

CIRCULAR
GUIDING IMPLEMENTING COMPULSORY FIRE AND EXPLOSION
INSURANCE REGIME

Pursuant to the Business Insurance Law No.24/2000/QH10 on December 9, 2000;

Pursuant to the Decree No 35/2003/ND-CP of April 4,2003 of the Government regulated of implementation details of the Fire Prevention and Fighting Law;

Pursuant to the Decree No.130/2006/ND-CP of November 8, 2006 of the Government regulated of the compulsory fire and explosion insurance regime;

Pursuant to the Decree No.118/2008/ND-CP of November 27, 2008 of the Government regulated of the function, the obligation, the right, and the organization structure of the Ministry of Finance;

The Ministry of Finance directs the implementation of the compulsory fire and explosion insurance regime as follows:

Chapter 1
GENERAL REGULATION

Article 1: The scope of application

This Circular regulates of the compulsory fire and explosion insurance regime on the possession of establishments which is in threat of fire and explosion; the insurance enterprises' responsibilities, establishments which are obligated to buy the insurance in the implementation of the compulsory fire and explosion insurance regime.

Article 2: Subjects of application

1. The insurance enterprises, the establishments, the organizations, and the individuals own possession which is in threat of fire and explosion as defined in the Appendix 1 of the Decree No 35/2003/ND-CP of April 4, 2003 of the Government on the implementation details in accordance with the law of fire prevention and fighting (commonly called as the Decree No.35/2003/ND-CP), are obligated to obey all articles of this Circular and other articles of any related law.

2. In case that offices, organizations, and the individuals owning establishments which are in threat of fire and explosion as defined at the Appendix 1 of the Decree No.35/2003/ND-CP, must assure to obey obligated fee levels when the threat of fire and explosion occurs in accordance with the board of fee levels in the Appendix 13 of this Circular.

3. Regarding to establishments in threat of fire and explosion of specific characteristics which have not been mentioned or insufficiently mentioned in this Circular, the insurance enterprise and the insurance purchaser are allowed to make an agreement on the insurance conditions and the insurance cost fee, then inform to the Ministry of Finance in order to investigate and manage.

Article 3: Properties in force of joining the compulsory fire and explosion insurance

Properties in force of joining the compulsory fire and explosion insurance involve:

1. Houses, building structures and attached equipments;
2. Mechanical Equipments;

3. Other commodities, materials, and properties.

Properties above are assured by the insurance enterprise when they are calculated into money and noted in the insurance contract.

Article 4: The terms explanation

In this Circular, terms below are understood as follows:

1. *The insurance enterprise* is a business unit which is issued with the non-life insurance business establishment and operation certificate.

2. *The insurance purchaser* is the organization or the individual which owns or manages or exerts establishments in threat of fire and explosion, written in the insurance certificate.

3. *The fire* is the chemical reaction which emits heat and enlightens due to the explosion or any other reasons.

4. *The explosion* is a chemical reaction which causes sudden gas emission and energy with a great weight as well as resounds and causes physical effects to the surrounded things but except:

a. The assured property which is destroyed or broken because of the boiler, the boiling bucket by burning gas, the container, the machine, and the equipment whose inward pressure is made by all moisture exploded (not because of the explosive source) is in the insurance purchaser's ownership or stipulation.

b. The container, the machine, the equipment, and the inward materials are broken or destroyed due to the explosion from those materials (this exception is not applied to the oil or gasoline fire and explosion insurance situation).

5. *The establishments in threat of fire and explosion* are establishments which are defined in the Appendix 1 of the Decree No.35/2003/ND-CP.

6. *The deductible level* is the amount of money which the insurance purchaser must pay in every insurance event. The deductible level is regulated in the Appendix 2 promulgated together with this Circular.

Chapter 2 SPECIFIC REGULATIONS

Article 5: The compulsory fire and explosion contract

The compulsory fire and explosion contract content is defined in clause 2 Article 9 of the Decree No.130/2006/ND-CP of November 8, 2006 of the Government which regulates the compulsory fire and explosion insurance contract (commonly called the Decree No.130/2006/ND-CP). In case that the insurance has yet been signed, the insurance enterprise can issue the Insurance Certificate to the purchaser. The Insurance Certificate Version is defined in the Appendix 1 promulgated with this Circular.

