has a long tradition of encouraging the establishment of foreign insurers and ensuring a stable and competitive regulatory environment.** Since the 1970s, Singaporean authorities have worked to dismantle market access barriers and gradually improve prudential, consumer protection and conduct regulations in an attempt to establish the city-state as the primary regional hub for non-life insurance and reinsurance in particular. Singapore boasts the highest market penetration in the region, with total premium accounting for 6.3 percent of GDP in 2014. This is projected to rise to 7.1 percent in 2015, with growth anticipated in both the life and non-life sectors. Premium growth is expected to be slowest in Singapore among ASEAN countries, at an average of 6.5 percent over 2014 to 2017 compared to the regional average of 7.6 percent, reflecting higher levels of market maturity and lower levels of GDP growth. Given the relative maturity and saturation of the domestic insurance market, Singaporean insurance policymaking will continue to be outward-looking for the foreseeable future.

- **The Singaporean insurance market is by far the most open to foreign competition in the ASEAN region and among the most liberalised in the world.** Foreign insurance companies are permitted to service the Singaporean market by establishing 100 percent-owned locally incorporated subsidiaries, joint-ventures, or branches or by providing services on a cross-border basis on condition they obtain a licence from the Monetary Authority of Singapore (MAS). In its free trade agreements with the European Union and the United States, Singapore's market access commitments in life insurance are generally less comprehensive than in other sub-sectors, keeping cross-border market access unbound. This creates some uncertainty and risk of future policy reversal, although this should not be overstated. In contrast, under the aegis of AEC, Singapore has made bound commitments to liberalise all insurance subsectors with the exception of the life segment, although it has conditioned further AEC commitments on other ASEAN member states reaching similar levels of liberalisation to its own.

- **In the last decade, insurance policy in Singapore has been driven by two partially conflicting policy objectives.** The Singaporean Competition Commission has acted to ensure the lowest possible prices for insurance, deepen insurance penetration and encourage competitive local markets for insurance by implementing new regulations on compulsory insurances and strengthening competition disciplines. These measures have worked in stimulating competition and squeezed income and profit margins in an already overcrowded market where falling investment returns are increasingly insufficient to compensate for falling revenues. At the same time, the MAS has aimed to increase financial stability – and hence the attractiveness of the city state as the primary base for foreign insurers' and reinsurers' operations in the ASEAN region – via stricter capital and risk management requirements. However, these bring higher compliance costs and upward pressures on local premiums.

- **To further consolidate its status as ASEAN's paramount regional insurance hub, the MAS is currently considering the implementation of tighter risk-based capital regulatory requirements for the insurance sector to bring its prudential regulatory framework closer to international best practice.** Since the 2008-09 global financial crisis, the MAS has come under growing pressure from the IMF and the Financial Stability Board to introduce measures to strengthen market solubility. Two consultation papers were circulated in 2012 and 2014 on risk-based capital and enterprise risk management which suggest a preference for the adoption of a regulatory framework similar to the European Solvency II regime. While the implementation of such regulation would contribute to greater stability of the Singaporean insurance market, this is also expected to exert significant upward pressure on capital costs and expense ratios and further strain already-thin profit margins of both foreign subsidiaries and Singaporean companies.



Key issue: Becoming South East Asia's leading insurance and reinsurance hub

The Singaporean strategy is a long-term bet on the prospects for regional markets in both general and specialist insurance and reinsurance in a more integrated ASEAN market. The overarching objective of insurance policymaking in Singapore is to further consolidate the country as the foremost insurance hub in South East Asia. In this respect, Singapore has strengths that will position it well: the Singaporean insurance market is, by a long way, the most developed and dynamic in the ASEAN region, with a wide range of specialised and highly competitive players with diversified geographical focus and risk appetite.

The MAS is especially interested in strengthening the industry's capabilities in specialist areas, such as underwriting of marine hull and financial guarantee risks, the latter of which is an important feature of modern financial markets. The MAS has also indicated openness to new players, including financial reinsurance and securitisation businesses, if they can prove they meet entry requirements and will contribute to market development. While other regional players have evident strengths – perhaps most notably Malaysia in takaful insurance models – Singapore has formidable advantages across the board.

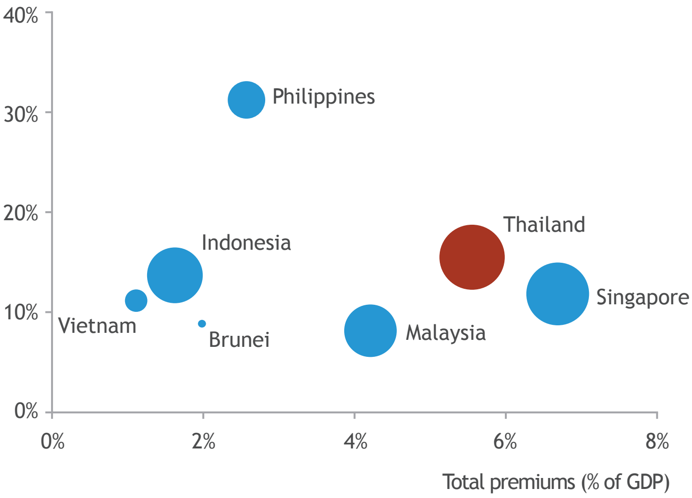
Singaporean authorities see the upgrade of Singapore's risk-based prudential regulatory framework as key to its objective to establish Singapore as the foremost regional insurance hub in ASEAN. It has issued consultations on two possible capital frameworks over the last two years. Although neither system has been confirmed as a preference by the MAS, both are focused on a shift to risk-weighting capital and follow the basic model of Solvency II in Europe. While no further details have been released by the authorities, it is anticipated that the new rules should be effective from 1 January 2017, possibly without a phase-in or transition period.

The impact of the reform on the Singaporean insurance market is expected to be significant and, as with the implementation of Solvency II in Europe, new rules will markedly increase regulatory compliance costs for locally incorporated subsidiaries of foreign insurers and domestic firms. While this may lead some foreign insurers to transform subsidiaries into licensed branches in order to use group capital and capacity, the liberalisation of cross-border trade in insurance under the AEC should in principle provide a platform in time for these insurers to use their Singaporean branches to provide insurance services across the region.

Thailand

Insurance market performance

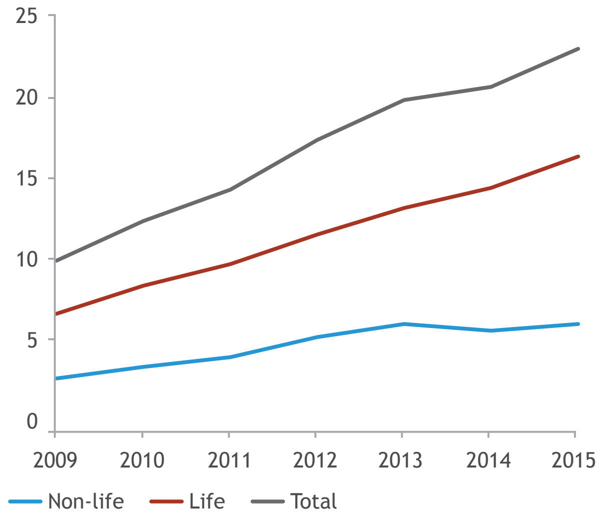
Total premium growth, av. 2009-2014



Note: bubble size indicates total premiums (USD bn)

