

Content

Title : Regulations Governing Required Qualifications for Responsible Persons of Insurance Enterprises **Ch**

Date : 2010.10.05

Legislative : 1. Full 11 articles adopted and issued 17 September 1992 per Order No. (81)-Taiwan-Finance-Insurance-811764515 of the Ministry of Finance
2. Article 3 amended and issued 26 November 1994 per Order No. (83)-Taiwan-Finance-Insurance-832062545 of the Ministry of Finance
3. Article 3 amended and issued 21 July 1997 per Order No. (86)-Taiwan-Finance-Insurance-861799557 of the Ministry of Finance
4. Article 3 amended and issued 7 May 2003 per Order No. Taiwan-Finance-Insurance-0920750621 of the Ministry of Finance
5. Full 10 articles amended and issued 19 November 2004 per Order No. Financial-Supervisory-Insurance-III-09302540891 of the Financial Supervisory Commission, Executive Yuan; for implementation from the date of issuance
6. Amended on March 11, 2009
7. Amended on February 10, 2010
8. Amended on October 5, 2010

Content : Article 1

These Regulations are adopted pursuant to Article 137-1 of the Insurance Act ("the Act").

Article 2

These Regulations apply to insurance enterprises and foreign insurance enterprises as defined in Article 6 of the Act.

Article 3

A person to whom any of the following descriptions applies may not serve as a responsible person of an insurance enterprise:

1. Has no legal capacity, has limited legal capacity, or is the subject to the order of commencement of assistance and such order has not been revoked.

2. Has committed a crime under the Organized Crime Prevention Act, and has been found guilty by a final and unappealable judgment.

3. Has previously received a final and unappealable sentence to a punishment of not less than imprisonment for counterfeiting of currency, counterfeiting of securities, embezzlement, fraud, or breach of trust, and execution of the sentence has not been completed or ten years have not yet passed since execution of the sentence was completed, probation expired, or pardon was granted, as the case may be.

4. Has previously received a final and unappealable sentence to a punishment of not less than imprisonment for forgery, offense involving secret information, usury, impairment of creditor rights, or a violation of the Tax Collection Act, the Trademark Act, the Patent Act, or other acts or regulations governing industry and commerce, and the sentence has not been completed or five years have not yet elapsed since execution of the sentence was completed, probation expired, or pardon was granted, as the case may be.

5. Has received a final and unappealable sentence as punishment for

corruption and execution of the sentence has not been completed or five years have not yet passed since execution of the sentence was completed, probation expired, or pardon was granted, as the case may be.

6. Has received a final and unappealable sentence as punishment for a violation of the Act, the Banking Act, the Financial Holding Company Act, the Trust Enterprise Act, the Act Governing Bills Finance Business, the Financial Asset Securitization Act, the Real Estate Securitization Act, the Securities and Exchange Act, the Futures Trading Act, the Securities Investment Trust and Consulting Act, the Act for Regulation of Foreign Exchange, the Credit Cooperative Act, the Agricultural Finance Act, the Farmers Association Act, the Fishermen's Association Act, the Money Laundering Control Act, or any other act governing financial matters, and the sentence has not yet been completed, or five years have not yet passed since execution of the sentence was completed, probation expired, or pardon was granted, as the case may be.

7. Has been declared bankrupt and his or her rights have not yet been reinstated.

8. Served as a responsible person of a juristic person at the time it was declared bankrupt, where five years have not yet passed since the close of bankruptcy, or where reconciliation has not been performed.

9. A financial institution has refused to honor the person's negotiable instruments and has not resumed honoring them, or the person again had a negotiable instrument dishonored for insufficient funds within three years after the financial institution resumed honoring the person's negotiable instruments.

10. Has undergone a material loss of creditworthiness that has yet to be settled or three years have not yet passed since settlement.

11. The competent authority has ordered the person's replacement or discharge due to a violation of the Act, the Banking Act, the Financial Holding Company Act, the Trust Enterprise Act, the Act Governing Bills Finance Business, the Financial Asset Securitization Act, the Real Estate Securitization Act, the Securities and Exchange Act, the Futures Trading Act, the Securities Investment Trust and Consulting Act, the Act for Regulation of Foreign Exchange, the Credit Cooperative Act, the Agricultural Finance Act, the Farmers Association Act, the Fishermen's Association Act, or any other law governing financial matters, and five years have not yet passed since replacement or discharge.

