

LAW OF MONGOLIA

30 April 2004

Ulaanbaatar

ON INSURANCE INTERMEDIARIES

CHAPTER ONE

General Provisions

Article 1. Purpose of the law

- 1.1. The purpose of this law is to establish conditions of and requirements for activities of insurance intermediaries and to regulate relations concerned with supervising and monitoring of activities of insurance intermediaries by the state supervisory body and issuance of licenses of insurance activities.

Article 2. Legislation

- 2.1. Legislation on insurance intermediaries consists of Constitution of Mongolia¹, the Civil Code², the Company Law³, the Law on Insurance, the present Law and other relevant laws and regulations made thereunder.
- 2.2. Provided an international treaty or agreement to which Mongolia is a party sets rules other than those specified in this Law, the provisions of the international treaty or agreement shall prevail.
- 2.3. Relations connected with insurance intermediaries which are not regulated by this Law shall be regulated by the Law on Insurance.

Article 3. Basic definitions used in the law

- 3.1. The definitions used in this Law except for those specified in Provision 3.2 of this Law shall have the meaning specified in the Law on Insurance.
- 3.2. The definitions used in this Law shall have the meaning as follows:
- 3.2.1. Insurance intermediaries are insurance agents, insurance brokers and loss adjusters.
- 3.2.2. An insurance agent is a legal or natural person assigned or obligated by an insurer to represent the legal interests of the insurer and to solicit, negotiate and effect contracts of insurance and undertake other legal actions on behalf of the insurer.
- 3.2.3. An insurance broker is a legal or natural person who carries out intermediary activities in accordance with authorities assigned to him/her by an insured or an insurer representing their interests and who charge fees and commissions for his services.
- 3.2.4. A loss adjuster is a legal person who works independently to investigate claims, determine the extent of an insurer's liability for loss and make claim

¹ Government Information Bulletin No.: 1, 1992

² Government Information Bulletin No.: 7, 2002

³ Government Information Bulletin No.: 34, 1999

- settlement negotiations representing the insured and the insurer. A loss adjuster charges fees, commissions or other types of payments for his services.
- 3.2.5. The Insurance Supervision Service is the organization specified in Provision 12.1 of this Law.
 - 3.2.6. A foreign insurance intermediary is an insurance agent or an insurance broker or a loss adjuster based in a foreign country.
 - 3.3. An employee of an insurer who is salaried by that insurer shall not be regarded as an insurance agent specified in Provision 3.2.2 of this Law.
 - 3.4. The persons specified below shall not be regarded as a loss adjuster provided in Provision 3.2.4 of this Law:
 - 3.4.1. An employee of an insurer or an insurance agent.
 - 3.4.2. An insurance agent.

CHAPTER TWO

State Supervision of Insurance Intermediary Activities

Article 4. State Central Body of Insurance Supervision

- 4.1. The State Central Body of Insurance Supervision shall exercise the following authorities:
 - 4.1.1. development of proposals directed to improvement and perfection of laws and regulations of activities of professional insurance participants;
 - 4.1.2. carrying out of other responsibilities and obligations specified in the relevant laws and regulations.

Article 5. Insurance Supervision Service

- 5.1. The Insurance Supervision Services shall be empowered to:
 - 5.1.1. supervise the activities of licensed insurance intermediaries compliant to the provisions of this Law;
 - 5.1.2. grant, suspend, reinstate, and cancel/terminate licenses for insurance intermediary activities; control the fulfillment of the license conditions and requirements;
 - 5.1.3. apply sanctions to natural or legal persons in case they operate as insurance intermediary without corresponding certificates;
 - 5.1.4. approve and implement the Insurance Regulations and monitor the compliance;
 - 5.1.5. other authorities specified in the relevant laws and regulations.

Article 6. Regulations of insurance intermediary activities

- 6.1. Insurance intermediary activities shall be regulated under the set of insurance regulations approved by the Supervision Service.
- 6.2. The Regulations shall be consisting of the provisions specified in Article 14.2 of the Law on Insurance as well as of the following rules, guidelines, procedures, conditions, requirements and norms:
 - 6.2.1. Requirements for insurance intermediaries;

- 6.2.2. Requirements for the auditors of insurance intermediaries;
- 6.2.3. Procedure for the contents and forms of the accounting documents and financial statements/reports of insurance intermediaries;
- 6.2.4. List of information and documentation to be provided with an application for the license specified herein;
- 6.2.5. Amount of fee charged by the Supervision Service;
- 6.2.6. Requirements for the insurance intermediaries that opens branches or representative offices abroad and carry out insurance intermediation activities in foreign countries;
- 6.2.7. Conditions and requirements for the activities of foreign insurance intermediaries that open branches or representative offices in Mongolia to conduct insurance intermediation activities;
- 6.2.8. Guidelines for foreign insurance intermediaries to prepare and submit information, data and statements/reports compliant to this Law.

