

Content

Title : Regulations Governing the Supervision of Insurance Solicitors Ch

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Content : Chapter 1 General Provisions

Article 1 These Regulations are adopted under Article 177 of the Insurance Act ("the Act").

Article 2 For the purposes of these Regulations, the following terms shall have the following meanings:

1. Solicitor: means an insurance solicitor as set forth under Article 8-1 of the Act.

2. Bank: means a bank approved by the competent authority to engage concurrently in either insurance agent or insurance broker business.

3. Employing company: means an insurance enterprise, an insurance agent company, an insurance broker company, or a bank.

4. Appropriate industry association: refers to either the Non-Life Insurance Association of the Republic of China or the Life Insurance Association of the Republic of China.

5. Engaging in the same type of insurance business: means both employing companies engage in non-life insurance or life insurance.

Article 3 A solicitor may not solicit insurance for the employing company unless he or she has been registered and obtained a registration certificate in accordance with these Regulations.

A service agreement entered into by and between a solicitor and an employing company shall be subject to the Civil Code and other relevant acts and regulations.

Article 4 The types of insurance that a solicitor may solicit shall be as determined by the employing company, provided that the competent authority has discretion, after considering the development status of the insurance business, to require that solicitors pass a special examination before they are allowed to solicit a particular type of insurance.

Chapter 2 Obtaining Qualifications and Registering

Article 5 To obtain the qualification of an insurance solicitor, a person must be at least 20 years of age, have graduated from a senior high school (senior vocational school) or higher level educational institution or possess an equivalent academic degree, and meet one of the following conditions:

1. Having taken and passed a solicitor qualification examination held by the appropriate industry association; or

2. Having been registered in accordance herewith and having not been sanctioned by revocation of such registration pursuant to Article 13 or Article 19 herein.

A person who intends to take the qualification examination under subparagraph 1 of the preceding paragraph shall enroll in the examination

according to the rules for solicitor qualification examinations adopted by the appropriate industry association.

The appropriate industry association may, in consideration of the status of insurance market development, hold the solicitor qualification examinations for any single type of insurance, subject to the approval of the competent authority.

The rules for solicitor qualification examinations under the preceding two paragraphs shall be formulated by the appropriate industry association and submitted to the competent authority for recordation.

The education requirements set forth in paragraph 1 hereof do not apply to insurance solicitors who have registered in accordance herewith prior to December 31, 2010 and have not been sanctioned by revocation of such registration pursuant to Article 13 or Article 19 herein.

Article 6 A person having the qualifications set forth under paragraph 1 of the preceding article may complete a registration application form and submit the same to the appropriate industry association for registration through his or her employing company.

The appropriate industry association shall notify the employing companies of solicitors who have passed its review to prepare and issue a registration certificate to said solicitors. The employing companies shall, before the 15th of each month, compile information on the registration certificates prepared and issued in the previous month and forward such information to the appropriate industry association for the purpose of data compilation.

The registration application form, registration procedure, format of the registration certificate, and information to be included in the registration certificate shall be set forth by the appropriate industry association.

A person who already has an insurance agent or insurance broker practice license may, after surrendering the practice license to the competent authority, submit a proof of practice license surrender and make registration through his or her employing company.

A person whose solicitor registration has been revoked pursuant to Article 13 or Article 19 herein shall retake the qualification examination under subparagraph 1, paragraph 1 of the preceding article before making registration.

Solicitors shall present their registration certificate and make known the scope of business for which they are authorized to conduct when soliciting insurance, unless it is otherwise stipulated by the competent authority.

Article 7 Registration will not be granted to any person applying for solicitor registration and having any of the following situations; if any such person is already registered as a solicitor, the employing company shall notify the appropriate industry association to cancel the registration:

1. Having no legal capacity or having limited legal capacity.
2. Having made a false statement in registration application document.
3. Having received a final and unappealable sentence for violating the Organized Crime Prevention Act, and the sentence has not been completed, or five (5) years have not elapsed since the date of sentence completion, the expiration of probation period, or the pardon of such punishment.