Total premiums

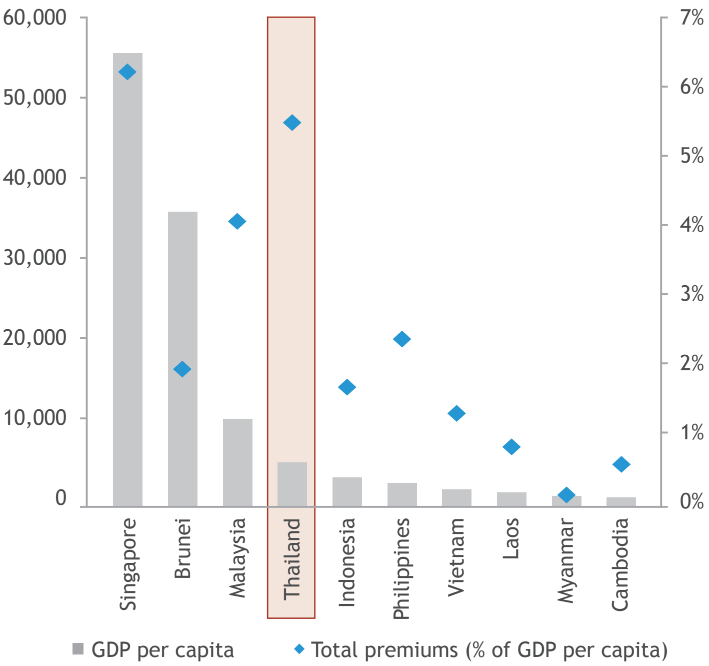
USD bn



Note: 2015 data is assumed forecast

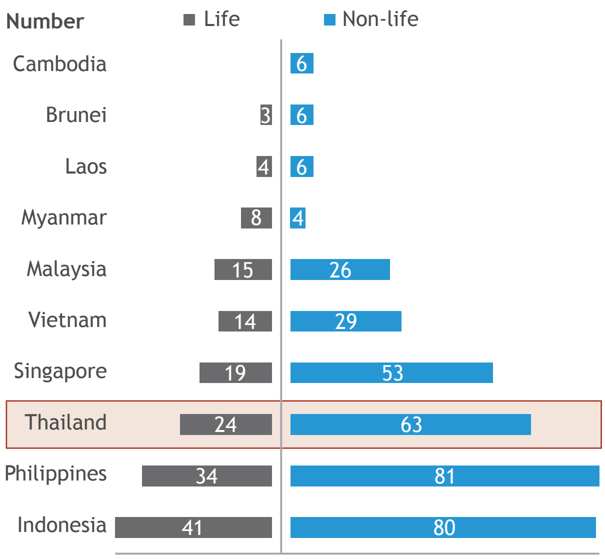
GDP per capita and premium spending

USD and % of GDP per capita



Market players

Number



Thailand's insurance sector has the second highest penetration rates in the region behind Singapore, with total premium comprising 5.6 percent of GDP in 2014 and forecast to rise to 6 percent in 2015. Of this, the life sub-sector is more mature, with total premiums forecast to make up 4.3 percent of GDP in 2015 against 1.7 percent for non-life premium. Thailand's non-life market is particularly crowded, with more than 60 non-life companies. Approximately a third of non-life companies have foreign shareholding.

Insurance Regulator: Office of the Insurance Commissioner (OIC)

Thailand trade policy issues for firms and policymakers

- Foreign ownership is capped at 25 percent unless and investor has approval from the Thai authorities. Foreign stakes of between 25 percent and 49 percent require OIC authorisation and above 49 percent approval by both the OIC and the Ministry of Finance.
- Cross-border sales are not permitted in the automobile segment.
- The temporary transfer of staff from abroad into local business units is restricted by annual quotas linked to the company's registered capital.
- The national treatment principle ensuring non-discrimination of foreign investors is not included in the Thai investment regime and Thailand has not ratified the ICISD convention.
- The Thai Trade Competition Commission (TCC) has issued guidelines in a range of areas, but no detailed guidelines for merger control, which increases operating uncertainty.

Key trends in Thai insurance policymaking

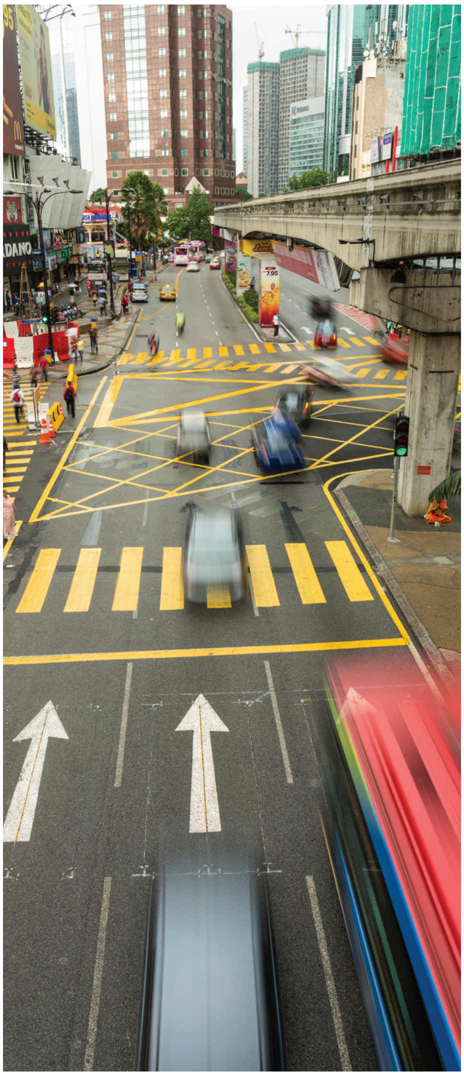
- **Thailand has traditionally been the most inward-looking insurance market in ASEAN, with the exception of Myanmar.** Thailand is currently one of the only two ASEAN countries where foreign insurers are not allowed to own majority stakes in local operations in any insurance subsector without special authorisations from the regulatory authority and the Ministry of Finance (MoF). The current legislation allows foreign insurers to own up to 25 percent of local insurers, with 25-49 percent stakes requiring special authorisation of the Office of the Insurance Commission (OIC) and above 49 percent from the OIC and the MoF. While in theory, licensed foreign insurers are allowed to provide services cross-border in all segments except automotive, a range of regulatory restrictions – including a moratorium on new licences – considerably limit this practice. The national treatment principle is also not applied to foreign investors – including insurers - in Thailand. Alongside Laos, Thailand is also the only country in the region not to have committed to liberalise its insurance sector under the AEC plans. Recent moves from the OIC and the MoF suggest this could change in the near future.

- **This inward-looking policy position mostly reflects the traditionally strong opposition of domestic industry stakeholders to foreign competition and a political class with equally strong instincts for economic nationalism.** The Thai insurance industry and in particular the non-life segment is highly overcrowded, with over 50 non-life and just under 20 life insurance companies operating on relatively low levels of profitability. The non-life market is mostly composed by companies owned by large family business groups with little business outside group interests, and consequently weak prospects of consolidation via M&A activity. These insurers, via their parent family groups, often have significant influence in the Thai parliament and have successfully stalled or resisted past initiatives to liberalise the sector to foreign competition. While in theory, this market structure makes the Thai insurance sector ripe for consolidation via mergers and acquisition the extremely low client base or geographical diversity of many of these family-owned companies can make them unattractive M&A targets.

- **The impact of the 2011 Thai floods on the solvency of local insurers and non-life insurers in particular has been a major concern for Thai policymakers and has somewhat mitigated opposition to greater foreign participation where this would contribute boosting the sector's solvency.** The 2011 floods were the worst Thailand has experienced for 50 years. During the near six months of devastation which occurred across the majority of the country's 77 provinces, more than 800 people died, approximately 10,000 factories were closed, and an estimated 350,000 workers were left unemployed. Thailand's insurance sector was also hit badly since flood coverage was traditionally issued at a low premium or bundled with other policies free of charge. Insurance claims after the 2011 flooding are estimated to have totalled USD 20-25bn, leading to losses by Lloyds of London and others of well over USD 2bn - second only to those following Hurricane Katrina in 2005 and the 2001 attacks in New York. Although the majority of claims have been settled, an ongoing post-flood concern is continued lack of coverage in high-risk areas, as the government-backed USD 1bn National Catastrophe Insurance Fund (NCIF) has failed to raise the funds needed to provide adequate reinsurance coverage.