12. Has received a final and unappealable court order to undergo correction and training, or has been ordered to perform forced labor for larceny or the handling of stolen goods, and execution of the punishment has not yet been completed or five years have not yet passed since completion.

13. Is serving as a responsible person of another insurance enterprise or a financial holding company, bank, trust company, credit cooperative, the credit department of a farmers' (fishermen's) association, bills finance company, securities company, securities finance company, securities investment trust enterprise, securities investment consulting enterprise, or futures commission merchant. However, this restriction shall not apply under any of the following circumstances:

(1) The position arises from an investment relationship between the insurance enterprise and the institution in question, and no one serves as

board chairman or as a manager of both enterprises concurrently, and the competent authority has granted approval.

(2) Where the insurance enterprise is a subsidiary of a financial holding company, its responsible persons may serve concurrently as responsible persons of said financial holding company or of another of its subsidiaries, provided that a person may not serve concurrently as a manager of more than one subsidiary.

(3) Where the insurance enterprise is a juristic-person director or a juristic-person supervisor of a financial holding company, its responsible persons may, by virtue of their position as responsible persons of the holding company, serve concurrently as responsible persons of a subsidiary of the holding company, provided that the positions in which such persons may serve for the holding company's subsidiary are limited to director or supervisor.

(4) It is necessary for either facilitation of a merger or to deal with a problem insurance enterprise and has been approved by the competent authority.

14. There is factual proof that the person has engaged in or otherwise been involved with any other dishonest or improper activities, demonstrating unsuitability to serve as a responsible person of an insurance enterprise.

15. Is otherwise restricted by law.

The chairman or general manager of an insurance enterprise, or a person holding a comparable position shall not serve as the chairman or general manager or hold a comparable position at an non-insurance-related business. However, the preceding paragraph does not apply to holding a position at a foundation or a non-profit social organization.

Where the government or a juristic person is a shareholder, the provisions of the preceding two paragraphs apply *mutatis mutandis* to any authorized representative, or to any natural person appointed to exercise in its behalf the duties of its position, who is to act as a director (or trustee) or supervisor.

Article 4

An insurance enterprise shall have one general manager to oversee the business of the entire company (or cooperative) and shall not have another person in equivalent position.

The general manager of an insurance enterprise shall possess one of the following qualifications:

1. Has graduated from a domestic or foreign school at the level of junior college or higher or possesses equivalent academic qualifications, has worked for no less than nine years in insurance enterprises, and has served for no less than three years in the position of manager or higher or in an equivalent position at the head office of an insurance enterprise (or cooperative), and has performed with excellence in such position.

2. Has graduated from a domestic or foreign school at the level of junior college or higher or possesses equivalent academic qualifications, has worked for no less than nine years in insurance administration or supervision, and has served for no less than three years in the position of intermediate civil service employee at grade 9 or higher or in an equivalent position, and has performed with excellence in such position.

3. Has worked for no less than five years in insurance enterprises, and has

served for no less than three years in the position of vice general manager or higher or in an equivalent position at an insurance enterprise, and has performed with excellence in such position.

4. Has other academic or employment experience sufficient to show that he/she has leadership ability, professional insurance expertise, or experience in managing an insurance business, and is capable of operating an insurance business soundly and efficiently.

A person who is to serve as general manager of an insurance enterprise may not take up the post until minutes of the relevant board of directors meeting and documents evidencing his/her qualifications have been submitted to the competent authority for review, and an approval is granted thereby.

Article 5

The chairman, at least one third of the directors and supervisors, vice general manager, assistant vice general manager, or manager of an insurance enterprise shall possess one of the following qualifications:

1. Has graduated from a domestic or foreign school at the level of junior college or higher or possesses equivalent academic qualifications, has worked for no less than five years in insurance enterprises, and has served for no less than one year in the position of assistant manager or higher or in an equivalent position at the head office of an insurance enterprise (cooperative), and in such position has performed with excellence.

2. Has graduated from a domestic or foreign school at the level of junior college or higher or possesses equivalent academic qualifications, has worked for no less than five years in insurance administration or supervision, and has served for no less than one year in the position of intermediate civil service employee at grade 9 or higher or in an equivalent position, and in such position has performed with excellence.