4. Having received a final and unappealable sentence to imprisonment for committing forgery, embezzlement, fraud or breach of trust, and the sentence has not been completed or three (3) years have not elapsed since the date of sentence completion, the expiration of probation period, or the pardon of such punishment.
5. Having received a final and unappealable sentence to imprisonment for violating the Insurance 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 Money Laundering Control Act, or any other financial regulatory law, and the sentence has not been completed, or three (3) years have not elapsed since the date of sentence completion, the expiration of probation period, or the pardon of such punishment.
6. Having been adjudicated bankrupt, and rights and privileges have not been reinstated.
7. Having an ongoing event that seriously damages his or her credit worthiness or three (3) years have not elapsed since the closure of such an event.
8. Having been revoked solicitor registration pursuant to Article 13 herein and one (1) year has not elapsed.
9. Currently being suspended from solicitation as a result of a sanction issued pursuant to Article 19 herein, or having solicitor registration revoked under the same article and three (3) years have not elapsed.
10. Having been registered as a solicitor by another insurance company, insurance agent company, insurance broker company or bank engaging in the same type of insurance business, and the previous registration has not been cancelled, hence having made double registration.
11. Having obtained an insurance agent or insurance broker practice license, or acting as the responsible person of another insurance agent company, insurance broker company, or insurance surveyor company.
12. There is factual proof that the person has engaged in or otherwise been involved in any other dishonest or improper activity in the past three years, which demonstrates unsuitability to work as a solicitor.

Article 8 The appropriate industry association and the employing company shall each establish a file for the registration of solicitors, assigning a file number in sequence and stating the following information therein:

1. the solicitor's name, gender, date of birth, domicile information, registration number or national ID number, Resident Certificate for the Taiwan Area ID number, Alien Permanent Resident Certificate number, or ID number of Long-term Resident Certificate held by Mainland spouse, year in which the solicitor passed the solicitor qualification examination, and the period of validity of the registration certificate;
2. the name, location, and phone number of the employing company;
3. the date of registration;
4. any registration of change, suspension from solicitation, cancellation or revocation of registration, and the cause;

5. the scope of solicitation in which the solicitor is authorized to engage;
6. the type(s) of insurance the solicitor is allowed to solicit; and
7. any other information where its registration is required by the competent authority.

Where necessary, an interested party may inquire the appropriate industry association or the employing company regarding a solicitor's registration, to which, the industry association or the employing company may not refuse. Article 9 A solicitor registration certificate is valid for a period of five years and procedures for its renewal shall be completed before the expiration of the original certificate. Solicitation of insurance shall not be made until renewal procedures have been completed.

Rules governing the procedures for renewal of solicitor registration certificates shall be formulated by the appropriate industry association and submitted to the competent authority for recordation.

Article 10 Where there is any change to a solicitor's status, the employing company shall report to the appropriate industry association within five days of occurrence in accordance with the following provisions:

1. Where there has been a change in the registration items, the employing company shall register the change.
2. Where a solicitor has been sanctioned to stop solicitation activities, the employing company shall register the suspension of solicitation.
3. Where a solicitor has any situation under Article 7 herein or has died, lost legal capacity, terminated the employment contract, or otherwise ceased solicitation activities, the employing company shall register the cancellation of solicitor's registration.
4. Where a solicitor has registration revoked under Article 7, Article 13 or Article 19 herein, the employing company shall register the revocation. Under any of the situations set forth in subparagraphs 2 ~ 4 of the preceding paragraph, a solicitor shall surrender his or her registration certificate to the original employing company. The date of change in a solicitor's status under subparagraph 3 of the preceding paragraph shall be the date on which the solicitor has completed the change formalities. Until the employing company has completed the formalities for registering the change in solicitor's status, the insurance solicitation activities of such solicitor shall still be deemed as solicitation undertaken by the employing company.

If the employing company ceases business operation, is dissolved, or is otherwise unable to continue business operation or conduct business activities for any other reason, it shall file on behalf of all of its solicitors registration cancellation with the appropriate industry association. Where the employing company fails to make such filing, a solicitor may request the trade association of which the employing company is a member to file cancellation of registration on his or her behalf with the appropriate industry association.

After a solicitor has terminated his or her employment contract with the employing company, the solicitor may apply through the trade association of which the employing company is a member for cancellation of registration, provided his or her employing company did not carry out the cancellation of the solicitor's registration without justified causes.

If the application in the preceding paragraph is found factual, the appropriate industry association shall cancel the solicitor's registration and notify the employing company.

Article 11 The special examination referred to Article 4 herein shall be held by Taiwan Insurance Institute, the appropriate industry association, or any other insurance-related institution sanctioned by the competent authority.

Before soliciting insurance for which the passage of a special examination as referred to in Article 4 herein is required, a solicitor shall pass the special examination arranged by one of the institutions set forth in the preceding paragraph and file a change in solicitor registration with the appropriate industry association pursuant to subparagraph 1, paragraph 1 of Article 10 herein through the employing company before the solicitor may solicit that type of insurance.

