

Content

Title : Regulations Governing Insurance Brokers [Ch](#)

Date : 2019.05.08

Legislative : Amendment to Article 6, 9,12,13, 33 and 57 promulgated per Financial Supervisory Commission Order No. Jin-Guan-Bao-Zong-Zi- 10804561971 dated May 8, 2019.

Content : Article 6

A person having any of the following situations may not act as a responsible person of a broker company:

1. Having no legal capacity or limited legal capacity or subject to the court order of commencement of assistance and such order has not been revoked.
2. Having committed a crime under the Organized Crime Prevention Act, and has been found guilty by a final and unappealable judgment.
3. Having been sentenced to imprisonment for counterfeiting currency or valuable securities, embezzlement, fraud or breach of trust and the sentence has not been completed or ten 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 for violating Insurance Act, Banking Act, Financial Holding Company Act, Trust Enterprise Act, Act Governing Bills Finance Business, Financial Asset Securitization Act, Real Estate Securitization Act, Securities and Exchange Act, Futures Trading Act, Securities Investment Trust and Consulting Act, Foreign Exchange Regulation Act, Credit Cooperative Act, Agricultural Finance Act, Farmers Association Act, Fishermen Association Act, Money Laundering Control Act, Issuance of Electronic Stored Value Cards Act, Electronic Payment Institutions or any other laws regulating financial activity, and the sentence has not been completed or five years have not elapsed since the date of sentence completion, the expiration of probation period, or the pardon of such punishment.
5. Having been declared bankrupt, and rights and privileges have not been reinstated.
6. Being the responsible person of a legal entity at the time such legal entity was adjudicated bankrupt and five years have not elapsed since the closure of the bankruptcy or the terms of bankruptcy settlement have not yet been fulfilled.
7. Having an ongoing event that seriously damages his or her creditworthiness or five years have not elapsed since the closure of such an event.
8. Five years have not elapsed since being replaced or discharged from duties by order of the competent authority due to a violation the Insurance Act, Banking Act, Financial Holding Company Act, Trust Enterprise Act, Act Governing Bills Finance Business, Financial Assets Securitization Act, Clauses of the Real Estate Securitization Act , Securities and Exchange Act, Futures Trading Act, Securities Investment Trust and Consulting Act, Foreign Exchange Regulation Act, Credit Cooperatives Act, Agricultural Finance Act, Farmers Association Act, Fishermen Association Act, Fair Trade Act, Issuance of Electronic Stored Value Cards Act, Electronic Payment Institutions or other laws regulating financial activity.
9. Factual proof shows that the person has engaged in or otherwise been involved in any other dishonest or improper activities, demonstrating unsuitability for the work in question.
10. Is currently serving as an employee of an insurance enterprise or related industry association. Notwithstanding the foregoing, if the insurance enterprise has an investment relationship with the broker company and their chairman and general manager have not taken concurrent positions

in each other, the employee of the insurance enterprise may act as a responsible person of the broker company, subject to the approval of the competent authority.

11. Is already registered as an insurance solicitor in any other insurance company, insurance agent company, broker company or bank.

12. Practice license has been revoked to Article 167-1 or 167-2 of the Insurance Act by the competent authority and five years have not elapsed.

13. Having been involved in serious cheating in a special or junior examination for professional or technical personnel of insurance enterprises, and has been sentenced to imprisonment for a definite period by a final and unappealable judgment.

14. Having been sentenced to imprisonment for forging instruments or seals, offence against privacy, usury, impairing the rights of creditors or violating Tax Collection Act, Trademark Act, Patent Act or other acts or regulations governing industrial or commercial activity and the sentence has not been completed or five years have not elapsed since the date of sentence completion, the expiration of probation period, or the pardon of such punishment.

15. Having been sentenced to imprisonment for embezzlement and the sentence has not been completed or five years have not lapsed since the date of sentence completion, the expiration of probation period, or the pardon of such punishment.

16. Having been denied service by the bills clearing house and the denial status has yet to be removed, or there remains a record of dishonored check(s) due to insufficient funds in three years since the denial status has been removed

17. Having been ordered to enter a reformatory or having been ordered to perform compulsory labor due to the offense of larceny or receiving stolen property and the sentence has not been completed or five years have not elapsed since the sentence completion.

18. Being a director, supervisor or general manager of an insurance agent company, an insurance broker company or an insurance surveyor company at the time such company was subject to disciplinary action provided in subparagraph 1, paragraph 1, Article 164-1 of the Insurance Act or had its permit revoked and practice license cancelled pursuant to Article 167-2 of the Insurance Act, and three years have not elapsed.