3. Has worked for no less than five years in insurance enterprises, and has served for no less than three years in the position of assistant manager or higher or in an equivalent position at the head office of an insurance enterprise (or cooperative), and in such position has performed with excellence.

4. There is other factual evidence sufficient to prove that he/she has professional insurance expertise, or experience in managing an insurance enterprise, and is capable of safe, sound, and effective operation of an insurance business.

Article 5-1

The chairman of an insurance enterprise may not serve concurrently as its general manager. The preceding provision does not apply in the following circumstances, subject to the approval of the competent authority:

1. The general manager leaves job or becomes unable to continue the performance of his/her duties due to some material unforeseen event and there is no eligible candidate who meets the qualification requirements set forth in Article 4, paragraph 2 herein to take his or her place.

2. The general manager is discharged from his or her position by order of the competent authority pursuant to Article 149, paragraph 1, subparagraph 4 of the Act for regulatory violation, and there is no eligible candidate who meets the qualification requirements set forth in Article 4, paragraph 2 herein to take his or her place.

3. The general manager is deemed by the competent authority to be in other

situations similar to that in the preceding two subparagraphs and there is no eligible candidate who meets the qualification requirements set forth in Article 4, paragraph 2 herein to take his or her place.

When an insurance enterprise applies to the competent authority for its chairman to serve concurrently as its general manager pursuant to the proviso in the preceding paragraph, the competent authority may grant the holding of concurrent positions for a maximum period of three months. If necessary, the insurance enterprise may apply to the competent authority for one extension one month before the end of the three-month period. However if its chairman does not meet the qualifications set forth in Article 4, paragraph 2, the insurance enterprise is not allowed to apply for an extension.

Article 6

A supervisor's spouse, blood relative within the second degree of kinship, or relative by marriage within the first degree of kinship, may not serve as a director or manager at the same insurance enterprise.

Article 7

An insurance enterprise shall, within 15 days after its chairman, or a director or supervisor that meets the qualification requirements set forth in Article 5 herein has been elected or appointed, submit the relevant qualification documents to the competent authority for approval; where the qualifications of the chairman or director or supervisor are not approved by the competent authority, the competent authority may order the insurance enterprise to make changes within a prescribed period of time.

Where an insurance enterprise has question over whether its chairman, director, or supervisor to be elected or appointed meets the qualification requirements set forth in Article 5, subparagraph 4 herein, the insurance enterprise may submit the qualification information for approval by the competent authority before the election or appointment.

Article 8

In order to determine whether a responsible person of an insurance enterprise possesses the qualifications prescribed in these Regulations, the competent authority may order an insurance enterprise to act within a specified time period to submit necessary documents and information or send a designated person to appear before the competent authority for questioning.

Article 9

For a responsible person of an insurance enterprise who took up his or her position prior to implementation of the amendment to these Regulations on February 10, 2010 and serves concurrently as a responsible person of another financial institution, or serves as the chairman or general manager, or holding a comparable position at an non-insurance-related business but does not meet the requirements provided in Article 3, paragraph 1, subparagraph 13, or Article 3, paragraph 2 herein, that person may serve in the concurrent position until his or her current term expires or until he or she is discharged, which however shall not be longer than three years.

If a responsible person of an insurance enterprise has any of the following circumstances prior to implementation of the amendment to these Regulations on October 5, 2010, the insurance enterprise shall make adjustment during a

prescribed period of time:

1. If the number of general manager at the insurance enterprise exceeds the limit set forth in Article 4, paragraph 1 herein, the insurance enterprise shall make adjustment to become compliant with the provisions in Article 4, paragraph 1 herein within six months from the date the amendment is implemented.
2. If the chairman of the insurance enterprise serves concurrently as its general manager with approval from the competent authority, the chairman may continue to serve in the concurrent position until his or her concurrent term as a director expires or until he or she is discharged, which however shall not be longer than one year.
A responsible person of an insurance enterprise shall continue to possess or meet the qualification requirements set forth in these Regulations during his or her term of office.

Article 10

These Regulations shall enter into force from the date of issuance.

Data Source : Financial Supervisory Commission Laws and Regulations Retrieving System