Article 7. Procedures of insurance intermediary activities

- 7.1. The Supervision Service may develop and introduce special procedures in order to effectively supervise the activities of insurance intermediaries.
- 7.2. Although insurance intermediaries are not obligated to follow the procedures specified in Provision 7.1 of this Law, failure to do so might constitute a ground, in the event of applying sanctions to an insurance intermediary, for considering that person as not fit or improper for holding insurance intermediary license or that the intermediary failed to conduct qualified activities.

CHAPTER THREE

Licensing of Insurance Intermediary Activities

Article 8. Types of insurance intermediation activity licenses

- 8.1. The licenses for insurance intermediation activities shall be of the following types:
 - 8.1.1. Insurance Agent License
 - 8.1.2. Insurance Broker License
 - 8.1.3. Loss Adjuster License

Article 9. Prohibition of unlicensed insurance intermediary activities

- 9.1. Conducting of any unlicensed insurance intermediary activities in the territory of Mongolia or in the territories of foreign countries having the head office in Mongolia by any natural or legal person is prohibited.
- 9.2. If a legal person established pursuant to the laws of Mongolia carries out, as provided in Provision 9.1 of this Law, insurance intermediary activities in a foreign country, that legal person shall be regarded as an entity that has insurance intermediary activities in a foreign country.

- 9.3. As specified in Provision 9.1 of this Law, an insurance intermediary whose license is suspended or cancelled/terminated shall not be entitled to carry out insurance intermediation activities.
- 9.4. Relations concerned with licensing of insurance intermediation activities except for those specified in this Law shall be regulated by the Law on Licensing of Business Activities⁴.

Article 10. Application for an insurance intermediary license

- 10.1. A person who requests for an insurance intermediary license shall submit an application letter to the Supervision Service.
- 10.2. The application shall be submitted in written form specifying which type of activities to be conducted, and compliant to the models and forms established by the Supervision Service, lodged with the documents specified in this Law and the Regulations.
- 10.3. In the case of an applicant for an insurance broker license or an insurance loss adjuster license, types and forms of insurance activities intended to be covered shall be specified in the application.
- 10.4. An applicant for insurance agent license shall attach the permission granted by an insurer.
- 10.5. The Supervision Service shall be free to require an applicant to submit any additional information or documentation that is deemed to be required to consider the application.

Article 11. Granting and refusal to grant licenses

- 11.1. The Supervision Service shall grant insurance intermediary license to an applicant who fits and qualified for the following criteria and the Supervision Service may require the applicant to provide other documentation and information with relevance to the types and forms of activities requested to be licensed:
- 11.1.1. Granting of the license is not conflicting with Article 12 of this Law;
- 11.1.2. The applicant is fit and proper for conducting insurance intermediation activities;
- 11.1.3. In case that the applicant is a legal person, the applicant's directors, key employees and significant owners who hold more than 10 percents of the company's common shares are fit and proper;
- 11.1.4. It is proven/verified that the applicant is fully capable of observing the Regulations;
- 11.1.5. The applicant is deemed to have sufficient managerial, organizational and financial resources necessary for conducting the specified insurance intermediation activity;
- 11.1.6. In the event that the meaning of title/name of the applicant constitutes a message that the applicant is engaged in insurance activities or insurance intermediation activities; and
- 11.1.7. Granting of the license is not conflicting with the public interests and interests of the insured.