Article 6: The sum covered by insurance

1. The sum covered by insurance is the value which is determined in money on the market price of the possession participating the compulsory fire and explosion insurance at the insurance participation time.

2. In case, the market price is not determined, The sum covered by insurance shall be agreed by parties. Specifically as follows:

a. In case that the subjects of insurance are a kind of possession, The sum covered by insurance shall be that possession's value which is calculated in cash after depreciation or by a new substitute's value at the time when the insurance is signed between the insurance enterprise and the the insurance purchaser.

b. In case that the subjects of insurance are the commodity (the original material, semi-perfect product, perfect product), The sum covered by insurance is calculated in cash in accordance with the proclamation.

Article 7: The effect of insurance

The effect of insurance begins and ends in regard to the charter in the insurance contract, except that the insurance contract is cancelled by the law regulation.

Article 8: Cancellation of insurance

1. The insurance contract shall be invalid for a part in regarding to one or some property items:

a. Disconnected or outwardly removed off the area or location which has been regulated in the insurance contract.

b. No longer belonging to the legal ownership or management or use of the insurance purchaser.

2. The insurance contract can be cancelled completely in one of the following situations:

a. The insurance purchaser suggest cancelling the contract, if the validity of contract is still on with no insurance event has ever happened. The insurance purchaser must inform with a text document to the insurance enterprise before fifteen (15) days. Within fifteen (15) days, since the cancellation announcement has been received, if the insurance enterprise gives out no idea, the contract shall certainly be cancelled. The insurance enterprise has to refund 80% the insurance cost fee to the insurance purchaser at the cancellation time.

b. The insurance enterprise unilaterally cancels the contract according to the law regulations.

Article 9: The insurance purchaser's rights

1. To select insurance enterprises licensed to conduct compulsory fire and explosion insurance business in order to purchase compulsory fire and explosion insurance.

2. To request the insurance enterprise to explain and supply information related to the entry into, performance and termination of the compulsory fire and explosion insurance contract.

3. Having the insurance enterprise refund quickly, efficiently, and exactly in regard to the the contractual charters.

4. To reach agreement with the insurance enterprise on the insurance contracts terms this, however, must not be against the law.

5. To account expenses for the purchase of compulsory fire and explosion insurance as goods or service costs, for production and business establishments, or include them in state budget allocations, for non-business units.

6. To initiate a civil lawsuit against the insurance enterprise, in case the insurance enterprise does not correctly fulfil the contractual charters and the related law.

Article 10: The insurance purchaser's obligations

1. To participate in compulsory fire and explosion insurance in accordance with laws.

2. To observe regulations on fire prevention and fighting as provided for in clause 2 Article 13 Decree No.130/2006/ND-CP.

3. Listing fully and honestly every specific detail which relates with the insurance contract as the insurance enterprise's request, when the insurance routine is put into process.

4. Fully paying the insurance fee and fulfilling the other obligations in regard to the deadline and the manner as charters in the insurance contract.

5. To inform promptly to the insurance enterprise about factors making the extent of risk changed in order to adjust on insurance conditions and premiums.

6. Have to cooperate with the insurance enterprises in the process of performing the contract of compulsory fire and explosion insurance.

7. When the insurance event occurs, the insurance purchaser is obligated to:

a. Obey all regulation of fire emergency, fire fighting, and fire fighting participation in Clause 23 of the Decree No.35/2003/ND-CP.

b. Immediately inform to the insurance enterprise in order to co-operatively solve and send an announcement document to the insurance enterprise at least three (03) working days since the insurance occurs.

c. Immediately inform to the insurance enterprise, implement necessary insurance routines in order to preserve the insurance purchaser's complaint right, and support the insurance enterprise to send for the third party when the damage is unintentionally caused by the third party. In case that the damage is intentionally caused by any person, the insurance purchaser must immediately inform to the police.

d. Provide the insurance enterprise with the significant information as well as send out bills, damage confirmations, and damage reports. The insurance enterprise has right to have the insurance purchaser to present the asset report and the accounting report in order to be checked.

8. Applying the prevention and damage limitation methods in regard to the law regulation.

In case that the insurance purchaser breaks all the obligation regulated in this Article, the insurance enterprise has right to refuse to refund a part or the whole refunded sum dependent on the fault level of the insurance purchaser.