- **Since the May 2014 military coup, it is possible to detect a shift towards a more favourable view on foreign participation and competition in domestic insurance markets by the Thai authorities and the OIC.** The OIC has become one of the main advocates of Thai insurance sector liberalisation as a means – under its current moratorium on new insurance licences – to increase the consolidation, rationalisation and solvency of the Thai insurance market. On the recommendation of the OIC, the Thai military government enacted a new insurance law in March 2015 which has significantly relaxed the conditions under which the Ministry of Finance grants authorisation to foreign insurers to own majority stakes in local insurance companies. While the new insurance law has not eliminated need for OIC authorisation for foreign ownership of 25-49 percent of the stakes, it has granted the OIC the authority to change this rule in the future.

- **While few details have been made public, the Third Five-Year Insurance Development Plan (2015-2020) currently being prepared by the OIC is expected to set a more liberal tone for the next five years of insurance policymaking.** The OIC has reportedly included greater liberalisation of the Thai insurance sector under the AEC by 2020, greater foreign participation of foreign insurers in Thailand, higher corporate governance and transparency standards, and capacity-building of qualified insurance professionals and regulators among the Plan's key objectives. The OIC has also taken a lead role in capacity building and training initiatives to accelerate the development of insurance market and regulatory infrastructure in Cambodia, Laos and Myanmar. These measures would work in supporting the OIC's ambitions to transform Thailand into a sub-regional insurance hub for foreign insurers wanting to provide cross-border services to Cambodia, Laos and Vietnam. However, despite the growing momentum behind insurance sector liberalisation in Thailand, this will happen incrementally, and liberalisation commitments agreed with third country trading partners or multilaterally are only likely to go as far as Thailand would go unilaterally.



Key issue: the regulator and the military government

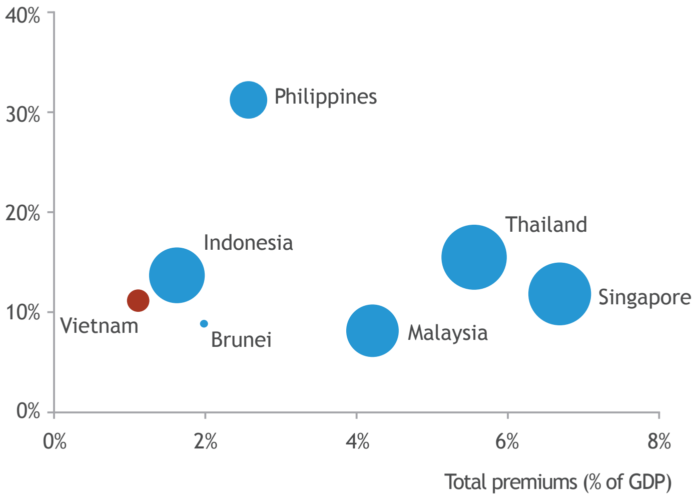
The suspension of civilian government in Thailand in 2014 had a wide range of consequences that have extended to the insurance sector. The military government initially signalled its intention to take a more restrictive line with foreign participation in insurance markets and a possible extension of the restrictions under the Foreign Business Act. However, persuasive intervention by the OIC convinced the military leadership that there was greater benefit in encouraging inward investment and reform. The military government has supported and accelerated the OIC's reform plans, while defensive local firms have not had access to supportive elements in parliament to slow or oppose reform plans.

The new insurance law drafted in Autumn 2014, which amends the Thai Life Insurance Act the Non-Life Insurance Act from 1992, took effect in March 2015. The legislative process was markedly faster than might have been expected for the passage of a bill through the Thai parliament under a democratic government, and the final text significantly closer to technocratic preferences of the regulator. However, this relatively favourable outcome for more competitive and reformed insurance markets in this instance cannot obscure the fact that the prerogatives of the military administration remain essentially arbitrary, and the parliament's role in market reform, while sometimes obstructive when driven by vested interests, adds a crucial dimension of accountability and legitimacy to reform. The military coup has stalled other liberalisation initiatives: the lack of a clear path towards democratisation in Thailand led the European Union to suspend its FTA negotiations with the country.

Vietnam

Insurance market performance

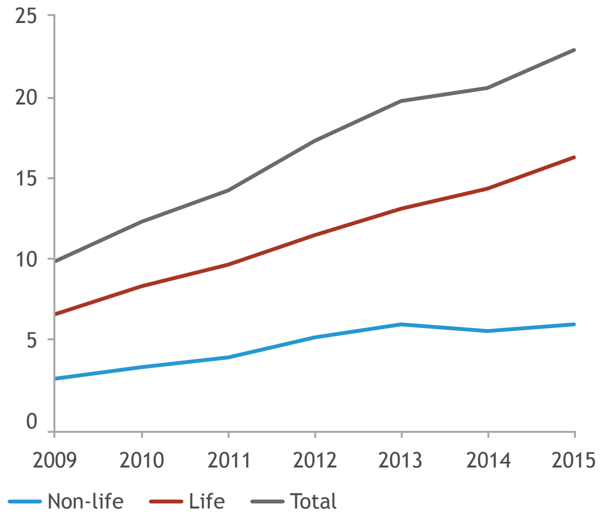
Total premium growth, av. 2009-2014



Note: bubble size indicates total premiums (USD bn)

Total premiums

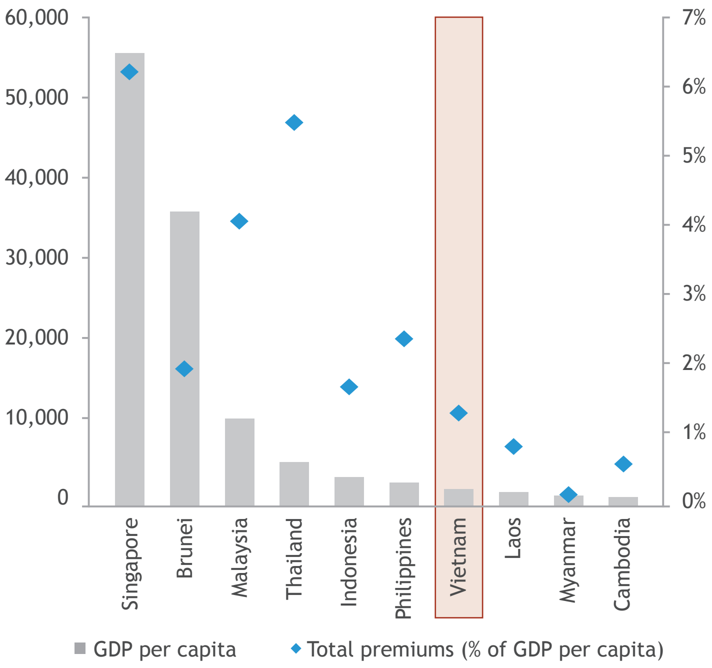
USD bn



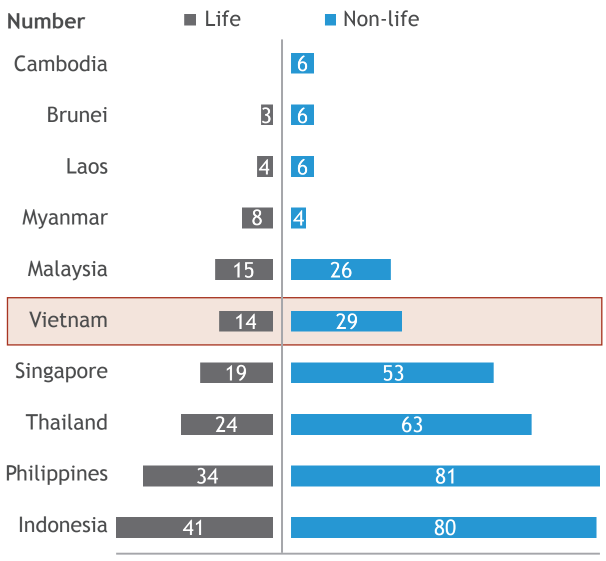
Note: 2015 data is assumed forecast

GDP per capita and premium spending

USD and % of GDP per capita



Market players



The insurance industry grew by 7 percent in 2013. Total premium growth stood at 8.7 percent and is projected to reach 16 percent in 2015 – well above the 10 percent ASEAN weighted average. Market penetration remains amongst the lowest in the region, reaching 1.3 percent of GDP in 2014 and forecast to grow to 1.4 percent in 2015. Vietnam has an intensely competitive market in non-life insurance business, largely dominated by domestic insurers, resulting in some of the lowest premium rates among ASEAN countries. By contrast, foreign players have a very strong position in the life market; recent foreign entrants include Sunlife, Generali and Ageas.

