REPUBLIC OF ALBANIA

Council of Ministers

DECISION
No. 79, date 28 January 2008

"ON SETTING THE CRITERIA AND PROCEDURES CONCERNING INSURANCE INTERMEDIARIES' LICENSING AND THE RULES OF SUPERVISING THEIR BUSINESS, AS WELL AS, THE CASES OF REFUSING THE LICENSE"

Pursuant to Article 100 of the Constitution and to Paragraph 10 of Article 77 and, pursuant to Paragraph 2 of Article 81 of Law No. 9267, date 29 July 2004 "On the Insurance, Reinsurance and Intermediary Activity in Insurance and Reinsurance" the Council of Ministers, upon the proposal of the Ministry of Finance, hereby

Decided:

I. General

1. The Financial Supervisory Authority shall license and supervise the insurance intermediary activity of agents, agents' companies, brokers and brokers' companies in accordance with the rules set forth in this decision.

2. The intermediary's license has the following features:

- It is set in compliance with insurance categories;

- It is untransferable;
- It is untradable;
- It is subject to a three-year term, which can be renewed, except for brokering companies.

II. The criteria of brokering activity licensing

1. Brokering activity includes:

a) The activity of the presentation, of the proposal or, of the completion of the preliminary work concerning signing of the insurance and reinsurance contract;
b) Insurance risk analysis;
c) Provision of explanations and advices on the conditions, timelines, restrictions or, on the reserves of the insurance and reinsurance contract and premium;
d) Provision of the assistance in terms of exercising the rights, which stem from insurance contract and, specifically, in terms of liabilities payment by the insurance companies.

2. The person, who applies to be provided with license to conduct insurance brokering activity has to meet the following criteria:

a) The applicant must have a university diploma;
b) The applicant must have professional experience in the insurance area or, it must have participated in trainings in programs certified by certificates, which are recognized by the Financial Supervisory Authority;
c) The applicant has to successfully pass the examination on the insurance area knowledge adhering to the rules set by the Financial Supervisory Authority;
d) The applicant has to meet the following reliability criteria:
    i. The applicant must enjoy full capacity to act;

ii. The applicant had not been subject to any penalty or punishment, which makes up a reason to refuse issuing the license, such as those imposed for committing crimes against property, economic activity crimes and for illegal activities over the last 10 years before the date of applying for the license;
iii. The applicant must have no outstanding liabilities;
iv. The applicant must not have a job in any insurance company;
v. The applicant has not been a member of the supervisory boards or manager of companies under bankruptcy or liquidation process over the last 5 years.

Meeting the requirements set forth in letters "a", "b" "c" and "d", of this paragraph has to be certified by means of the corresponding documentation.

3. The legal person, which applies for being provided with a license to carry out insurance brokering activity, has to meet the following criteria:

a) It must be registered as a company;
b) It must have no outstanding liabilities;
c) It must have, at least, one licensed broker employed.

The general director and the members of the supervisory board have to meet the requirements set forth in Paragraph 2 of Chapter II of this decision.

4. The application, in writing, addressed to the Financial Supervisory Authority for being provided with brokering license has to be associated with the following documentation:

a) The document containing the identification data on the physical or juristic person;
b) The application regarding the insurance intermediary activity area according to the insurance classes and the territory, in which this activity is due to be conducted;
c) The declaration on the date, when the intermediary activity shall commence;
d) The bank document, which certifies depositing of minimum capital, only in the case of being a juristic person;

e) The insurance policy concerning professional liability of the juristic person in the course of carrying out its activity;
f) The document, which certifies that the physical or juristic person possesses the facilities and the appropriate infrastructure to conduct insurance intermediary activity;
g) The document certifying that the juristic person has employed a licensed broker and the decision of registration as a juristic person, the statute and the foundation agreement of the juristic person.

