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Third Party Administrators in Japan: Balancing Opportunity and Compliance in Japan's Insurance Ecosystem

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Summary

This article explores the vital role of Third Party Administrators (TPAs) in Japan's insurance ecosystem, highlighting their contributions to claims management and administrative efficiency. It delves into the legal frameworks, including the Insurance Business Act (IBA) and the Attorney Act, that define the permissible scope of TPA activities and ensure regulatory compliance. While emphasizing the challenges posed by strict legal boundaries, this article provides insights into how TPAs can adapt to market demands and position themselves as indispensable partners in Japan's evolving insurance industry.

I. Introduction¹

1. Overview of TPAs and Their Role in the Insurance Industry

Third Party Administrators (TPAs) play a critical role in the insurance ecosystem, acting as intermediaries that streamline administrative tasks for insurance companies. TPAs provide expertise in claims management, damage assessment, and other operational processes, enabling their clients to focus on core functions. Their services typically include:

- **Claims Processing:** Managing the end-to-end claims lifecycle, including verification, assessment, and coordination with stakeholders.
- **Risk Assessment:** Conducting investigations and evaluations to support informed decision-making on claims.
- **Customer Interaction:** Handling customer inquiries and providing timely support.

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2. Growing Relevance of TPAs in Japan's Insurance Markets

The importance of TPAs in Japan has been increasing, driven by the following factors:

i. **Digital Transformation in Insurance:**

The rise of InsurTech and digital tools has created new opportunities for TPAs to integrate advanced technologies, such as artificial intelligence and data analytics, into claims processing and risk management.

ii. **Outsourcing by Insurance Companies:**

Licensed insurers in Japan are increasingly outsourcing non-core functions to outside vendors to enhance operational efficiency. This trend aligns with the global movement toward focusing on strategic activities while delegating routine tasks to experts.

iii. **Corporate Demand for Self-Insurance:**

An increasing number of Japanese companies are adopting self-insurance programs to better control risk and costs. These programs often rely on outside vendors for administrative support, particularly in areas such as claims investigation and damage assessments.

II. Legal Framework Governing TPAs in Japan

The operations of TPAs in Japan are subject to stringent legal oversight to ensure compliance with regulatory requirements and protect stakeholders in the insurance market. Two primary legal frameworks define the permissible scope of TPA activities:²

1. Insurance Business Act (IBA)

The IBA regulates all entities involved in "insurance business" activities, including insurance underwriting. While TPAs do not underwrite insurance, their involvement in claims handling and related administrative tasks can intersect with activities governed by the IBA. Key considerations include:

- **Prohibition on Insurance Activities:**

TPAs are prohibited from engaging in core insurance activities, such as underwriting policies or making final decisions on claims payments. These responsibilities must

² Additionally, TPAs must comply with regulations concerning the handling of personal information, as stipulated in the Act on the Protection of Personal Information. This includes obtaining proper consent from individuals and implementing appropriate security measures to protect data. It is also important to note that while TPAs can perform various administrative functions, they must avoid any activities that could be interpreted as acting as an insurance agent or broker without the necessary licenses.

remain with licensed insurers.³

- **Compliance for Delegated Tasks:**

When insurers outsource administrative functions to TPAs, the insurers are required to ensure that their service providers meet regulatory standards, including data protection, transparency, and fair treatment of claimants.⁴

2. Attorney Act

The Attorney Act aims to protect legal processes by restricting the performance of “legal affairs” to licensed attorneys.⁵ Activities that involve resolving disputes or negotiating settlements are considered legal affairs. Accordingly, non-attorneys, including TPAs, are not allowed to engage in legal negotiations, such as settling disputes or drafting legally binding agreements on behalf of insurers or policyholders. Failure to comply with Article 72 can lead to severe penalties, including imprisonment for up to two years or a fine of up to 3 million yen.⁶

III. Permissible and Restricted TPA Activities

1. Accepting Notifications of Loss

Depending on the specific circumstances, TPAs can act as the first point of contact for policyholders by receiving claims notifications. Whether through call centers, online portals, or other channels, TPAs facilitate the initial reporting of losses. It should be noted, however, that the TPAs are required to ensure prompt and accurate communication with insurers to avoid delays in claims processing.⁷

2. Conducting Damage Assessments

A core strength of TPAs lies in their ability to conduct thorough damage assessments, including on-site inspections, evidence collection, and preparing detailed reports to assist insurers in evaluating claims. However, as stated in Section III.3. below, making final determinations regarding the validity of claims or deciding on payment amounts may violate the IBA.

³ Article 3, Paragraph 1 of the Insurance Business Act prohibits entities without a license from engaging in insurance business.

⁴ See, Article 100-2 of the Insurance Business Act, Article 53-11 of the Insurance Business Act Enforcement Regulations, and the Financial Services Agency's Supervisory Guidelines.

⁵ Article 72 of the Attorney Act.

⁶ Article 77, Item 3 of the Attorney Act.

⁷ See, Article 14 of the Insurance Act.

3. Claims Approval and Payment

While TPAs play a vital role in streamlining the claims management process, their involvement in claims approval and payment is limited under Japanese law. Depending on the specific circumstances, the following activities are likely impermissible for TPAs:

- **Approving or denying claims** on behalf of insurers.
- **Determining indemnity amounts** to be paid.

These restrictions exist because they are considered core responsibilities of licensed insurers, ensuring compliance with the IBA and safeguarding the rights and interests of policyholders.

4. Handling Potential Disputes

Disputes between insurers, policyholders, or third parties present another area of difficulty. While TPAs may assist with factual investigations or administrative tasks, as stated in Section II.2. above, they must avoid involvement in:

- Negotiating settlements, which are considered legal affairs under the Attorney Act.
- Making determinations that could influence the outcome of disputes.

TPAs should develop clear processes for escalating potential disputes to insurers or legal professionals to avoid overstepping these boundaries.

IV. Conclusion

As outlined above, the role of TPAs in Japan is strictly regulated by laws such as the Insurance Business Act and the Attorney Act. These legal frameworks define the permissible scope of TPA activities, ensuring compliance and protecting policyholders.

Nevertheless, as the insurance industry continues to evolve, TPAs will remain important contributors to its efficiency and growth. By operating within the legal boundaries, embracing technological advancements, and adapting to changing market needs, TPAs have the potential to position themselves as indispensable partners in Japan's insurance ecosystem.

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