

Content

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

Date : 2021.03.03

Legislative : Amendment to Article 10,12~14, 16, 17, 21, 33, 33-1, 35, 43, and 49 promulgated per Financial Supervisory Commission Order No. Jin-Guan-Bao-Zong-Zi- 11004907181 dated March 3, 2021

Content : Article 10

A bank that applies for approval to operate concurrently insurance broker business or to increase the types of business shall comply with the provisions of the following subparagraphs:

1. The ratio of regulatory capital to risk-weighted assets within the past year meets the requirement set out in Article 5 of the Ratio of Regulatory Capital to Risk-weighted Assets Regulations Governing the Capital Adequacy and Capital Category of Banks;
2. Having not been imposed disciplinary action by the competent authority pursuant to subparagraphs 1 ~ 5, paragraph 1, Article 61-1, or paragraph 1, Article 62 of the Banking Act, or paragraph 1, Article 164, or Articles 167-2 ~ 167-4 of the Insurance Act within the past half year; or if there has been any violation, having made concrete improvements recognized by the competent authority; and
3. Not having any material deficiency or irregularity in the implementation of internal controls within the past year; or having made concrete improvements recognized by the competent authority.

If the period from the date of the internet-only bank commencing its business operation to its application date for approval to operate concurrently insurance broker business or to increase the types of business is less than the period set forth in the subparagraphs of preceding paragraph, the foregoing period is calculated as the actual period of business operation of such a bank.

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 has served for no less than five years of experience in the position of manager or higher or in an equivalent position of an insurance company, insurance cooperative, insurance broker companies, insurance agent companies, insurance surveyor companies, or in the position of deputy head of a bank's separate department operating insurance broker or agent business and has performed with excellence in such position;
2. Has served for no less than five years as a signatory for an insurance broker or agent; or
3. Has other academic or employment experience sufficient to show that he/she has professional insurance expertise, or experience in managing an insurance business, and is capable of operating an insurance broker business soundly and efficiently.

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 served for no less than three years of experience in the position of assistant manager or higher or in an equivalent position on an insurance company, insurance cooperative, broker company, insurance agent company, insurance surveyor company, or in the position of deputy head of a bank's separate department operating insurance broker or agent business and has performed with excellence in such position.
2. Has served for no less than two years as a signatory for an insurance broker or agent.
3. Has other academic or employment experience sufficient to show that he/she has professional insurance expertise, or experience in managing an insurance business, and is capable of operating an insurance broker business soundly and efficiently.

Article 14

A broker company shall submit a written statement by the new chairperson or general manager undertaking that who is free of situations set out in any of the subparagraphs of paragraph 1, Article 6 and documents evidencing compliance with qualifications provided in the preceding two articles, within 15 days after he/she is elected as the chairperson or appointed as the general manager to the competent authority for approval; where the qualifications of the chairperson or general manager are not approved by the competent authority, the competent authority may order the insurance broker company to make changes within a prescribed period of time; The same shall apply if factual evidence shows that an individual does not possess the required qualifications specified in preceding two paragraphs after taking office.

Where a broker company has question over whether its chairperson or general manager to be elected or appointed meets the qualification requirements set forth in subparagraph 3 of preceding Article or Article 12, paragraph 3, subparagraph 3 herein, the broker company may submit the qualification information for approval by the competent authority before the election or appointment.

Where there is a change of director, supervisor or managers of branch office, the broker company shall submit a written statement by the new appointee undertaking that who is free of situations set out in any of the subparagraphs of paragraph 1, Article 6 and documents evidencing compliance with qualifications provided in the preceding two articles to the brokerage association for recordation within fifteen days after the change.

A broker company shall report changes to place of business or paid-in capital to the brokerage association for recordation within fifteen days after registration of the change (with the appropriate authority); the preceding paragraph applies when an independent broker or a bank changes his or her place of business.

The directions for the reporting operations set out in the preceding two paragraphs shall be drawn up by the brokerage association and brokers association, and submitted to the competent authority for recordation; the preceding provision shall apply to any amendment to those directions.

Article 16

For the broker company applying for operating insurance broker and/or reinsurance broker business after Regulations are amended and in force on June 24, 2014 and before Regulations are amended and in force on March 3, 2021, the broker company shall have minimum paid-in capital of NT\$5 million to operate insurance broker business; one applying to operate reinsurance

broker business shall have minimum paid-in capital of NT\$10 million; one applying to simultaneously operate insurance broker business and reinsurance brokering business shall have minimum paid-in capital of NT\$10 million.

A broker company already being granted practice license before the amended Regulations are in force on June 24, 2014 shall adjust its capital in accordance with the requirement set out in the preceding paragraph before June 24, 2019.

For the broker company applying for operating insurance broker and/or reinsurance broker business after Regulations are amended and in force on March 3, 2021, the broker company shall have minimum paid-in capital of NT\$20 million; one applying to operate reinsurance broker business shall have minimum paid-in capital of NT\$20 million; one applying to simultaneously operate insurance broker business and reinsurance brokering business shall have minimum paid-in capital of NT\$30 million.