III. The insurance agent activity

2. The insurance agent's activity is performed by physical persons and agents' companies, which are licensed in compliance with the requirements set forth in this decision, as well as, by other entities, which carry out activity in the following ares:
   b) Banking;
   c) Financial services;
   d) Postal service;
   e) Travel agency service;
   f) Real estate agency service;
   g) Money exchange service office;

The condition, in this case, is that the insurance agent's activity has to be performed on their behalf by the licensed insurance agent.

3. The commission for performing the agent's activity shall be paid by the insurance company and it will be set forth in the agent's contract.

4. To pay the premiums to the account of the insurance company the agent shall use a separate bank account opened specifically for this purpose and, which shall be separate from his business account.

5. During the period when the insurance agent carries out intermediary activity, s/he must have professional liability insurance versus third parties and versus

damages caused in the frame of conducting the activity in an amount of no less than 100,000 Albanian Leks for each insured event or, in an amount of no less 150, 000 Albanian Leks per year for all cases of insurance.

6. The insurance agent must permanently have a financial guarantee to an extent of 4 percent of the collected annual premium amounts or, at least, an amount of 500, 000 Albanian Leks in case of being a physical person or, the amount of 1, 000, 000 Albanian Leks in case of being juristic person set as a guarantee to the account of the insurance company. The financial guarantee shall be deposited into one of the second level banks, which operate in the territory of the Republic of Albania, on behalf of the insurance company, for which it will operate.

IV. Insurance agent's activity licensing criteria

1. The physical person, who applies for license to carry out insurance agent's activity, has to meet the following criteria:
    b) The applicant must have a high school diploma;
    c) The applicant must professional experience or records of completing a training in a insurance training institute, which is recognized by the Financial Supervisory Authority;
    d) The applicant must have records certifying computer basic skills;
    e) The applicant must have a contract with the insurance company, on the behalf of which it is going to operate;
    f) The applicant must has to meet the following reliability criteria:
        i. The applicant must enjoy full capacity to act;
        ii. The applicant had not been subject to any penalty or punishment, which makes up a reason to refuse issuing the license, such as those imposed for committing crimes against property, economic activity crimes and for illegal activities over the last 10 years before the date of applying for the license;
        iii. The applicant must have no outstanding liabilities;
        iv. The applicant must not have a job in any insurance company;

v. The applicant has not been a member of the supervisory boards or manager of companies under bankruptcy or liquidation process over the last 5 years.

Meeting of the requirements set forth in Letters "a", "b", "c", "d" and "e", of this paragraph shall be certified upon the corresponding documentation.

2. The juristic person, which applies for being provided with a license to carry out insurance brokering activity, has to meet the following criteria:
    a) It must be registered as a company;
    b) It must have no outstanding liabilities;
    c) Ii must have, ate least, one licensed broker employed

The general director and the members of the supervisory board have to meet the requirements set forth in Letter "d", Paragraph 1 of Chapter IV of this Decision.

2. The insurance company, on whose behalf the agent or the agents' company shall operate, shall submit an application in writing to the Financial Supervisory Authority to be provided with an agent's license.

3. The application for an agent's license shall be associated with the following documentation:
    a) The document containing identification data about the physical or juristic person;
    b) The application about the insurance intermediary activity area in accordance with the insurance classes and the territory where this activity shall be carried out;
    c) The bank certificate, which certifies depositing of the financial guarantee on behalf of the insurance company, for which the applicant is going to conduct the insurance agent's activity;
    d) The insurance policy about the professional liability in the course of conducting the activity;
    e) The document, which certifies that the applicant possesses the facilities and the appropriate infrastructure to carry out the insurance intermediary activity including also the installation of

the data computerization and reporting system to the Financial Supervisory Authority and to the insurance company, on whose behalf the applicant shall operate;

f) The document certifying that applicant has employed an agent, which is provided with a license, as well as, the decision of applicant's registration as a juristic person, the statute and the foundation agreement.

