

Content

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

Date : 2019.11.18

Legislative : Amendment to Article 9,27,33,34,35~37,49 and addition of Articles 33-1 and 34-1 promulgated per Financial Supervisory Commission Order No. Jin-Guan-Bao-Zong-Zi- 10804956691 dated November 18, 2019.

Content : 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 applying to operate insurance broker business, reinsurance broker business, or simultaneously insurance broker business and reinsurance broker business 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, or simultaneously insurance broker business and reinsurance broker business shall proceed in accordance with the provisions of Paragraph 2 hereof, and in addition, submit documents evidencing the qualifications of manager to be in charge of reinsurance broker business; its business plan shall also contain a planning for operating processes that comply with the requirements set forth in Articles 35 and 37 herein.

When a broker company that has been approved by the competent authority to operate insurance broker business applies to the competent authority for permission to add reinsurance broker business to its operations, it shall submit the following documents:

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 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.

When a broker company that has been approved by the competent authority to operate reinsurance broker business applies to the competent authority for permission to add insurance broker business to its operations, the provisions of Subparagraphs 1, 2, 4 ~ 7 of Paragraph 6 hereof apply mutatis mutandis the required documentation.

Where the information stated in the documents referred to in Paragraph 2, 5, 6 hereof or the preceding paragraph 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, 5, 6 or 8 hereof submitted by the applicant.

Article 27

A broker company having any of the following situations shall submit an application together with its board of directors' or shareholders' meeting minutes to the competent authority for approval and register with competent authority in charge of company registration to law:

1. Suspending.
2. Resuming business.
3. Dissolved.

A broker company may suspend its business up to one year, and where there is legitimate reason, may apply for an extension of business suspension period once. The application for extension shall be made fifteen days before the allowed suspension period expires.

Where a broker company fails to apply for business resumption and employ a broker to serve as a signatory in accordance with Article 7 before the allowed suspension period expires, the competent authority will revoke its

permission and cancel its practice license.

Where a broker company applies for business suspension, it shall surrender the practice licenses of brokers employed by the company. Where a broker company applies for dissolution, it shall surrender the practice licenses of brokers employed by the company as well as the company's practice license.

Where a broker company has a situation set out in subparagraph 1 or 3 of paragraph 1 hereof or cancel its practice license by the competent authority but fails to surrender the practice licenses of brokers employed by the company, the employed brokers shall, within thirty days from business suspension or dissolution of the broker company or cancel its practice license by the competent authority, submit relevant documents to competent authority for cancellation of registration through the brokerage association.

A broker company operating simultaneously insurance broker business and reinsurance broker business that ceases the operation of its insurance broker business or reinsurance broker business shall submit the minutes of its board of directors or shareholders meeting to the competent authority for recordation within one month.

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).

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 33-1

Broker companies and banks shall conduct phone interview of their customers regarding the following matters before they refer the application case to the insurer to complete the underwriting process:

1. Confirm that the solicitation process is in compliance with Subparagraphs 5, 6 and 8, Paragraph 1, Article 6 of the Regulations Governing Business Solicitation, Policy Underwriting and Claim Adjusting of Insurance Enterprises.

2. For customers whose source of funds for premiums paid is a bank loan, a time deposit canceled early without penalty or a policy loan, inform them of associated risks and maximum possible loss.

When a broker company or a bank delivers relevant application documents to the insurer for change of proposer or beneficiary, policy loan or termination of part or whole of the insurance contract, it should, before the insurer completes the relevant operation, conduct phone interview of the customer to confirm his/her real intent.

The types and percentage of insurance cases requiring phone interview under Paragraph 1 and the preceding paragraph shall be prescribed by the competent authority.

A bank shall establish a mechanism to check the source of funds for

premiums paid by a customer, whether it is a loan from the bank, a time deposit at the bank that is canceled early without penalty or a policy loan obtained through the bank that took place within three months prior to the purchase of insurance, and to check whether there is consistency between the customer and the financial information the customer provides for dealings and transactions with the bank. For customers whose source of funds for premiums paid is a bank loan, a time deposit canceled early without penalty or a policy loan, a bank shall assign a staff not from the sales department to conduct phone interview mentioned in Paragraph 1 hereof for all such application cases, to which the provisions set forth in accordance with the preceding paragraph on the types and percentage of insurance cases do not apply.

Customers who are purchasing an insurance product that does not require policy value reserve or a mortgage life insurance product that does not pay survival benefit with the subparagraph 2 , first paragraph and preceding paragraph that the source of funds for premiums paid by a customer, whether it is a loan from the bank, a time deposit at the bank that is canceled early without penalty or a policy loan do not apply.