19. Being otherwise restricted by law.

The term "responsible person" mentioned in the preceding paragraph shall mean a director, supervisor, general manager, or sales-related assistant general managers of a broker company, managers in charge of reinsurance broker business, managers of branch office or a person in comparable position.

A person having any situation provided in subparagraphs 1 ~ 9 and subparagraphs 12 ~ 19 of paragraph 1 hereof may not serve as an independent broker or a broker employed by a broker company or a bank.

An independent broker or a broker employed by broker company who has obtained practice license before the amended Regulations are in force on June 24, 2014 but does not meet the requirements set out in any of the provisions in subparagraphs 3, 4, 6 through 9, and 14 through 18 of the first paragraph hereof may continue to practice or be employed until his or her practice license expires or is cancelled.

Article 9

A broker company shall operate its business as a specialized operation and include the wording "Insurance broker" in the name of the company.

A broker company shall submit the following documents to the competent authority for registration of permission:

1. An application form.

2. A photocopy of the valid practice license of brokers employed or certification showing that brokers employed meet the qualification requirements set out in these Regulations and any of the following certifications:

(1) Certification of pre-job training, obtained within the last year and recognized by the competent authority;

(2) For a broker whose certification of pre-job training was obtained one year or earlier, the already obtained certification of pre-job training and

the certification of at least 16 hours of on-the-job training within the past 1 year before submission of the application. For brokers who submit certification of at least 16 hours of on-the-job training within the past 1 year, the courses on laws and regulations taken shall not be less than 8 hours.

(3) Where registration of permission is based on the qualifications set out in subparagraph 3, paragraph 1 of Article 5 herein, certification of at least 16 hours of on-the-job training within the last year. For brokers who submit certification of at least 16 hours of on-the-job training within the past 1 year, the courses on laws and regulations taken shall not be less than 8 hours.

3. Proof of identity for brokers employed.

4. A written statement by the designated chairman, general manager and brokers employed that they are free of the situations in subparagraphs 1 through 9 and subparagraphs 12 through 19 of paragraph 1, Article 6 herein.

5. A business plan.

6. A list of promoters or shareholders stating each promoter's or shareholder's name, date of birth, domicile, ID number, and amount paid for subscription/purchase of shares.

7. The Articles of incorporation.

8. Proof of full payment for shares or proof of the balance of deposits of the company.

9. Documents evidencing the qualifications of the designated chairman and general manager.

10. Other documents as required by the competent authority.

The business plan in subparagraph 5 of the preceding paragraph shall contain at least the following information:

1. Company philosophy and methods for carrying out fiduciary duties;

2. Scope of business;

3. Business development plan;

4. Organizational Structure and job duties.

5. Business solicitation system and procedures;

6. Financial projections for the next three years;

7. Description of work place and equipment; and

8. Other information as required by the competent authority.

Where any of the promoters or shareholders referred to in subparagraph 6 of the paragraph 2 is a foreign insurance broker institution, the documents set out in subparagraphs 2 through 4, subparagraphs 11 and 12, paragraph 1 of Article 55 shall also be submitted.

A broker company applying to operate reinsurance broker business shall submit the following documents to the competent authority for registration of permission:

1. An application form;

2. The proof of the deposit of bond, paid-in capital and a duplicate of an insurance policy showing the purchase of professional liability insurance;

3. Documents evidencing the qualifications of the manager in charge of reinsurance broker business.

4. The minutes of the relevant board of directors' or shareholders' meeting.

5. A business plan.

6. The financial report for the latest one year, audited and attested by a certified public accountant.

7. Other information as required by the competent authority.

The business plan in subparagraph 5 of the preceding paragraph shall contain at least the following information:

1. Company philosophy and methods for carrying out fiduciary duties;

2. Scope of business;

3. Business development plan;

4. Organizational Structure and job duties.

5. The operating process is in compliance with paragraphs 2 ~ 5 of Article 35 and Article 37 herein;

6. Financial projections for the next three years;

7. Description of work place and equipment; and

8. Other information as required by the competent authority.

Where the information stated in the documents referred to in paragraph 2 and 5 hereof is incomplete or insufficient, the application will be

rejected; if the situation may be remedied, the applicant shall take remedial actions within the time limit set by the competent authority, or else the application will be rejected.

After a broker company has obtained a permit, the competent authority may void the permit if false information is discovered in any of the documents under paragraph 2 or 5 hereof submitted by the applicant.

Article 12

A broker company shall have one general manager in charge of managing the overall operations of the company and shall not have other officers in comparable position.

The general manager referred to in the preceding paragraph shall not act concurrently as the chairman or general manager of other broker companies or insurance agent companies.