⁴ Government Information Bulletin – No.: 6, 2001

- 11.2. The Supervision Service is authorized to modify or change the conditions and criteria for granting the license at any time depending on the activity range of the applicant and the type and form of license requested.
- 11.3. A license shall be issued in written form specifying the following items:
- 11.3.1. Title of the organization that issued the license;
 - 11.3.2. Name/title and address of the licensee;
 - 11.3.3. Type of the licensee's activity;
 - 11.3.4. In the case of applicant for insurance broker or loss adjuster license, type and form of insurance activities to be covered;
 - 11.3.5. In the case of applicant for insurance agent license, permission of the insurer;
 - 11.3.6. Conditions and requirements for the activities to be conducted;
 - 11.3.7. Serial number of the license and the date of issue;
 - 11.3.8. Signature and stamp of a competent official of the license issuing organization.
- 11.4. The insurance intermediary license is non-renewable and shall remain in force until it is suspended or cancelled/terminated according to the provisions of Article 38 and Article 39 of this Law.
- 11.5. In the event that the Supervision Service denied an application for insurance intermediary license or granted a license but with attached conditions restraining the applicant from conducting particular intermediary activities, the Supervision Service shall notify the applicant about such situation specifying the grounds and reasons for the denial or restraint.
- 11.6. The Supervision Service shall make its decision to grant or not to grant a license within a period of 45 working days starting from the date of application submission.
- 11.7. The Supervision Service shall make public notification about granting of a license compliant to the Regulations.
- 11.8. The Supervision Service may introduce a guideline to determine the fitness and propriety of persons specified in Provision 11.1 of this Law.

12. Limitations for the licensee

- 12.1. Only companies shall be eligible for applying for and holding insurance broker and loss adjuster licenses.
- 12.2. The insurance agent license and loss adjuster license shall not be granted to employees and managers of a licensed broker company, or to persons who own more than 10 percent of total common shares of a licensed insurance broker.
- 12.3. An insurer shall not be granted with the insurance broker license.
- 12.4. A person who owns more 10 percent of the common shares of an insurer shall be ineligible for insurance broker license and he/she must not be an employee or a manager of a licensed insurance broker.
- 12.5. Any person shall not be licensed as both insurance agent and insurance broker.
- 12.6. A loss adjuster shall not be licensed as insurance broker or an insurance agent.

Article 13. Foreign insurance intermediary

- 13.1. A foreign insurance intermediary shall be entitled to open its representative(s) or branch(es) in Mongolia and conduct insurance intermediation activities through that representative(s) or branch(es) provided that it obtains a written permission from the Supervision Service.
- 13.2. In the event that a foreign insurance intermediary fails to receive a written permission from the Supervision Service as provided in Provision 13.1 of this Law, any person is prohibited from conducting the below specified activities representing that foreign insurance intermediary:
- 13.2.1. Carry out promotional, advocacy or advertisement activities in order to conduct intermediary activities, or establish and operate any type of office for the same purpose;
- 13.2.2. Open and operate a branch or representative office.
- 13.3. A person who requests an insurance intermediary permission shall apply to the Supervision Service.
- 13.4. The application shall be submitted in written form and the documentations specified in the relevant regulations shall be attached therein.
- 13.5. The Supervision Service may require the applicant to submit additional information and documentation necessary for consideration of the application made pursuant to Provision 13.1 of this Law.
- 13.6. When considering an application for the permission specified in Provision 13.1 of this Law, the Supervision Service might stipulate any condition or requirement which may be modified or changed at any time.

CHAPTER FOUR

Assets and shares

Article 14. Minimum requirement for capital fund

- 14.1. The capital fund of an insurance broker or a loss adjuster shall be consisting of cash equal to the amounts specified below:
- 14.1.1. Not less than the relevant specification of the Regulations;
- 14.1.2. Not less than the amount specified by the Supervision Service compliant to Provision 14.2 of this Law.
- 14.2. The Supervision Service may, suiting to the nature and extent of an insurance agent or loss adjuster, change and increase the minimum amount of capital fund specified in Provision 14.1 of this Law.
- 14.3. An insurance intermediary shall be allowed to have a certain period of time in order to reach the minimum amount specified in Provision 14.2 of this Law.
- 14.4. If the amount of cash in the capital fund of an insurance broker or a loss adjuster turns out to be less than the amount specified in Provision 14.1 of this Law, the intermediary shall immediately notify about that situation to the Supervision Service.

Article 15. Shares of insurance brokers and loss adjusters

- 15.1. Payment for shares issued by insurance brokers and loss adjusters since the date of this Law's coming into force shall be made in cash.

- 15.2. Article 45 of the Company Law shall not apply to insurance brokers and loss adjusters.

CHAPTER FIVE

Accounting and auditing

Article 16. Accounting activities and financial reporting

- 16.1. An insurance intermediary shall carry out accounting activities and produce financial statements and reports in accordance with the Law on Accounting⁵ and the Insurance Regulations.
- 16.2. Accounting activities of an insurance intermediary shall be accrual based and Provision 5.2 of the Law on Accounting shall not apply to activities of insurance intermediaries.
- 16.3. Unless otherwise specified in the Insurance Regulations, the Supervision Service may determine the contents/types and forms the accounting documentation and financial reports/statements of insurance intermediaries.
- 16.4. The financial reports/statements of an insurance intermediary shall consist of the documents specified in Provision 10.2 of the Law on Labor, relevant provisions of the Insurance Regulations, Provision 16.3 of the present Law and other documents determined by the Supervision Service.
- 16.5. An accountant of an insurance intermediary shall keep his/her accounting documents for at least 6 years and notify the Supervision Service the address of the place of document archival.

