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| Title : | Regulations Governing Pre-sale Procedures for Insurance Products Ch |
| Date : | 2020.03.30 |
| Legislative : | Article 15, 17, 21, 30, 32 amended and Article 21-1 added on March 30, 2020. The amendment shall take effect on the date of promulgation except that the amended Subparagraph 4, Paragraph 1 of Article 17 and Paragraph 2 of Article 21-1 shall take effect on January 1, 2021. |
| Content : | <p>Article 15</p> <p>Any given insurance product shall complete its review procedure in one of the following manners, unless it is otherwise provided by the competent authority:</p> <p>1. Prior-approval procedure: The insurance enterprise shall apply for approval of the insurance product from the competent authority prior to its sale.</p> <p>2. Use-and-file procedure: The insurance enterprise may sell the insurance product without prior approval by the competent authority, provided that within 15 working days after product sales begin, the enterprise shall submit materials to the competent authority, or to any institution designated thereby, for recordation.</p> <p>For the insurance products referred to in subparagraph 1 of the preceding paragraph, the competent authority shall review and respond to the applicant within 40 working days from the day on which it receives in full all application documents, and 75 working days shall decide upon approval or rejection.</p> <p>Where an insurance product under subparagraph 1 of paragraph 1 hereof is resubmitted for approval within 30 working days after being rejected by the competent authority, the competent authority shall review and respond to the applicant within 25 working days from the day on which it receives in full all application documents, and shall decide upon approval or rejection within 45 working days, to which provisions of paragraph 2 hereof do not apply.</p> <p>Article 17</p> <p>For the following life insurance products, an insurance enterprise may commence sale only after applying for and receiving prior approval from the competent authority, unless otherwise provided by the competent authority:</p> <p>1. An annuity product launched in accordance with the applicable provisions of the Labor Pension Act.</p> <p>2. An investment-linked insurance product for which it is required to set aside reserves against guaranteed benefits.</p> <p>3. A new type of insurance product.</p> <p>4. An insurance product for which the competent authority issues a notice for changing review method in accordance with paragraph 2 of Article 21-1. Standards for determining what qualifies as a "new type of insurance product" as referred to in subparagraph 3 of the preceding paragraph shall be drafted by the Life Insurance Association of the Republic of China and reported to the competent authority for review.</p> <p>Article 21</p> <p>An insurance enterprise complying with certain conditions may apply to the competent authority prior to the end of June or the end of December each year for recognition of such compliance and thereafter switch to the use-and-file procedure for launching the insurance products listed in Article 16, paragraph 1, subparagraph 2 or Article 17, paragraph 1, subparagraphs 2 and 3 herein.</p> <p>The "certain conditions" in the preceding paragraph that apply to insurance</p> |

products listed in Article 16, paragraph 1, subparagraph 2 or Article 17, paragraph 1, subparagraph 3 are the following:

1. The enterprise's ratio of equity capital to risk-based capital for the past year is at least 250%.

2. The enterprise has not been subject to a major sanction or penalty imposed by the competent authority, or been disciplined by the competent authority for violation of rules for submission of insurance products for review within the past year.

3. The enterprise has not been subject to an administrative fine of more than NT\$1 million was imposed by the competent authority within the past year for violation of the Compulsory Automobile Liability Insurance Act.

4. In the case of a non-life insurer, the enterprise's combined ratio over the past year for retained business, not including compulsory automobile liability insurance, was 90 percent or lower. In the case of a life insurer, the enterprise's 25-month persistency rate for basic insured amounts over the past year was 80 percent or higher.

5. Based on the number of complaints filed during the past year with the competent authority, or with any institution designated thereby, the enterprise was among the 30 percent of non-life insurers or life insurers having the lowest composite score with respect to complaint rate for non-claim related matters, complaint rate for claims adjusting matters, and number of processing days.

6. Professionally licensed signatories employed on a full-time basis accounted for 75 percent or higher of all actual signatories for insurance products submitted for review during the past year.

7. The insurer has launched an insurance product during the past year designed specifically to dovetail with government policy needs, or has taken part in public service work during the past year, and in either case has performed with distinction.

The "certain conditions" in paragraph 1 hereof that apply to insurance products listed in Article 17, paragraph 1, subparagraphs 2 are the following:

1. Certain conditions set out in the preceding paragraph 2 hereof; and

2. The enterprise's chief risk officer and its internal risk model are rated class 1 for the levy rates of Life Insurance Guaranty Fund for the last year.

Major sanctions and penalties referred to in paragraph 2, subparagraph 2 mean major sanctions and penalties specified in Article 2 of the Regulations Governing Public Announcement by the Financial Supervisory Commission of Material Sanctions for Violations of Financial Legislation. The competent authority shall define the meaning of "professionally licensed signatories" as used in subparagraph 6 of paragraph 2.