The provisions of the preceding two paragraphs apply mutatis mutandis to insurance agent companies invested and established by a financial holding company or a bank.

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

When a broker company and a bank should tape record the entire phone interview mentioned in Paragraph 2 hereof with the consent of the interviewee and save the record for future audits. The tape record shall be retained for a period of not less than five (5) years after the insurance contract has expired.

Article 34

Independent brokers and brokers employed by a broker company or a bank shall understand the needs of the proposer and product or service suitability, and sign on relevant documents, unless otherwise prescribed by the competent authority.

The “relevant documents” under the preceding paragraph, the paragraph 2 and 5 of the preceding article hereof include, for non-life insurance brokers:

1. Insurance application form.
2. Application for endorsement.
3. Proof of premium payment by the applicant.
4. An Analysis report on the needs of the proposer and the insured, suitability analysis, and negotiation and conclusion of insurance contract.
5. Application for termination of contract.
6. Other documents designated by the competent authority.

The “relevant documents” under the first paragraph, the paragraph 2 and 5 of the preceding article hereof include, for personal insurance brokers:

1. Insurance application form.
2. Application for endorsement.
3. Proof of premium payment by the applicant.
4. An Analysis report on the needs of the proposer and the insured, suitability analysis, and negotiation and conclusion of insurance contract.
5. Application for termination of contract.
6. Other documents designated by the competent authority.

Article 34-1

When an broker employed by an broker company or a bank signs on relevant documents according to Paragraph 1 of the preceding article, the signing operation shall be conducted in a manner where the broker has confirmed prior to the insurer agrees to underwrite a policy that relevant documents have been completely checked according to internal rules with relevant tracks and supporting documents saved.

For brokers who perform signing in accordance with the preceding paragraph,

their employing broker company or bank shall establish internal check rules and confirmation procedures for relevant documents.

The brokers association should draw up self-regulatory rules for the operation mentioned in Paragraph 1 hereof and submit the rules to the competent authority for recordation.

Article 35

A broker company operating insurance broker business and reinsurance broker business concurrently shall not have conflict of interest by separating the internal control systems and business operation procedures of the two businesses, and comply with the code of professional ethics and self-regulatory rules drawn up by the brokerage association.

A broker company undertaking reinsurance broker business shall obtain a written authorization of the original insurer.

A broker company operating reinsurance broker business shall confirm that the credit rating of the reinsurer complies with the provisions of the Regulations Governing Insurance Enterprises Engaging in Operating Reinsurance and Other Risk Spreading Mechanisms and the reinsurer arranged should have the consent of the original insurer.

When a broker company that arranges a direct insurance contract is authorized by the insurer of the direct insurance contract to arrange facultative reinsurance for the direct insurance contract, the broker company shall state the matter of simultaneous undertaking of insurance broker business and reinsurance broker business in the agreement or document entered with the insured and the insurer of the direct insurance contract as a form of consent by the insured and the insurer.

A broker company operating reinsurance broker business shall preserve complete transaction records including written confirmation of reinsurance arrangements, reinsurers' shares of participation, and credit ratings for future audits by the competent authority; it also shall notify the original insurer of all important information and records concerning its transactions with reinsurers, including relevant reinsurance terms and conditions, reinsurance premium rates, and reinsurance commissions rates for the original insurer, as well as any material information affecting the finance or business of the reinsurer before the direct insurance contract takes effect or before the start date the direct insurer cedes its risks, and shall deliver the reinsurance contract to the original insurer within sixty (60) days after the reinsurance contract has taken effect.

A broker company operating reinsurance broker business shall watch constantly information and changes in the insurance market, and if there is any material information affecting the finance or business of the insurer surfacing after a reinsurance contract has taken effect, the broker company shall inform the original insurer.

The reinsurance terms and conditions and reinsurance premium rates mentioned in the preceding paragraph shall comply with the provisions of Article 10 and Article 11 of the Regulations Governing Insurance Enterprises Engaging in Operating Reinsurance and Other Risk Spreading Mechanisms.

Article 36

Banks that operate concurrently insurance broker business shall comply with the following provisions:

1. Have a sign conspicuously placed at its business place indicating that it engages in insurance broker business;
2. Make clear and enable consumers to understand the distinction between insurance broker business and banking business;
3. Set up or designate a relevant department to handle dispute cases arising out of the insurance broker business;
4. Clearly disclose to customers the nature and risks of insurance products; and
5. Other matters of compliance as required by the competent authority.