The general manager of a broker company 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 possessing equivalent academic qualifications, and having no less than five years of experience working for an insurance company, insurance cooperative, broker companies, insurance agent companies, or insurance surveyor companies and having the qualification of solicitor, agent or broker for same type of insurance business;
 2. Has graduated from a domestic or foreign school at the level of junior college or higher or possesses equivalent academic qualifications, and has served for no less than five years as a signatory for an insurance broker; or
 3. Has the qualification of solicitor, agent or broker for same type of insurance business and there is other factual evidence sufficient to show professional insurance expertise or insurance work experience that enables him or her to operate an insurance broker business soundly and effectively.
- The appointment or dismissal of the general manager mentioned in the preceding paragraph shall be duly registered with the competent authority in charge of company registration.

The managerial officer of a broker company in charge of its reinsurance broker business shall have graduated from a domestic or foreign school at the level of junior college or higher or possess equivalent academic qualifications, and have not less than three years of work experience in reinsurance business.

Article 13

The chairman of a broker company, at least one third of its directors and supervisors, sales-related vice general manager, managers of branch offices or officers in comparable positions 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, and has no less than three years of insurance company, insurance cooperative, broker company, insurance agent company, or insurance surveyor company work experience.
2. Has graduated from a domestic or foreign school at the level of junior college or higher or possesses equivalent academic qualifications, and has served for no less than two years as a signatory for an insurance broker.
3. There is other factual evidence sufficient to prove professional insurance expertise or insurance work experience, and capability for safe, sound, and effective operation of an insurance broker business.

Besides possessing the qualification mentioned in the preceding paragraph, sales-related vice general managers, managers of branch office or officers in comparable positions shall also have the qualification of solicitor, agent or broker for same type of insurance business.

Article 33

When independent brokers, broker companies and banks practicing or operating business, that shall exercise due care of a good administrator and fiduciary duties to uphold the interests of the insured, ensure that he or she has provided professional explanations to the insured and made full disclosure of information relating to the major contents of the insurance

product of interest and major rights and obligations of the insured. When independent brokers, broker companies and banks operating or practicing business, they should store on and file those documents for future reference.

Broker companies and banks that operate insurance broker business shall draw up internal operating rules and implement them vigorously to ensure that their operating procedures and operations are in compliance with relevant laws and regulations.

Before a broker negotiates and concludes an insurance contract for an insured, the broker should proactively provide the insured with a written analysis report in accordance with the applicable scope and content prescribed by the competent authority (see Attachment 1), and before charging the proposer or the insured fees, a broker should clearly inform them of fee schedule (see Attachment 2).

Before a broker company or a bank submits an application case to the insurer, it should conduct phone interview with the proposer to understand his/her needs and product or service suitability, and make sure the solicitor has explained to the proposer fully the important points of the insurance contract and disclose related risks. When a broker company or a bank delivers relevant applying documents to the insurer for change of proposer or beneficiary, policy loan or termination of part or whole of the insurance contract, it should conduct phone interview of the proposer to confirm his/her with intent before the insurer completes the relevant operation.

The types and percentage of insurance cases requiring phone interview shall be prescribed by the competent authority.

When a broker company or a bank discovers in the phone interview that there are situations not complying with the preceding paragraph or countering the intent of the proposer, it should notify the insurer and the proposer to rectify the situation or take actions in the interest of the proposer or the insured before the insurer completes the operation.

When a broker company or a bank conducts phone interview according to paragraph 5 hereof, it should tape record the entire interview with the interviewee's consent and make a copy of the tape for filing. The retention of such tapes shall not be less than two years after the insurance contract has expired.

When a broker company or a bank holds directly or indirectly more than ten percent of voting shares issued by an insurance company, or an insurance company holds directly or indirectly more than ten percent of voting shares issued by the broker company or the bank, the broker company or the bank shall disclose such information to the proposers.

Article 57

The head office of a foreign broker company shall, within six months of permission, remit the funds for business operations of its branch office according to the preceding article, and apply to the competent authority in charge of company registration for registration of branch office establishment.

For those foreign broker companies that fail to apply for registration with the competent authority within the time period prescribed in the preceding paragraph, or fail to obtain approval from the competent authority in charge of company registration, the competent authority may revoke the permission.

Those that have completed the registration procedure under the first paragraph hereof shall, after depositing a bond and purchasing professional liability insurance, apply for and obtain a practice license from the competent authority by submitting a Branch Office Incorporation Registration Form and the fee as set by the competent authority. Those that have obtained a practice license shall carry out business registration in accordance with relevant acts and regulations.