

2nd Draft for Discussion

REGISTRATION REQUIREMENTS FOR PERSONS (OTHER THAN FOR INDIVIDUALS) TO BE REGISTERED AS INSURANCE AGENTS

A Person, other than individuals (hereinafter referred to as "Such person" or "such person") shall be eligible to be registered as an insurance agent of an insurer or an insurance broker if -

1. such person is -
 - (a) a company registered under the Companies Act, No. 07 of 2007 having not less than Rs 10 mn as its stated capital; or
 - (b) a licensed commercial bank issued with a licence to act as a commercial bank under the Banking Act, No. 30 of 1988; or
 - (c) a licensed specialised bank issued with a licence to act as a specialised bank under the Banking Act, No. 30 of 1988; or
 - (d) a licensed finance company registered as a finance company under the Finance Companies Act, No. 78 of 1988; or
 - (e) a licensed finance leasing company registered as a finance leasing company under the Finance Leasing Act, No. 56 of 2000;
2. such person has obtained prior written approval to operate as an insurance agent from a regulatory authority, in the event the core business activity of such person is governed or regulated or supervised by such regulatory authority;
3. such person is not an insurance agent of an insurer or an insurance broker;
4. such person has no agreement in place with an insurer or an insurance broker to directly or indirectly solicit or procure insurance business for or on behalf of such insurer or insurance broker;
5. such person has not been prohibited from acting or holding itself out as an insurer or insurance broker or bank or financial institution or insurance agent on the grounds of financial misappropriation or fraud;

6. a director of such person has -

- (a) not been convicted by any competent court in Sri Lanka or of any other country, for a crime committed in connection with financial management or of any offence involving moral turpitude; or
- (b) not been declared an undischarged insolvent or a bankrupt, under any law in Sri Lanka or of any other country; or
- (c) not been declared by a competent court in Sri Lanka or of any other country, to be of unsound mind; or
- (d) not failed to satisfy any judgment or order given by any competent court in Sri Lanka or of any other country, pertaining to the repayment of a debt; or
- (e) not been removed or suspended by an order of a regulatory or supervisory authority from serving as a director, chief executive officer or any other position of authority in any insurance company, insurance broker, bank, financial institution or corporate body, within or outside Sri Lanka; or
- (f) not been a director, chief executive officer, principal officer, specified officer or held any other position of authority in any insurance company, insurance broker, bank, financial institution or corporate body-
 - i) whose license or other authority granted for operating as an insurance company or insurance broker or bank or financial institution, has been cancelled; or
 - ii) which has been compulsorily wound up, within or outside Sri Lanka

7. such person clearly identifies staff members of such person (hereinafter referred to as "specified persons") who shall engage in soliciting or procuring insurance business and all such specified persons shall:-

- (a) be above eighteen years of age;
- (b) be citizens of Sri Lanka;
- (c) have obtained or possessed the following minimum qualifications:-
 - (i) passed the General Certificate of Education (Ordinary Level) Examination with an ordinary pass in either Mathematics or Arithmetic and Sinhala or Tamil or English languages; or

(ii) qualified in any other relevant discipline at an equal or higher level than that specified in (i) above:

Provided that the approval of the Insurance Board of Sri Lanka is obtained on a case by case basis; or

(iii) not less than five (5) years experience as an insurance agent as at the date on which the Insurance Agent Qualification Rules, 2002 came into operation;

(d) have passed the pre-recruitment test conducted by the Sri Lanka Insurance Institute or any other body approved by the Insurance Board of Sri Lanka;

(e) not have been convicted by any competent court in Sri Lanka or of any other country, for a crime committed in connection with financial management or of any offence involving moral turpitude;

(f) not be salaried employees of a registered insurer or an insurance broker; and

(g) not be individuals whose services have been previously terminated as insurance agents on the ground of financial misappropriation or fraud.

8. such person notifies the insurer or the insurance broker, as the case may be, in writing of its places/locations/branches in which such person shall solicit or procure insurance business and of the following information regarding specified persons working in such places/locations/branches:

- a. name;
- b. residential address;
- c. NIC number; and
- d. whether qualified under Rule 6 above.