Insurance Regulator: Insurance Supervisory Authority (ISA) under the Ministry of Finance

Vietnam trade policy issues for firms and policymakers

- Foreign life insurance companies are required to obtain authorisation for each branch they want to open outside the province where the company is established.
- Cross-border provision of services is not allowed for life or health insurance.
- Inconsistent transposition of the definition of 'foreign invested companies' into local law can result in the denial by local authorities and courts of foreign investors' rights guaranteed by Vietnam's international commitments.
- Domestic availability tests and local training of local replacements are required for temporarily-transferred staff to local business units from abroad.
- A recent draft decree risks increasing the regulatory burden and duplicating costs related to data processing and storage.

Key trends in Vietnamese insurance policymaking

- **The Vietnamese insurance market is among the most open to foreign competition, especially when taking into account economic and capital market development levels.** Unlike the more politically contentious banking sector, the insurance sector underwent significant deregulation and liberalisation in the 2000s in the context of both the Doi Moi economic reforms and as part of negotiations preceding Vietnam's accession to the WTO in 2007. The part-privatisation of the sector saw its transformation from a state-owned monopoly into a more market-based sector overwhelmingly composed by privately-owned companies. This was completed in 2007 with the privatisation of the last wholly stated-owned insurer, Bao-Viet. As a result of Vietnam's comprehensive WTO accession protocol, foreign insurers are permitted to own 100 percent of locally incorporated subsidiaries and are allowed to establish commercial presence via branching, with the exception of life insurance. The temporary transfer of staff from abroad and cross-border insurance trade remain comparatively restricted, although the authorities have committed to liberalise the latter under the AEC integration process. Despite these achievements, failure to update prudential regulatory frameworks has held back the financial stability of the Vietnamese insurance sector.
- **More recently, however, the political sensitivity of the banking reform debate in Vietnam has deflected policymaker efforts to pursue similar reform of insurance markets.** Strengthening the Vietnamese banking sector through a carefully managed and politically sensitive process of privatisation, balance sheet restructuring and liberalisation has dominated financial services policymaking in recent years at the expense of a sustained focus on market reforms in insurance. The political and policy challenges posed by the reform of the banking sector have also created reduced scope for further liberalisation of insurance in bilateral free trade negotiations, including those with the EU. However, the implementation of the AEC and the prospective creation of an ASEAN single market for insurance – and to a much lesser extent, pressure from the EU in the content of the EU-Vietnam FTA negotiations - have built greater momentum for much needed insurance reform in Vietnam.
- **The Vietnamese authorities see industry consolidation and prudential regulatory reform among the key policy priorities to prepare the domestic insurance sector for greater regional insurance market integration under the AEC.** According to the government's 2011-2020 insurance markets development plan, this will involve restructuring weak or insolvent insurers, resolving industry-wide capitalisation issues and – to minimise the risk of regulatory arbitrage in the context of the AEC insurance markets' integration – raising prudential, consumer protection and corporate governance standards. More specifically, ISA is considering replacing its outdated solvency margin regime with a Solvency-II inspired risk-based solvency regime. The authorities expect higher regulatory capital and risk-management requirements and tacitly support continued investment by well-capitalised foreign insurers to drive sectoral consolidation, improve governance standards and increase financial stability.
- **The Vietnamese authorities have set the target of more than trebling the contribution of the insurance industry to GDP between 2010 and 2020 to 3-4 percent.** Together with the Association of Vietnamese Insurers (AVI), ISA is working on a range of measures to support the expansion of new insurance services in the Vietnamese market, including the development of private pensions, universal life insurance, unit-linked life insurance and natural disaster coverage. The authorities are also considering reviewing and relaxing strict rules that currently restrict the range and quantum of assets in which insurers are permitted to invest. The relaxation of investment restrictions for insurers

is expected to increase the contribution of the industry to GDP by allowing greater investment in growth-enhancing sectors such as infrastructure, and improve risk management practice. While they should in principle improve the conditions of operation for insurance companies in Vietnam, these reforms are currently under consideration and no draft legislation has yet been made public.

- **A set of measures relaxing regulatory restrictions on the channels of distribution for insurance products is currently under consideration to increase penetration rates and the industry competitiveness in the AEC context.** As AEC integration is expected primarily to benefit insurers with well-established and efficient distribution channels easily replicable across the region, the ISA and the Association of Vietnamese Insurers (AVI) are currently reviewing e-commerce sales and marketing rules for insurance products. In December 2014, the authorities issued new rules regulating insurance agency practices covering the emerging Vietnamese bancassurance market for similar reasons. However, the use of e-commerce and bancassurance contracts by insurers remain constrained by low bank account (only 20 percent of the population has a bank account) and internet penetration.

- **A severe scarcity of local insurance professionals with adequate technical expertise is a big challenge for both the Vietnamese regulator and the local industry and remains one of the key obstacles to the relaxation of restrictions on the ability of foreign insurers to temporarily transfer staff into local operations from abroad.** The lack of qualified staff challenges ISA's ability to design and enforce the sophisticated regulations required by complex insurance products, including unit linked and business interruption insurance products. Current regulatory restrictions on temporary transfer of staff into local business units from abroad and requirements on the provision of technical training programmes for local staff are part of the Vietnamese authority's attempts to address the technical expertise gap in local markets, although they often frustrate insurers. Despite these efforts, the shortage of insurance professionals with adequate technical expertise will remain a key challenge here, as elsewhere in ASEAN.

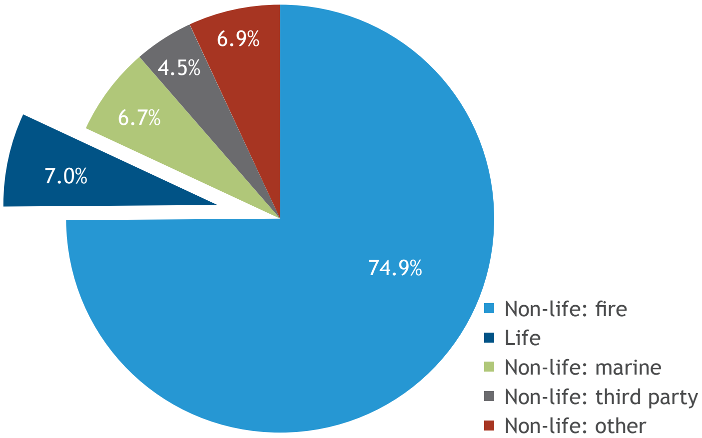
Key issue: capital reform and consolidation

Perhaps more than anywhere else in ASEAN, the integration of ASEAN insurance markets is set to create important challenges for a fragmented and under-regulated insurance industry. Policymakers expect consolidation, driven by foreign investment. Industry fragmentation in Vietnam has remained largely unchanged and even marginally increased in the non-life segment – the number of non-life insurers in Vietnam has remained stable in the four years to 2014 and the top five and top ten non-life companies have seen their market share reduced by new entrants, mainly foreign and joint venture companies. A 2014 report from the Vietnamese Insurance Supervisory Authority suggested that, although 43 out of 45 life and non-life insurers meet regulatory solvency margins, half of these were under financial duress from high operating or claim settlement costs, had not made a profit in the last two years, or were at the risk of insolvency.