A person whose solicitor registration has been revoked pursuant to Article 13 or Article 19 herein shall retake and pass the examination under the preceding paragraph and carry out change of registration before being allowed to solicit that type of insurance.

Chapter 3 Education and Training

Article 12 Once registered, a solicitor shall attend, on an annual basis, the training providing by the employing company.

The appropriate industry association shall formulate training guidelines, submit them to the competent authority for recordation, and then notify its member companies to implement them.

The training guidelines under the preceding paragraph shall prescribe curricula relevant to each type of insurance that solicitors solicit

Article 13 The employing company shall revoke the solicitor registration of a solicitor who has failed to attend training.

The same shall apply where a solicitor fails training and also fails retraining within one year.

Chapter 4 Insurance Solicitation

Article 14 Article 14 Once registered, a solicitor shall solicit insurance exclusively for the employing company.

With the consent of the employing company, and after obtaining relevant qualifications, a solicitor of an insurance enterprise or insurance agent company may be registered with another insurance enterprise or insurance agent company not engaged in the same type of insurance business, and a solicitor of an insurance broker company may register with another insurance broker company not engaged in the same type of insurance business, thereby serving concurrently as a solicitor for both non-life insurance and personal insurance.

A solicitor who transfers to another company shall be re-registered following the provisions of Article 6; the same shall apply where after such transfer the person involved rejoins the original employing company as a solicitor.

Article 15 The activity of insurance solicitation undertaken by a solicitor under authorization shall be deemed as an activity within the scope of authorization by the employing company. The employing company shall administer rigorous supervision of solicitation by its registered solicitors and will be held jointly and severally liable under law for any

damage arising out of or in relation to the solicitation activity of its solicitors. Where a solicitor is concurrently registered to solicit both non-life insurance and personal insurance, the respective employing companies under which the solicitor is registered shall assume joint liability under law.

The authorization as referred to in the preceding paragraph shall be made in writing and noted on the solicitor's registration certificate.

The term "activity of insurance solicitation" referred to in paragraph 1 hereof shall mean any of the following activities undertaken by a solicitor:

1. Explaining the content of an insurance product and relevant policy provisions.
2. Explaining points to note in filling out an application form.
3. Forwarding the application documents or insurance policy.
4. Any other solicitation activities authorized by the employing company.

When engaging in insurance solicitation activities referred to in the preceding paragraph, a solicitor shall obtain application related documents signed by the applicant and the insured in person; when the solicitation involves life insurance products, the solicitor shall meet the applicant and the insured in person, unless it is otherwise stipulated by the competent authority.

A solicitor shall personally sign name and note his or her registration number on the application form that he or she solicits, unless it is otherwise stipulated by the competent authority.

Article 16 The promotional materials, advertising, introductions, product brochures and policy recommendations used by a solicitor in soliciting insurance shall indicate the name of the employing company, and the name of insurance enterprise if the employing company is an agent, a broker or a bank. A solicitor shall not solicit insurance under any other name or in any other manner.

The contents of the promotional materials, advertising, introductions, product brochures and policy recommendations referred to in the preceding paragraph shall conform to the policy provisions, premium rates, application forms, and any other such documents as reported by the insurance enterprise to the competent authority and approved by the competent authority, and as agreed for use by the employing company. The contents of the aforementioned documents shall also comply with the requirements for information disclosure prescribed by the competent authority.

A solicitor of an insurance agent company, insurance broker company or bank shall use only promotional materials, advertising, introductions, product brochures and policy recommendations provided or approved by the insurance enterprise they work with.

Article 17 Where a solicitor is suspected of violating any insurance act or regulation, or where the competent authority conducts an inquiry into matters relating to solicitation of insurance by a solicitor, the employing company or the solicitor shall provide the competent authority with explanations or written reports within the time limit designated by the competent authority.

Article 18 An employing company shall adopt reward and disciplinary measures with respect to the solicitation activities of its solicitors and submit the same to the trade association of which it is a member for recordation.

With respect to the drafting or revision of the reward and disciplinary measures mentioned in the preceding paragraph, an employing company should include the opinions given by the representatives of its solicitors and adopt the measures in a fair and open manner that also uphold the interests of policyholders. The measures should also contain the procedure of giving a solicitor the chance to state his or her case before meting out any disciplinary action and a mechanism for ex post relief.

The competent authority or the appropriate industry association may issue commendations or otherwise reward outstanding companies or outstanding solicitors that have made earnest efforts in promoting public good with actual deeds or have made contribution to the development of the insurance market.