Article 11: The insurance enterprise's rights

1. Collecting the insurance premium as provided in the insurance contract; however, the premium is not less than the premium of compulsory fire and explosion insurance board regulated in the Appendix 3 promulgated together with this Circular.

2. Refusing to sell the compulsory fire and explosion insurance when the insurance purchaser does not satisfy requirements on the fire prevention and fighting regulated in clause 2 Article 13 of the Decree No.130/2006/ND-CP.

3. Asking the insurance purchaser to present the accounting report and the accounting voucher to be checked of reported data.

4. Refusing to refund, in case of insurance obligation-eliminated situations which are regulated in Article 10 of the Decree No.130/2006/ND-CP and Article 16 of this Circular.

Article 12: The insurance enterprise's obligations

1. Implementing the fire and explosion insurance in regard to the law regulation.

2. Propagating of the compulsory fire and explosion insurance regime; instructing and making good condition for the insurance purchaser to buy the insurance.

3. Selling out the compulsory fire and explosion insurance when the insurance purchaser has yet satisfied all requirements of fire prevention and fighting in accordance with the regulation in clause 2 Article 10 this Circular.

4. Fully explaining to the insurance purchaser the information related to the right and obligation of the insurance purchaser; providing the insurance purchaser with the cost fee board, the compulsory fire and explosion insurance rule which is promulgated by the Ministry of Finance.

5. Tightly cooperating with the insurance purchaser and other Appropriate Authorities in order that the insurance event is dealt with, collecting related necessary information in order to find out the damage reason and set-measure, when the insurance event occurs.

6. Solving the refund in the valid time period in the Article 18 of this Circular, when the refund file has yet satisfied all the regulation according to the Article 17 of this Circular.

7. Cooperating with the fire prevention and fighting, salvage, and rescue police office as well as the insurance purchaser in order to implement the compulsory fire and explosion insurance regime and the prevention and damage limitation.

8. Contributing the fee in order to the fire prevention and fighting in regard to the law regulation. Annual contribution is equal to 5% of the total compulsory fire and explosion cost fee which has been collected is equivalent to the true responsibility remained from the insurance enterprise.

In thirty (30) days, since annual June 30th and December 31st, the insurance enterprise is obligated to transfer the fire prevention and fighting operation budget contribution sum to the contemporary keeping account which the Ministry of Police opened at the Central Government's Treasury and report the implementary situation in the Appendix 5 and 6 promulgated together with this Circular.

9. Settling and sending to the Ministry of Finance statistical reports and quarterly and yearly mission reports in the Appendix 4 promulgated with this Circular.

- Quarterly report: latest are thirty (30) days since the last day of quarter (involving of the hard and soft version).

- Yearly report: latest are ninety (91) days since the last day of year (involving of the hard and soft version).

10. Implementing other obligations in accordance with the law regulation.

11. Being fined equivalently to the law-breaking behavior which is regulated in the Degree No 41/2009/ND-CP on May 5th 2009 of the Government on the law-breaking administrative punishment in the insurance trading.

Article 13: The insurance responsibility

The insurance enterprise's responsibility in every situation shall not exceed:

1. The sum covered by insurance which is equivalent to every property item and then summed up, without exceeding the total sum covered by insurance written on the insurance certificate at the time when the insurance event occurs.

2. The rest of sum covered by insurance after having refunded any property which is damaged or destroyed or broken in the valid time period of the contract except for the insurance enterprise which has restored the sum covered by insurance after every pay the compensation.

Article 14: Appraising the loss

1. When the insurance event occurs, the insurance enterprise or organization which is authorized by the insurance enterprise shall promote to appraise the loss in order to investigate the reason and loss set-measure. The appraisal cost is paid by the insurance enterprise.

2. In case that the insurance enterprise and the insurance purchaser can not make any agreement on the reason and the loss set-measure, the independent solicit appraisal expertise. However, an agreement on the independent solicit appraisal expert cannot be made all parties, one of parties must ask the local Court which is close to the damage-happening place or the insurance purchaser lives to indicate an independent solicit expert. The conclusion from the independent solicit expert is valid for every party.

Article 15: The indemnity form

1. The insurance purchaser and the insurance enterprise can make an agreement on one of the following indemnity forms:

a. Repairing the damaged property;

- b. Substituting the damaged property with another one;
- c. Paying the refund sum.