Reform of Vietnam's outdated solvency-margin regulations will undoubtedly squeeze these weaker players. Weak corporate governance and reporting standards, weak supervision of loss reserve provisioning and high-expense ratios all undermine the long-term financial health and international competitiveness of some Vietnamese insurers and leave them poorly equipped to manage enhancing regulatory oversight, new corporate governance, consumer protection and conduct standards. Nevertheless, these reforms are widely seen by industry practitioners and the policymaking community as essential to minimise regulatory arbitrage in ASEAN, and ensure that Vietnam can sustain a domestically rooted industry in a more liberalised regional market rather than being serviced from 'stronger' jurisdictions such as Singapore. In this respect, the power of the ASEAN liberalisation agenda to push up regulatory and governance standards to reduce the prospects of regulatory arbitrage is important to note.

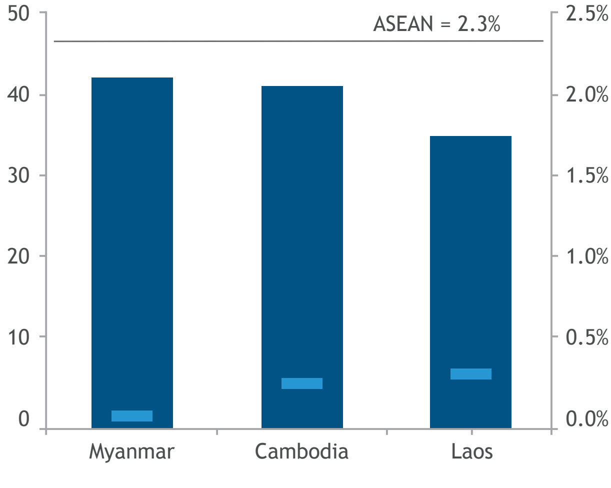
Cambodia, Laos and Myanmar

Myanmar insurance premiums by segment, 2011



Source: Central Statistical Organization, Ministry of National Planning and Economic Development Myanmar

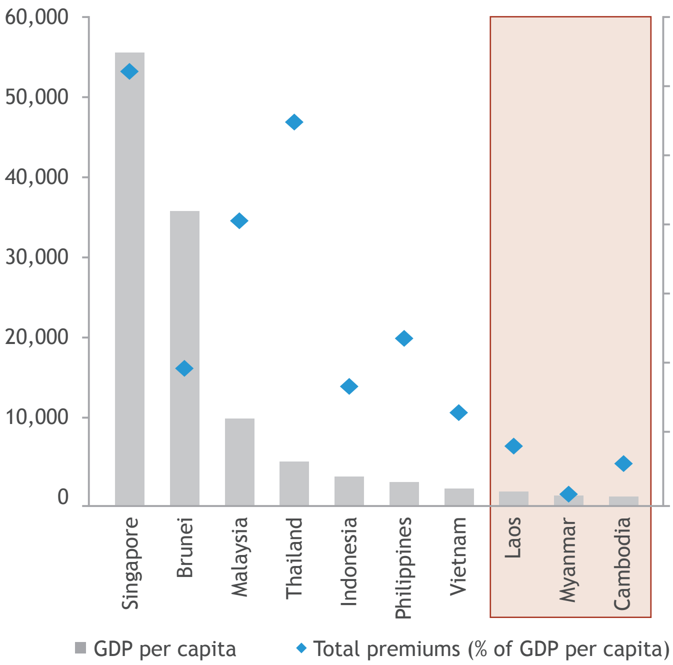
Total premiums 2013



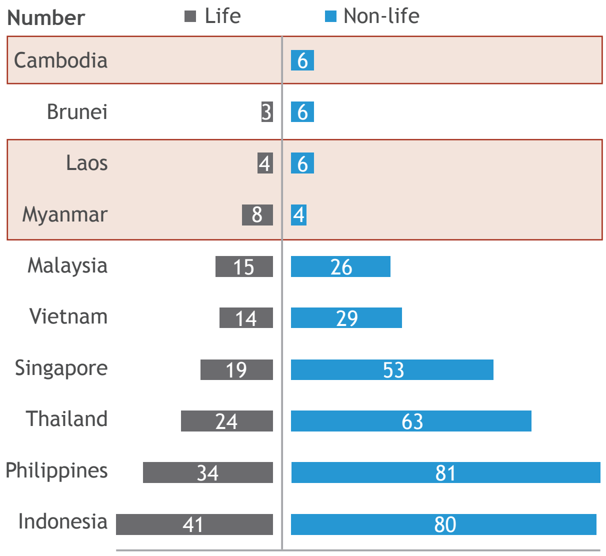
Sources: General Insurance Association of Cambodia, EY, Oxford Business Group, IMF
Note: data for Myanmar includes Myanma Insurance only, fiscal year 2012/2013

GDP per capita and premium spending

USD and % of GDP per capita



Market players



The insurance markets of Laos, Cambodia and Myanmar are the least developed in ASEAN. These markets are characterised by minimal insurance penetration levels for both personal and commercial lines, and most commercial income is derived from businesses with overseas interests. Total premiums in Cambodia and Laos and Myanmar are estimated to have remained below USD 0.1bn in 2014 and are projected to stay at this level in 2015.

Insurance Regulator: Insurance Division of the Department of Financial Industry (Cambodia); Ministry of Finance (Laos); Insurance Business Regulatory Board (Myanmar)

Cambodia, Laos and Myanmar trade policy issues for firms and policymakers

Cambodia

- A foreign insurer may not conduct business in Cambodia without establishing a locally-incorporated company. Commercial establishment via branching is not permitted.
- Cross-border trade in insurance services is not permitted, except in reinsurance.
- Temporary transfer of staff into local business units from abroad is restricted by annual labour market-wide quotas. Authorities are not required to justify denial of an application to temporarily transfer foreign staff in-country, creating further uncertainty.

Laos

- It is unclear whether the new Insurance Law will permit commercial establishment via branching, as is the case under the current law.
- The compensation mechanism in Laos' investment regime provides that expropriated assets shall be compensated "with the actual value at the prevailing market price at the time of transfer," not the conventional compensation based on market value of the asset before the expropriation decision.
- Foreign investors do not have rights of recourse to ICSID dispute settlement mechanisms as Laos is not a member of the ICSID.

Myanmar

- 100 percent foreign ownership is technically permitted, but made unrealisable by licensing practice and other factors.
- Branching is technically permitted, but not in practice. Foreign insurers are limited to opening representative offices in Myanmar – registered offices of foreign companies are not allowed to conduct transactional business.
- Cross-border trade in insurance services is not permitted.
- The principle of protection against discrimination is only granted to citizens of Myanmar.
- The relationship between the Insurance Business Regulator Board and state-owned Myanma Insurance is conflicted.