4. The foreign intermediary company, which applies for authorization to carry out insurance intermediary activity through its area office in the territory of the Republic of Albania, must present the following the Financial Supervisory Authority:
   b) The official approval issued by the supervisory authority of the country of origin regarding opening of this area office;
   c) Every other information, as set forth in the Law and in this Decision for the juristic person and, which is required by the Financial Supervisory Authority.

V. Licensing documentation reviewing procedures

1. The Financial Supervisory Authority reviews the documentation presented by the applicant applying for the license. If any shortfalls or inaccuracies shall be observed in the documentation thereof, the applicant shall be informed to complete it by 15 days following the date of notification.

2. The Financial Supervisory Authority shall issue or refuse the license to conduct the activity of insurance agent within 30 calendar days following the completion of the full documentation by the applicant.

3. To be issued with the license, the insurance intermediary shall pay to the account of the Financial Supervisory Authority a commission defined in compliance with the Council of Ministers' Decision No. 403, date 09 June 2005.

4. The Financial Supervisory Authority adopts the application form and the license format.

VI. Refusing the license

1. The person, who applies for a license, shall be subject to license refusal in the following circumstances:
    a) If it fails to comply with the requirements set forth in this decision;
    b) If it fails in the examination on insurance are knowledge as to Paragraph 2 of Chapter II of this Decision;
    c) If it has committed violations of the insurance are legal framework.

VII. Activity supervision

1. The Financial Supervisory Authority carries out the supervision of entities licensed for intermediary activity through their regular reporting in compliance with the manner defined by this Authority, as well as, through on site inspections.

2. The entity licensed to conduct insurance intermediary activity must keep an accurate inventory of the insurance policies, insurance company data arranged according to the insurance classes, other identifying categories and data and it must present them in the course of inspection conducted by the Financial Supervisory Authority.

3. The entity licensed for insurance agent's activity conducts the reconciliation of sold out policies vis-à-vis the bank slip with the insurance company once a week.

4. This reconciliation act shall be held separately for the sold out policies according to currencies.

5. The entity licensed to conduct intermediary activity shall be subject to the following obligations:
    a) To conduct the activity with professionalism, caution and devotion vis-à-vis the consumers;
    b) To behave with loyalty and based on bona fides principle in relation to adhering to customer's rights;
    c) To inform the insured person on the insurance businesses, on the general and specific conditions of the insurance contracts, on the profits deriving from the insurance contract and, on the fees and premiums that the insured person has to pay.

VIII. Transparency and confidentiality

1. Brokers and agents are, in the course of their activity, subject to obligation of abiding by the voluntary participation principle in relation to entering into the insurance contracts.

2. The entity licensed to conduct insurance intermediary activity has to be easily identifiable by the public. The entity is subject to the obligation of providing, at least, the following information:
    b) Name, family name and the address, where it conducts its activity;
    c) The document, which certifies that the entity has been licensed to conduct insurance intermediary activity;
    d) The insurance company, on whose behalf the entity operates;
    e) The license valid term.

This information must be distinct, clear and accurate to the customers and it must be included in every licensed intermediary's identification card, which is carried throughout the time of conducting the activity.

3. The insurance intermediaries are subject to the obligation of upholding the confidentiality of data and of facts and circumstances, which are linked with

the insured persons, and the confidentiality of the data, with which they become familiar in the course of conducting their activity.

4. The Financial Supervisory Authority publishes the updated list of licensed intermediaries, at least, once in six months in accordance with the rules defined by it.

IX. End provisions

The Council of Ministers' Decision No.192, date 25 March 2005, "On the Procedures and Criteria of Insurance Agents Licensing and the Rules of Supervising their Activity" gets hereby repealed.

X. This decision shall be enforced by the Financial Supervisory Authority.

This Decision shall come into effect following its publication in the Official Journal.

P R IM E M I N I S T E R

SALI BERISHA

MINISTER OF FINANCE

RIDVAN BODE