2. If the insurance enterprise and the insurance purchaser cannot make any agreement on the indemnity form, the refunding solution shall be made with paying money.

3. In case of part b and c clause 1 this Article which are made, the insurance enterprise has right to confiscate the damaged property after having fully replaced or refunded in regard to the market value of the property.

Article 16: Exclusion from insurance liability

1. Insurance enterprises are not obliged to pay compensation for damage which is inflicted by one of the following causes:

- a. The earthquake, the vocal eruption, or other natural disasters.
- b. Assets self-ferment or-heat-radiate.
- c. Assets are under the influence of a heat-using treatment process.
- d. Lightning directly on the insured assets without causing any fire or explosion.
- e. The nuclear weapon materials cause fire and explosion.

f. The damage happens to the machine, the electrical equipment or the electrical equipment's parts because of the overload, the over-pressure, the short-circus, the self-burning, the arc, the leaky, any other reasons, and the thunder infliction involved.

g. Damages caused by intentional fire and explosion-causing acts of the insurance purchaser in order to claim damages in accordance with the insurance contract.

h. Damages caused by the fire prevention and fighting law-breaking intention of the insurance purchaser in order to cause the fire and explosion..

i. The commodity authorized or consigned by the insurance purchaser, except that it is confirmed of being assured by the insurance enterprise and the insurance purchaser has to pay the insurance cost fee for it.

j. Money, precious metals, gemstones, securities, letters of guarantee, documents, scripts, business books, computer files, diplomas, molds, drawings or blueprints, unless those items are certified in the insurance certificate.

k. Explosives, unless they are certified to be insured in the insurance certificate.

l. The assets which at the time of happening damage are insured under the maritime insurance policy or fall within the insurance liability under the maritime insurance policy, excluding the part of damage which is beyond the compensation liability under the maritime insurance policy.

m. Damages caused due to the fire or the explosion happen to the third party.

n. Damages happen to the data, the software, and the computer program.

o. Damages caused by the political events, the social security and safety problems.

p. Other insurance obligation-eliminated situations which are in regard to the insurance law or agreed by parties.

2. Regarding to the obligation-eliminated situations as above (except for situations which are regulated at point g and h, clause 1 of this Article), if the insurance purchaser want to buy the insurance and the insurance enterprise accepts, both parties can make a supplemented insurance contract for those events above.

Article 17: The refund-claiming file

1. The refund-claim of the insurance purchaser.

2. The insurance contract.
3. The full fire prevention and fighting conditions certificate or the full fire prevention and fighting conditions document.
4. The appraisal document from the insurance enterprise or the person who is authorized by the insurance enterprise.
5. The damage-causing reason appraisal document from the fire prevention fighting rescue police or other authority offices or damage-proving evidences.
6. The damage-listing report and other damage-proving evidences.

Article 18: The compensation-reclaiming time limit and compensation payment

1. The compensation-claiming time limit of insurance purchaser is one (01) year since the day of happening insurance event, except delay because of the objective and irresistible reason according to provisions of law.
2. The time limit of compensation payment of the insurance enterprise is fifteen (15) days since the full file is received according to provisions.

In case refusing of compensation, the insurance enterprise must inform in written to the insurance purchaser in fifteen (15) days since the day of receiving full compensation -claiming file.

Article 19: Dispute resolution

Any dispute arising from the Insurance Contract shall be brought to the local Court where the respondent resides for resolution, if cannot resolve by negotiation between two parties. The time limit for suing disputes related to the insurance contract is three (03) years, since time of arising dispute. If exceeding the time above, every complains shall be no longer valid.

**Chapter 3
THE IMPLEMENTATION OPERATION**

Article 20: The effect and the obligation of implementation

1. This Circular takes effect since March 1, 2011 and replaces the Decree No.28/2007/QĐ-BTC on April 24,2007 of the Ministry of Finance on promulgating rules, premiums of compulsory fire explosion insurance.
2. Ministries, Ministry-level Agencies, Government's Offices, Provincial and Central Cities People Committee, Insurance Enterprises, Organizations and Individuals, and the Offices related are obligated to implement this Circular.
3. In the implementation process, if have any problems, please quickly feedback to the Ministry of Finance for studying and resolving./.

FOR THE DEPUTY MINISTER

Tran Xuan Ha