Article 19 Where a solicitor has committed any of the following acts, the solicitor shall be duly referred to the law enforcement for investigation of alleged crime, and the company that employed the solicitor at the time of the act shall impose a sanction of either suspending said solicitor's solicitation activities for a period of not less than three months but not more than one year or revoking his or her solicitor registration, depending on the severity of the circumstance:

1. Misrepresented or failed to explain any matter that affects the rights and interests of the applicant or the insured.
2. Instigated an applicant or an insured to conceal information from or give false information to the insurer, or knowingly concealed the fact that an applicant or an insured has concealed information from or given false information to the insurer.
3. Prevented an applicant or an insured from disclosing information.
4. Solicited business from an applicant or an insured by means of unfair discrimination, improper rebate, or any other inappropriate reduction of insurance premium.
5. Solicited business from an applicant, an insured or any third party by means of exaggerated or false publicity, advertising, or by another other inappropriate means.
6. Recruited or hired persons without the consent of the employing company.
7. Signed documents on behalf of an applicant or an insured, or filled out an insurance contract document without the consent or authorization of an applicant or an insured.
8. Instigated an applicant by means of threat, inducement with promise of gain, concealment, deceit, or any other inappropriate means, or false representation to terminate an in-force insurance contract and enter into a new contract that resulted in damage to the applicant.
9. Collected premiums without authorization, or collected premiums with authorization but misappropriated or embezzled the collected premiums, or collected premiums without duly delivering a formal receipt issued by the insurance enterprise.
10. Lent his or her solicitor registration certificate for use by others or used other's registration certificate.

11. Solicited or recommended insurance business or other financial products not yet approved or recorded by the competent authority.
12. Solicited insurance business or business in similar nature on behalf of a juristic person or an individual that has not been approved by the competent authority to engage in insurance business.
13. Made improper comparison by means of exaggeration or misrepresentation between different insurance contracts, or between an insurance product and bank deposit or other financial products.
14. Disseminated untrue statements or promotional materials, hence disrupting the financial order.
15. Diverted the funds of the applicant or kept the policy and the seal of the applicant under his or her custody.
16. Has been found upon investigation to have engaged in material violation of the rules or cheating when taking a qualification examination under Article 5 herein or a special examination under Article 11 herein.
17. Violated the provisions of Article 9, paragraph 2 of Article 11, paragraph 1 of Article 14, paragraph 4 or 5 of Article 15, or Article 16 herein.
18. Have otherwise acted in a manner that violates laws and regulations or damages the image of the insurance business.

Where the employing company of a solicitor at the time the solicitor committed an act under the preceding paragraph has been dissolved or cancelled practice license, the employing company that the solicitor is currently registered with shall impose the sanction on the solicitor.

Where a solicitor has been suspended from solicitation activities accumulatively for two years or longer during the effective period of the registration, his or her solicitor registration shall be revoked.

Article 19- 1 A solicitor who disagrees with the sanction of suspension or revocation of solicitation registration against him or her may, within one month from the date of receiving a notice of sanction, appeal to the original decision-making company in writing by stating his or her reasons. A solicitor is allowed to make such an appeal once only. The original decision-making company shall, within one month after receiving the written appeal, notify the solicitor of the appeal result in writing.

If the solicitor disagrees with the appeal result in the preceding paragraph, he or she may, within three months from the date of receiving the appeal result, apply to the grievance and appeal committee of the appropriate industry association for review in writing by stating his or her reasons. A solicitor is allowed to make such an application once only. Members of the grievance and appeal committee mentioned in the preceding paragraph shall include solicitor representatives. The appropriate industry association should report the composition of its grievance and appeal committee to the competent authority for recordation.

Article 20 Where a solicitor has any of the situations under Article 7, Article 13 or paragraph 1 of Article 19, the employing company shall notify the solicitor and the appropriate industry association.

Where a solicitor who has been registered with another employing company pursuant to paragraph 2 of Article 14 herein has any situation under Article 7, Article 13 or paragraph 1 of Article 19, respective employing companies shall handle the matter in accordance with the preceding

paragraph, and notify the other employing company and the appropriate industry association.

Appropriate industry associations shall set up a file based on the information provided in the notices under the preceding two paragraphs for the inquiry of other industry associations and member companies. The appropriate industry associations shall also submit related statistics and analyses to the competent authority for recordation on a regular basis.

Chapter 6 Supplemental Provisions

Article 21 Except for provisions where the date of implementation is separately stipulated, these Regulations shall be implemented from the date of promulgation.

Data Source : Financial Supervisory Commission Laws and Regulations Retrieving System