For the broker company already being granted practice license before the amended Regulations are in force on March 3, 2021, the broker company shall adjust its capital in accordance with the requirement set out in the preceding paragraph within six months from date following the settlement date of shares or the transfer date of capital contribution if its accumulated shareholdings or capital contributions transferred is no less than fifty percent of the total outstanding shares or paid-in capital.

However, the above requirement is not applicable to the case where the transfer of shares or capital contributions is due to the death of the shareholder or investor and undertaken by his/her successors.

The capital contributions of promoters and shareholders shall be limited to cash.

Article 17

A bank shall allocate at least NT\$50 million as operating capital. The operating capital shall be used exclusively for the insurance broker business and may not be used for other purposes.

A bank already being granted practice license to engage in broker business before the amended Regulations are in force on March 3, 2021 shall adjust its capital to become compliant as set forth in preceding paragraph within one year from the date the amended Regulations enter into force.

Article 21

A Bank that applies to the competent authority for registration to operate insurance broker business shall establish a separate department for such operations with independent operations and accounting.

Paragraphs 1 of Article 6, paragraphs 1 to 3 of Article 12, paragraph 1 and 2 of Article 14 and Article 60 herein shall apply mutatis mutandis to the head of department described in the preceding paragraph; and paragraphs 1 and 4 of Article 6, Article 13 and Article 60 herein shall apply mutatis mutandis to the deputy head of department.

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.

If the insurance contract is produced by insurance companies in digital insurance policy format, the independent brokers, broker companies and banks shall obtain the mobile phone number, email, or other contact method of the applicant and insured deemed as sufficient by the competent authority for transmitting digital documents and provide these information to the underwriting insurance companies.

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.
3. For customers whose source of funding for insurance premiums payment is the termination of a contract, the customer must be clearly informed of related losses of interests in insurance contracts as a result of the insurance purchase after the termination of the contract.

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, a contract termination 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, a contract termination 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.

The requirements set forth in subparagraph 2 and 3 of paragraph 1 and preceding paragraph that the source of funds for premiums paid by a customer is from a surrender value of the contract termination, a loan from the bank, a time deposit at the bank that is canceled early without penalty or a policy loan are not applicable to the cases where 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.

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 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 comply with the following provisions:

1. Obtain a written confirmation of acceptance issued by the ceded reinsurer before the original insurance contract takes effect or before the start date the original insurer cedes its risks.

2. Deliver to the original insurer information on reinsurers' shares of participation and credit rating, relevant reinsurance terms and conditions, reinsurance premium rates, reinsurance commissions rates for the original insurer, and material information affecting the finance and business of reinsurer before the original insurance contract takes effect or before the start date the original insurer cedes its risks.

3. Deliver reinsurance contract documents signed by the reinsurer to the original insurer within sixty (60) days after the reinsurance contract has taken effect. However for treaty reinsurance, the complete reinsurance contract that contains reinsurance terms and conditions, reinsurance clauses and contents, and all relevant ancillary contracts shall be delivered to the original insurer within six (6) months after the reinsurance contract has taken effect.

A broker company operating reinsurance broker business shall preserve intact relevant supporting documents under the preceding paragraph for future audits by the competent authority.

A broker company that has obtained in advance the consent of original insurer may commission foreign brokers that meet the following conditions to arrange reinsurance:

1. Having been approved by the competent authority of its home country to register incorporation and operate reinsurance business.

2. Having acquired valid professional liability insurance with sum insured no less than an equivalent amount of US\$5 million per occurrence and aggregate sum insured no less than an equivalent amount of US\$10 million during the policy period, the deductible not exceeding 5% of sum insured, and uninterrupted policy period.

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 43

Independent brokers, broker companies and banks shall set up a special ledger to record operating revenues and expenditures and shall compile the various business and financial statements and other items prescribed by the competent authority as well as submit them to the competent authority or an institution designated thereby within the time limit set by the competent authority; the formats of the statements and other items shall be separately prescribed by the competent authority.

The competent authority may from time to time send personnel to inspect the operations and assets and liabilities of independent brokers, broker companies and banks or order them to report the status of their operations within a time limit.

With respect to the inspection opinions of the competent authority or deficiencies identified by the competent authority in an inspection, independent brokers, broker companies and banks shall take specific improvement actions and continue to follow up on the actions taken, and report the implementation of improvement actions to the competent authority within the time period prescribed by the competent authority. The broker company and bank shall submit a written report on the follow-up of improvement actions taken to its board of directors and supervisors or audit committee for review.

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 uncusotmorary 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 rescind or terminate contracts or pay for insurance premiums by taking out a bank loan, canceling a time deposit or taking out a policy loan.
28. Fill out a solicitation report dishonestly.
29. Otherwise violate these Regulations or related acts or regulations.
30. Any other act injurious to the image of insurance business.

Data Source : Financial Supervisory Commission Laws and Regulations Retrieving System