The recognition referred to in paragraph 1 remains valid for a period of six months. However if an insurance enterprise falls out of compliance with subparagraph 1, 2, or 6 of paragraph 2 during the recognition period, insurance products listed in paragraph 1 herein shall still be subject to review on a prior-approval basis.

For the sale of insurance products listed in paragraph 3 herein that are switched to the use-and-file procedure, an insurance enterprise shall obtain the consent of its board of directors or board of executive directors; for the branch of a foreign insurance enterprise in Taiwan, the sale of such products shall have the consent of its responsible person in Taiwan.

Article 21-1

A life insurance enterprise whose income from insurance premiums of new contracts for protection-type insurance products and elderly insurance products as a proportion of its income from insurance premiums of new contracts for all products ranks among the top twenty percent of insurance enterprises in the most recent year may, before the end of February each year, apply to the competent authority for recognition. The procedures for processing insurance products listed in Article 17, paragraph 1, subparagraph 3 may be changed to the use-and-file procedure and the recognition shall be valid for one year.

Where the life insurance enterprise whose income from insurance premiums of new contracts for protection-type insurance products and elderly insurance

products as a proportion of its income from insurance premiums of new contracts for all products ranks among the bottom five percent of insurance enterprises in the most recent year and the proportion has decreased from the previous year, the procedures for processing insurance products applicable for the use-and-file procedure within the one-year period after the notice from the competent authority in accordance with Article 15, paragraph 1, subparagraph 2 shall be changed to the prior-approval procedure. However, this rule does not apply to protection-type insurance products and elderly insurance products or insurance products amended in accordance with related regulations.

Where the life insurance enterprise engaging in the National Insurance Coverage Improvement Plan, microinsurance, or investment in 5+2 Industrial Innovation Plan in the most recent year, and meets certain performance criteria, the competent authority may, before the end of March each year, approve the conversion of a certain number of insurance products specified in Article 17, paragraph 1, subparagraph 3 and submitted by the life insurance enterprise for review to the use-and-file procedure. The effective period of the approval shall be one year. However, this rule does not apply if the conditions specified in the preceding paragraph have occurred in the most recent year.

Article 30

When any one of the following circumstances applies with respect to an insurance product of an insurance enterprise, the competent authority may reject the product outright without proceeding to a review, or may order the insurance enterprise to suspend sales and make public announcement of the same except for circumstances specified in subparagraphs 10 to 12 hereof:

1. The product is not compliant with applicable legal requirements in a material manner.
2. The product has not been signed by the general manager, a department head authorized thereby, or a qualified signatory.
3. The product contains a material error, or is missing an important provision.
4. Materials submitted for review purposes contain false representations.
5. The general manager, a department head authorized thereby, or a qualified signatory makes a false or materially erroneous statement.
6. The enterprise commences product sales without observing the provisions of Article 15, paragraph 1 or Article 20, paragraph 1.
7. The product was not submitted under the required review process.
8. The enterprise has failed to submit a document as required under Article 18, paragraph 2, or a submitted document is incomplete and the enterprise is ordered to make correction within a prescribed time period but fails to do so.
9. The enterprise fails in a material manner to observe the provisions of Article 5, Article 8, paragraph 1, subparagraph 1 or paragraph 2, Article 9, paragraph 1, subparagraph 1, Article 21, paragraph 6, Article 22, Article 23, Article 25, or Article 28.
10. An enterprise applies in accordance with Article 15, paragraph 2 with the competent authority for prior approval of an insurance product and the competent authority issues a letter requiring supplementation of the filing documents, but supplementation is not made within 65 working days from the day on which the competent authority received in full all application documents.
11. An enterprise applies in accordance with Article 15, paragraph 3 with the competent authority for prior approval of an insurance product and the competent authority issues a letter requiring supplementation of the filing documents, but supplementation is not made within 35 working days from the day on which the competent authority received in full all application documents.
12. An enterprise who has received more than three rejections from the competent authority for the same product filed for prior-approval in accordance with Article 15, paragraph 2 or paragraph 3.

Where the situation set out in subparagraph 6 of the preceding paragraph applies with respect to an insurance product, the competent authority may impose sanction in accordance with Article 171 of the Insurance Act.

Where the situation set out in paragraph 1, subparagraph 7 applies with respect to an insurance product and the competent authority has determined that the violation is minor, the competent authority may order the insurance enterprise to submit the product under a different review procedure, and may also order it to suspend sales of the insurance product in question until it has completed procedures for resubmission of the product for review.

Article 32

These Regulations shall be implemented from the date of promulgation except that Article 24 amended and promulgated on November 8, 2017 shall be implemented from 1 January 2018 and Article 17, paragraph 1, subparagraph 4 and Article 21-1, paragraph 2 amended on March 30, 2020 shall be implemented on January 1, 2021.

Data Source : Financial Supervisory Commission Laws and Regulations Retrieving System