Banks shall not

1. Use customer deposit information to induce purchase of insurance or recommend insurance products that do not match the customer's risk profile by misleading customer or using improper sales techniques.
2. Banks try to sell insurance products to customers by comparing only the

difference in rate of return on time deposit and the insurance product while ignoring the risk characteristics and nature of the product or not disclosing information such as return/risk tradeoff.

3. Authorize bank employees who handle loans and credit or deposits and remittance business to sell investment-linked insurance products or insurance products with surrender value (excluding personal injury insurance and mortgage life insurance with an insurance period of less than 3 years) and receive commissions therefrom; the preceding provision does not apply when the proposer or the insured is the spouse or a direct blood relative of such employee.

Banks already being granted practice license to engage in non-life insurance broker business related to documentary credit negotiation and credit extension before the amended Regulations are in force shall, within six months from the date the amended Regulations enter in force, become compliant with subparagraph 1 and subparagraph 3 of paragraph 1 hereof.

Article 37

A broker company operate simultaneously insurance broker business and reinsurance broker business shall set up a separate account for the reinsurance brokering business to record relevant revenues and expenditures.

A broker company may carry out account settlement for reinsurance brokering business on a quarterly or semi-annual basis.

Article 49

Independent brokers, broker companies, banks and brokers employed by broker companies or banks shall not commit any of the following acts:

1. Make a false representation when applying for a practice license.
2. Negotiate and conclude an insurance contract for an insurance enterprise that has not been approved and registered.
3. Deliberately conceal material matters concerning an insurance contract.
4. Take advantage of his or her professional or business position or use other improper means, with respect to the establishment of a contract, to coerce, induce, or restrict the freedom of a proposer, insured, or insurer, or to collect extra compensation or other benefit from them.
5. Make exaggerated, false, or misleading claims or advertisements or use other improper methods when operating or practicing business or recruiting personnel.
6. Use improper means to incite an insurance customer to take an action such as to surrender insurance, switch insurance policies, or take a loan.
7. Misappropriate or embezzle insurance premiums, reinsurance premiums, policy proceeds or reinsurance payouts.
8. Not practice oneself, but instead provide the practice license for use by another person.
9. Be sentenced to punishment for embezzlement, fraud, breach of trust, or forgery.
10. Operate or practice insurance business outside the scope specified on his or her practice license.
11. Collect, in addition to commissions and expenses set out in the contract or commissions charged according to industry standards, and reasonable compensation for insurance-related services as provided in Article 9 of the Insurance Act, money, articles or other compensations from an insurer in the name of other expense items or of a third party, or engage in uncustomary transactions.
12. By unlawful means, cause an insurer to make an improper insurance claim payment.
13. Disseminate untrue statements or promotional materials, thus disturbing the financial order.
14. Authorize a third party to operate or practice business on his/her/its behalf, or operate or practice business in other's name.
15. In the case of a broker company, refer an application case solicited by a broker not employed by the company or an insurance solicitor not registered under the company to an insurer, or refer an application case solicited by it to an insurer through another broker or insurance agent, unless it is a case from an independent broker who has obtained the written consent of the proposer to the effect in advance.

16. Employ people who do not possess the qualifications of insurance solicitor to solicit insurance business.
17. Fail to surrender or cancel practice license within the time period set out in paragraph 1 of Article 15, Article 26, paragraph 5 of Article 27, or paragraph 3 of Article 28.
18. Suspend, suspend its insurance broker business in part or in whole temporarily, resume, dissolve business or terminate its insurance broker business in part or in whole at own discretion.
19. In the case of a broker company or a bank, fail to hire another broker to serve as a signatory in accordance with Paragraph 2 of Article 7 herein when an employed broker leaves work.
20. Fail to report matters prescribed by the competent authority to the brokerage association or brokers association for recordation.
21. The content of advertising related to insurance products and publicity used in insurance solicitation is not provided or consented by the insurer.
22. Pay commissions to insurance solicitors and their supervisors who did not actually perform the business solicitation; however the preceding provision does not apply to payments of renewal commissions to those who take over policyholder services.
23. Fail to confirm the suitability of an insurance product for a specific consumer.
24. Sell foreign vertical settlement products that have not been approved by the competent authority.
25. Submit business information and financial statements are untrue or incomplete.
26. Is currently serving as an employee of an insurance enterprise or related industry association, or having been registered as an insurance solicitor.
27. Urge or induce customers to pay for insurance premiums by taking out a bank loan, canceling a time deposit or taking out a policy loan.
28. Otherwise violate these Regulations or related acts or regulations.
29. Any other act injurious to the image of insurance business.

Data Source : Financial Supervisory Commission Laws and Regulations Retrieving System