9. (i) a director or specified person of such person is not a director of an insurer; or

(ii) a director or the chief executive officer of a holding company of such person is not a director of an insurer; and

10. such person provides a written undertaking to the insurer or the insurance broker, as the case may be, to abide by and comply with the best practices specified in the schedule to these rules at all times they are registered as an insurance agent;

Schedule

Such person shall:

- a) enter into a service level agreement with the insurer or the insurance broker, as the case may be, in which duties and responsibilities of both are defined clearly;
- b) operate solely or otherwise as an insurance agent;
- c) not operate as an insurance agent to receive commissions or fees for such person's own business and in any event such person shall not receive commissions or fees for such person's own business;
- d) not operate as an insurance agent to receive commissions or fees from its holding, associate or subsidiary company's own business;
- e) give due publicity to the fact that such person does not underwrite the risk or act as an insurer;
- f) not put forth any paper or any statement, whether written or oral in relation to soliciting and procuring insurance business, which does not clearly state the position of such person and name of the insurer or the insurance broker with whom such person is registered with;
- g) not make any ambiguous statement such as "in association with..", "by arrangement with .." or similar expressions that can mislead the public into assuming that such person is the insurer or the insurance broker;
- h) not charge an administration fee or service charge or any other charge to the policyholder insured through it;
- i) not offer different rates, advantages, terms and conditions other than those offered by an insurer;
- j) not exercise undue influence on an insurance broker with whom such person is registered with, to place insurance business with a particular insurer;
- k) use only sales support materials, such as prospectus, sales brochures, sales illustrations and publicity write ups provided by the respective insurer or insurance broker;
- l) with a view to conserve the insurance business already procured through it, make every attempt to ensure remittance of premiums by policyholders within the stipulated time period, by giving notice to the policyholder orally or in writing;
- m) agree to cooperate with the Designated Person that may be appointed by the insurer or the insurance broker, as the case may, to oversee the insurance activities of such person;
- n) solicit or procure insurance business only by specified persons qualified in terms of Rule 6 above (However, this will not prevent other employees of such person or employees of its related companies referring prospects to the specified person for sale of insurance products provided such references shall not be rewarded on the basis of success of sale);
- o) immediately notify the insurer or the insurance broker concerned in writing of any changes -
 - a. to its places/locations/branches in which such person solicits or procures insurance business;and

- b. regarding specified persons working at such places/locations/branches together with information that is required to be given under Rule 7 above (item (d) of Rule 7, need not be given in the event of a cessation of employment of a specified person);
- p) not delegate its agency function to any other person other than to its specified persons;
- q) be responsible for all acts of omission and commission of its specified persons;
- r) ensure that specified persons are properly trained, skilled and knowledgeable in the insurance products they market;
- s) display the names of specified persons working at such places/locations/branches conspicuously;
- t) ensure that its specified persons –
 - a. identify themselves and the insurance company or insurance broking company of whom he is a representative;
 - b. do not force a prospect to enter into an insurance contract;
 - c. give adequate pre-sales and post-sales advice to the insured in respect of an insurance product and disseminate the requisite information in respect of insurance products offered for sale and take into account the needs of the prospect while recommending a specific insurance plan;
 - d. do not make to a prospect any misrepresentation on policy benefits and returns available under the policy;
 - e. indicate the premium to be charged by the insurer for the insurance product offered for sale and any conditions relating to same;
 - f. explain to the prospect the nature of information required in the proposal form, and also the importance of disclosure of material information in the proposal form and documents required;
 - g. obtain the requisite documents at the time of filing the proposal form with the insurer or insurance broker; and other documents subsequently asked for by the insurer or the insurance broker for completion of the proposal;
 - h. bring to the notice of the insurer or the insurance broker any adverse habits or income inconsistency of the prospect along with every proposal submitted and any material fact that may adversely affect the underwriting decision of the insurer as regards acceptance of the proposal, by making all reasonable enquiries about the prospect;
 - i. inform promptly the prospect about the acceptance or rejection of the proposal by the insurer;
 - j. extend all possible help and cooperation to an insured in completion of all formalities and documentation in the event assistance is sought by an insured in relation to a claim;
 - k. do not demand or receive a share of proceeds from the beneficiary under an insurance contract;
 - l. do not interfere with any proposal introduced by any other specified person or any insurance intermediary; and
 - m. force a policyholder to terminate an existing insurance policy.