Key trends in insurance policymaking in Cambodia, Laos and Myanmar

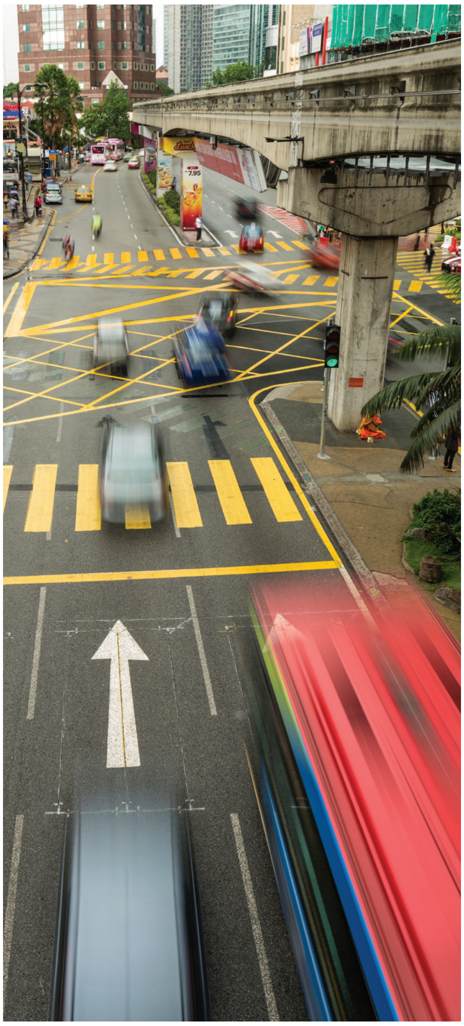
- **The key strategic policy priority in insurance and the wider financial services sector in Cambodia, Laos and Myanmar is the creation of the basic regulatory and institutional infrastructure necessary to support the development of domestic markets.** In all three markets, the insurance sector remains largely undeveloped and operates in rudimentary regulatory and supervisory environments. A lack of reliable statistics make it hard to accurately assess the size and performance of these markets, but anecdotal assessments put premiums in Cambodia and Myanmar well below the USD 100mn mark in 2014. Most of the insurance activity in these three markets remains overwhelmingly dependent on one-off policies related to large commercial risks linked to foreign investment projects, with very limited activity in sustainable and renewable insurance segments such as property and casualty and health. With small populations and middle classes, the prospects for developing a range of life and non-life insurance segments in the short term is significantly reduced in Cambodia and Laos. While Myanmar's large population presents more promising opportunities for investors, the market is dominated by state-owned insurer Myanma Insurance and is unlikely to be open to foreign competition in the near term.

- **Cambodia, Laos and Myanmar still lack comprehensive insurance legislation and regulatory frameworks, and have yet to establish independent and effective regulators.** Although in both Cambodia and Laos, new insurance law drafts foresee a complete overhaul of insurance and micro-insurance regulation and the establishment of a dedicated insurance regulatory authority, these laws have been awaiting final approval from the authorities for over a year in Cambodia and since early 2012 in the case of Laos. Regulatory supervision in these countries is developing from a very low level. In Laos, the competent authority responsible to supervise the industry is the Ministry of Finance, although no specific department has yet been given formal responsibility. In Myanmar, the regulator's senior officials also serve in the senior management of state-owned insurer Myanma Insurance, which de facto controls and supervises the market. While ASEAN insurance regulators such as the Thai

Office of Insurance Commission have been active in regulatory and human capital capacity building initiatives in these countries, the improvement of the conditions of operations in which foreign insurers will operate in these markets is unlikely to change in a significant way in the medium to long term.

- **Market access by foreign insurers to Cambodia, Laos and Myanmar varies markedly and further liberalisation is likely to take place after the implementation of the essential missing regulatory infrastructure.** While in theory licensed foreign insurers are legally allowed to operate in Myanmar via the establishment of fully-owned subsidiaries or branches, in practice, the market remains closed to foreign competition by the regulator. Foreign insurers are allowed to establish fully owned foreign subsidiaries in both Cambodia and Laos, but not via branching in Cambodia, and only Laos allows licensed foreign insurers to provide services cross-border. Under the "ASEAN minus X" economic integration principle, Myanmar, Cambodia and Laos all benefit from greater flexibility and longer timeframes to open their economies to regional competition, including in insurance. As such, only Cambodia has committed to partially liberalise its non-life, reinsurance and insurance intermediation subsectors, all of which are technically already open to foreign majority ownership on a most favoured nation basis.

- **The economic policy reform process in Cambodia, Laos and Myanmar will, to a large extent, be dominated by the need to review and reform their respective economy-wide investment regimes.** These countries have recently undertaken comprehensive overhauls of investment laws, which included marked improvements on issues such as domestic and foreign investor protection against expropriation without fair compensation, non-discrimination and fair and equitable rights of recourse, and access to investor-state dispute settlement. However, these laws still fall short of the investor protection standards required by the 2012 ASEAN Comprehensive Investment Agreement (ACIA), including in areas such as legal definitions, access to impartial courts and access to ICSID dispute settlement mechanisms. Given the developing nature of judicial systems, a key issue for these countries will be the implementation of measures ensuring foreign investor recourse to investor-state dispute settlements such as ICSID and UNCITRAL. Currently, only Cambodia is a member of the ICSID convention, although Myanmar's incoming Arbitration Act clearly signals the government's willingness to bring the country in line with modern, harmonised practices on international and domestic arbitration.



Key issue: 'ASEAN minus X'

Under the flexibilities of the AEC liberalisation model, the pace and scope of the liberalisation of insurance markets to foreign competition in Cambodia, Laos and Myanmar will be gradual, reflecting both domestic policy priorities and respective stages of financial development. While Cambodia, Laos and, to a lesser extent, Myanmar are in principle not opposed to the liberalisation of their domestic insurance market to foreign competition, there are a number of factors slowing the momentum of market access liberalisation and regulatory reform.

The first is the basic lack of regulatory infrastructure and capacity. The AEC's 'ASEAN minus X' liberalisation model gives ASEAN's less developed economies special scope to sequence the liberalisation of their financial markets to the implementation of regulatory frameworks deemed necessary to ensure the development and stability of the financial system. Accordingly, the Myanmar authorities have indicated that the country will only open its insurance sector to foreign competition once it has ensured the development of a competitive private insurance sector, possibly as late as 2019.

The second is the simple reality that insurance liberalisation often falls behind politically sensitive reform of banking sectors. These countries' low per capita income levels and undeveloped banking systems means that policy focus is usually centred on initiatives to reform and develop the basic market and regulatory infrastructure of banking. Insurance policy is also rarely prioritised where small populations and virtually non-existent middle classes significantly reduce the prospects for developing competitive and dynamic insurance industries.

4. Conclusions

Fundamentally insurance is about the efficient allocation of different types of risk. This is of considerable value to individuals, which is why they are willing to pay premiums to receive such a service. But it also has broader benefits, as it encourages appropriate risk taking, which is essential in any vibrant market-driven economy. As the ASEAN experience clearly demonstrates, a sophisticated market for insurance generally develops with, and reinforces, any growing economy in which individual and corporate wealth is increasingly sufficient to provide for hedging against the everyday risks of life and business and for insuring life itself.

This is not, however, the only benefit from insurance. A convergence between a wide range of public policy objectives and the expansion of the insurance sector is helping to drive policy change in a number of ASEAN economies. The benefits from growth in the insurance industry extend far beyond the commercial returns that the industry itself may enjoy. ASEAN policymakers have long recognised the value of a deeper market for insurance at the domestic and regional levels and have taken important steps to drive the creation of these markets.

Carefully sequenced liberalisation of market access to foreign competition can in fact work as an import driver of growth and development in emerging insurance markets. Provided it is embedded in adequate regulatory frameworks that ensure economic and financial stability, foreign investment and expertise in domestic insurance markets can support sectoral development, and prove especially helpful where there are question marks over domestic capacity to meet growing local demand for a range of commercial and personal insurable risks. Although this is true for all three insurance segments, market access liberalisation can be particularly helpful in the first stages of development of non-life insurance and reinsurance segments, and as the life segment branches into more complex savings-related product lines (such as unit linked and pension insurance). How domestic authorities strike a balance between the desire to support the emergence of strong insurance sectors from purely domestic resources, with boosting sector-wide development via market access liberalisation, is a key determinant of how an insurance sector develops.

The role of ASEAN regional integration

Two decades after the signing of the ASEAN Framework Agreement on Services, the December 2015 target for the creation of an ASEAN Economic Community (AEC) is likely to be missed in important respects. Nevertheless, it is important to note the progress in reforming and opening markets for insurance across the region both multilaterally and preferentially, as a result of the region's economic integration process or of ASEAN countries' individual FTA initiatives. *Regional* aspirations have also triggered reform at the level of *national* policy, in part to develop a clear sense of where the prospects to move further are strongest. A number of things stand out about this important dynamic.

ASEAN commitments to liberalise market access in insurance – even though they are not binding and uneven across the region – have focussed the minds of policymakers on the prospect of greater regional competition. Almost all ASEAN states reformed regulatory frameworks for insurance and imposed measures designed to encourage consolidation and competitiveness. In almost all cases, one of the most important spurs for this is the regional integration process.

Political sensitivity around rights of establishment and ownership have meant that ASEAN states have generally been willing to move faster on *ASEAN-level* commitments to liberalise cross-border trade than on rights of local establishment and ownership. This has sometimes been a reflection of the traditional status of insurance firms in the region as embedded in large, politically well-connected, often family-run conglomerates. It has also reflected a recognition that some of the region's weaker regulators are not yet fully ready to supervise subsidiaries of its largest and most sophisticated firms.

But it has also been a reflection of a tradition of industrial policy thinking in which local control of financial economy assets is seen as a good thing, and Mode 1 (cross-border trade) commitments less of a constraint on domestic political prerogatives than commitments under Mode 3 (commercial establishment). Nevertheless, for individual reasons, most ASEAN member states have *unilaterally* liberalised Mode 3 restrictions over the last five years alongside Mode 1, generally as a way of encouraging foreign capital investment and sectoral consolidation.

The general commitment under the AEC to move more quickly on Mode 1 and the growing openness on Mode 3 have both had a positive effect on attitudes to regulation and supervision, and have driven up standards. Supervisors across the region recognise that, as the ASEAN market is liberalised for cross-border trade in insurance, the jurisdictions with the most effective, transparent and accountable regulatory systems, will be inherently attractive as regional bases.

This has created something of a 'race to the top' in regional supervision, with little sign of any instinct to 'undercut' regional standards to attract business, because this will have limited value in a market in which cross-border access (especially in non-life insurance segments) is available anywhere in the region. The desire to strengthen domestic sectors in pursuit of greater financial stability has encouraged gradual openness to partial or total foreign ownership in most ASEAN markets. It has also driven an upgrading of regulatory regimes, both to push weak firms out of operation or into acquisitions, and to build up stronger domestic players for cross-border competition. All these dynamics have made market access liberalisation a driver of sounder regulation.

Nevertheless, regulatory capacity remains an issue, and the ASEAN market is characterised by very wide divergences in regulatory strengths. This hampers the kind of mutual recognition of standards that was a core driver of similar efforts at market integration in the EU. It can act as a check on the liberalisation of cross-border trade in insurance services, and more particularly in relaxing market access via branching and some forms of subsidiarisation.

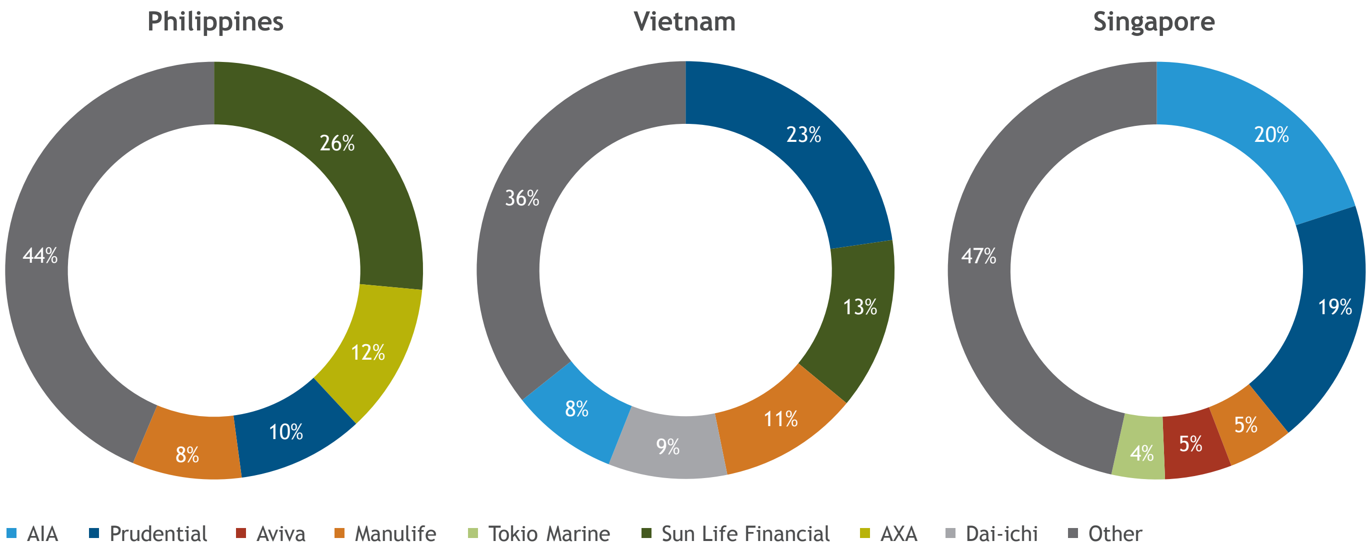
The necessary counterpart to a race to the top in rulemaking will be a race to the top in the quality of regulators and supervisory officials, along with their equivalents in the firms they regulate. This is a key preoccupation for ASEAN policymakers and one of the main reasons why they continue to restrict the movement of qualified staff between markets in an attempt to encourage skills transfer and to upgrade local staff capacity. Closing this skills gap in a way that meets the needs of both businesses and policymakers will be a key challenge both for ASEAN governments and insurance firms.

The other core challenge for regional market building in ASEAN remains the absence of a strong institutional centre for the regional bloc. Whereas the EU has been able to depend on the European Commission in some capacity to help drive the harmonisation of insurance rules across the EU (at least on the prudential side), ASEAN commitments have been to liberalise rather than to harmonise. Rules and practice, like regulatory capacity, remain diverse across the region. While ASEAN remains a decentralised structure – and this is essentially 'the ASEAN way' – then this gap will be hard to close in a systematic way. ASEAN insurance markets are liberalising market access, but not *necessarily* converging in regulatory terms. Maximising regulatory cooperation in an attempt to minimise the frictional costs of operating in multiple ASEAN markets is important. It is also an area where firms have an important role to play in encouraging long-term convergence, rather than short-term opportunities for arbitrage.

The role of non-ASEAN firms

Insurers from outside the ASEAN region have made valuable contributions to the development of the local insurance market over the last decade, and in many cases are now integral to some parts of the sector. The predecessor company of American International Group (AIG) established branches in Indonesia, Malaysia and the Philippines during the 1920s. Today, more than 25 large European insurance companies operate across ASEAN countries (Fig 26). They are joined by large insurers from the US, Japan, Korea and Hong Kong. These firms bring both the capital and expertise required to meet the rising local demand for insurance products, and ideally they also drive up both the quality of technical expertise in the local industry and the capacity of the regulator itself.

Figure 25: Largest non-ASEAN Insurance Groups operating in ASEAN life insurance markets (2013)



Sources: Insurance Commission of the Philippines, Association of Vietnamese Insurers, VP Bank Securities, Monetary Authority of Singapore

Aside from the range of market entry barriers and operational irritants that continue to exist across the ASEAN region (as they do in most jurisdictions globally), the key question for third country insurers based and operating in ASEAN is the extent to which they will be permitted to be integral to the integration of the ASEAN market for insurance over the years ahead. At this stage it is unclear whether non-ASEAN insurers will reap the benefits of integration in the same way as their local counterparts. Much will depend on whether non-ASEAN foreign insurers are accorded 'ASEAN Insurer' status in an evolving regional single market, and on which of two rules ASEAN countries will chose to determine the eligibility of an insurance company to 'ASEAN Insurer' status.

According to the domicile rule – which is applied in the EU – ASEAN-domiciled subsidiaries would be regarded as domestic companies and would therefore be able to take full advantage of any new market access and national treatment provisions resulting from the AEC integration process. In contrast, the ultimate-ownership rule would stipulate that a combined company after M&A would still be considered a foreign entity with foreign ownership status, and would therefore enjoy 'less than equal' market access rights compared to local insurers when trading within the ASEAN region.

Given the considerable contribution made by non-ASEAN firms across the market, it would make little sense for them to be denied domestic status. Indeed, for the many ASEAN states where non-ASEAN firms are already a core part of their domestic market, it would be to grant a regional advantage to markets that had taken a more defensive approach to liberalisation. Those markets that aspire to be genuine regional hubs, such as Singapore and Malaysia, will also have an obvious incentive to ensure that ASEAN rules are as welcoming as possible to non-ASEAN firms seeking to establish and trade across the region.

The role of the EU and other partners

The EU approach to trade policy in ASEAN has evolved in an important way over the last decade. After attempts to negotiate a region-to-region FTA were suspended in 2009, the EU switched to a policy of bilateral negotiations. This has seen negotiations launched with Singapore (completed 2012), Vietnam (in its final stages), Thailand (negotiations suspended after the 2014 coup) and Malaysia (negotiations advanced, but currently suspended). An Investment Protection Agreement negotiation is under way with Myanmar (with a longer term prospect of an FTA), and Jakarta and Brussels continue to consider the idea of a bilateral FTA. The US has completed its own trade agreements with Singapore and Vietnam, and is currently negotiating with Malaysia, Brunei, Thailand and Vietnam in the context of the Trans-Pacific Partnership (TPP).

These open negotiations, along with the EU's bilateral trade negotiations with these five ASEAN states, are potentially useful for raising and resolving the range of barriers and irritants that European insurers can still face in the region. The EU-Singapore FTA secured a range of additional commitments in insurance, including streamlining product approvals in the non-life segment, although they were left unbound at Singapore's insistence. The agreements with Vietnam, Malaysia, Thailand and Myanmar all have the potential to improve operating conditions for European insurers by seeking to address the issues identified in this report. However, EU negotiators have often found that ASEAN's own timetable and priorities dictate what is and is not possible. In general, ASEAN states are unlikely to grant preferential terms to non-ASEAN states beyond what they are willing to grant multilaterally or preferentially within ASEAN.

The EU's initial decision to move away from a region-to-region approach with ASEAN reflected many of the basic factors in regional liberalisation described above. With no institutional centre to mirror the European Commission and drive negotiations, they moved slowly and unevenly, as ASEAN members states negotiated amongst themselves as well as with the EU. Fundamentally, ASEAN member states display a wide spectrum of capacities and appetites for liberalisation. The EU's complex and relatively demanding expectations in areas such as market access in financial services, and the strengthening of competition, investment or intellectual property frameworks were acceptable to markets like Singapore, but less so to less developed ASEAN counterparts. Rather than lower its expectations, the EU has chosen to deal bilaterally with the more ambitious or potentially accommodating states.

However, the EU has never ruled out the idea of returning to a region-to-region framework, which remains an explicit goal. In April 2015, the European Commission and ASEAN Ministers announced their intention of holding formal talks before the end of the year to explore the possibility of resuming the EU-ASEAN region-to-region negotiations. Nevertheless, the EU's highly ambitious and sometimes inflexible demands on market access in services, regulatory convergence, and labour, environmental and human rights standards are often seen as unreasonable by emerging economies, going far beyond their domestic legislation in these areas. This inflexibility on negotiating content largely puts the burden on ASEAN to determine if and when negotiations will be relaunched.

This is a defensible position from the point of view of those who wish to maximise the level of discipline in any new trade deal. However, it also leaves the EU without a strategic framework for its region-to-region relations with ASEAN, putting them at risk of losing ground to regional partners such as Japan or China, who are dealing with the region as a whole and using their own negotiations to position themselves as privileged partners for the bloc. The US, for example, has been willing to relax some of its demands in a number of sensitive areas for its negotiating partners – such as pharmaceuticals and government procurement - to help try and secure the strategic framework of the Trans-Pacific Partnership.

The question for the EU is whether it wishes to secure a similar platform by trading greater flexibility in its negotiating demands in exchange for the establishment of a framework agreement which could later serve as a stepping stone for future liberalisation. In insurance, if the concept of the 'ASEAN Insurer' is developed in such a way that it includes some ex-ASEAN partners but not others, the EU will have relatively limited recourse if it does not have the framework of a region-to-region agreement. However, returning to such a framework will likely require more realistic negotiating terms from Brussels.

Learning from the ASEAN experience of trade in insurance

The ASEAN experience offers a wide range of interesting and important perspectives for regulators and policymakers in other developing or potential regional markets for insurance. Many regional markets in Africa are taking the first tentative steps towards building integrated markets for services trade and the regulatory and trade policy structures to support them. The ASEAN experience has important lessons for policymakers there.

In designing cross-border markets for insurance, these countries are seeking to capture the same benefits in terms of economic growth, social security and financial resilience that a strong and increasingly sophisticated insurance sector has brought to ASEAN markets both individually and at the regional level. These markets might reflect on some key elements of the ASEAN experience:

- The areas where the managed liberalisation of market access to foreign competition and capital can most help the development of domestic insurance markets, and the type of market access that they require.

- The obstacles that a defensive approach to foreign participation can place on sectoral consolidation and the injection of fresh capital, and the ways in which regulators can ensure that foreign participation is mutually beneficial.

- The role of a strong institutional centre in driving the harmonisation of insurance rules alongside liberalisation to streamline the development of a truly single market, and the issues that arise in a more decentralised system like ASEAN.

- The challenges of integrating markets with differing levels of regulatory sophistication by building regulatory capacity, trust between regulators and ultimately the mutual recognition of standards on which confidence to open trade in financial services is built.

- The ways in which preparations for market liberalisation and liberalisation itself can create a beneficial 'race to the top' in insurance markets as states compete to attract businesses seeking to serve regional markets with transparent and accountable supervision.

The creation of an ASEAN-wide market for financial services is in its early stages, but now is the time for many of the important foundations to be laid. Progress has markedly accelerated in the last five years as regulatory capacity has strengthened, and political and policy tensions around cross-border trade have begun to be addressed. Policymakers have devoted considerable effort and time to these challenges, and they will continue to dominate the debate on how to build a sound, dynamic, open regional market for insurance.

Glossary

ACIA	ASEAN Comprehensive Investment Agreement
AEC	ASEAN Economic Community
AEGC	ASEAN Experts Groups on Competition
AFAS	ASEAN Framework Agreement for Services
AFTA	ASEAN Free Trade Area
ASEAN	Association of South East Asian Nations
ASEAN 6	Brunei, Indonesia, Malaysia, Philippines, Singapore and Thailand
BNM	Bank Negara Malaysia (Malaysia)
EU	European Union
FSA (2013)	2013 Financial Services Act (Malaysia)
FTA	Free trade agreement
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariff and Trade
GSIS	Government Services Insurance Services (Philippines)
IBRB	Insurance Business Regulatory Body (Myanmar)
IC	Insurance Commission (Philippines)
ICSID	International Centre for Settlement of Investment Disputes
IFSA (2013)	2013 Islamic Financial Services Act (Malaysia)
IMF	International Monetary Fund
ISA	Insurance Supervisory Authority (Vietnam)
ISDS	Investor-state dispute settlement
MAS	Monetary Authority of Singapore (Singapore)
OIC	Office of the Insurance Commission (Thailand)
OJK	Otoritas Jasa Keuangan (Indonesia)
SOE	State-owned entreprises
TCC	Trade Competition Commission (Thailand)
UNCITRAL	The United Nations Commission on International Trade Law
WTO	World Trade Organisation

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