Article 17. Use of accounting standards

- 17.1. An insurance intermediary shall use recognized international accounting standards in its accounting practices.

Article 18. Annual financial reports

- 18.1. An insurance broker or a loss adjuster shall, within the time limit set out in Article 13 of the Law on Accounting, submit its audited annual financial reports to the Supervision Service along with the following documents:
- 18.1.1. Management report;
 - 18.1.2. Auditing report;
 - 18.1.3. Notes clarifying the matters that impacted on the financial activities and performance of the intermediary that year.
 - 18.1.4. Other documents specified in the Insurance Regulations
- 18.2. The form and contents of annual financial reports and other documents may be prescribed by the Insurance Regulations.
- 18.3. In the event that an insurance intermediary fails to submit its financial reports and other documents to the Supervision Service as provided by Provision 18.1 of this Law, it shall be regarded as a failure of submission of financial reports.

⁵ Government Information Bulletin, No.: 4, 2004

Article 19. Quarterly financial reports

- 19.1. An insurance broker or a loss adjuster shall, within the time limit set out in Article 13 of the Law on Accounting, submit its audited quarterly financial reports to the Supervision Service along with the documents specified in the Insurance Regulations.
- 19.2. The form and contents of quarterly financial reports and other relevant documents may be prescribed by the Insurance Regulations.
- 19.3. In the event that an insurance intermediary's financial statements and other documents specified in Provision 19.1 of this Law were not submitted within the specified time limit, the insurance intermediary shall be regarded to have failed to submit its financial reports.

Article 20. Auditing

- 20.1. An insurance broker and loss adjuster shall appoint an auditor to have its financial reports and statements audited.
- 20.2. An auditor specified in Provision 20.1 of this Law shall meet the following qualification requirements:
 - 20.2.1. Possesses an auditing license specified in Article 17 of the Law on Audit⁶;
 - 20.2.2. Obtained a certificate from the Supervision Service to audit financial reports/statements of insurance brokers and loss adjusters.
- 20.3. As provided in the Insurance Regulations, the Supervision Service shall make public announcement of the list of auditors specified in Provision 20.2 of this Law and the changes made to this list.
- 20.4. An insurance broker and a loss adjuster shall provide the auditor with conditions required to perform auditing activities.
- 20.5. An insurance broker and a loss adjuster shall notify the Supervision Service in writing about an appointment of an auditor within 5 days after the appointment.

Article 21. Audit report

- 21.1. As provided in the Insurance Regulations, an auditor shall distribute the report of his/her financial statement auditing works to the relevant insurance broker or loss adjuster.
- 21.2. The Supervision Service has the authority to require an insurance broker or a loss adjuster at any time to hire auditors and submit auditing reports for the purpose of determining the proper ratio of assets quality and risk fund and adequate balance of accounting activities and controlling mechanism.
- 21.3. Insurance brokers and loss adjuster shall be responsible for the costs incurred related to preparation of the report specified in Provision 21.2 of this Law.

22. Duties of an auditor

⁶ Government Information Bulletin, No.: 6, 1997

- 22.1. An auditor shall immediately report to the Supervision Service about the following matters that he/she discovered during the auditing process based on the data and documents of an insurance broker or a loss adjuster:
- 22.1.1. The audited insurance broker or loss adjuster became or likely to become insolvent;
 - 22.1.2. There is a doubt that the audited might have committed crime related to its business activities;
 - 22.1.3. Breach of Provision 14 and Provision 15 of this Law;
 - 22.1.4. Committed serious violation of this Law, other legislation and the Insurance Regulations.
- 22.2. In the event that an insurance broker or a loss adjuster terminated its contract with an auditor or dismissed an auditor notifying that the insurance broker or the loss adjuster can not work with the auditor, the auditor shall provide the Supervision Service with the following information:
- 22.2.1. about the contract termination or dismissal and its reasons;
 - 22.2.2. about the financial statements and data specified in Provision 21 and Provision 22.1 of this Law.
- 22.3. The Supervision Service has the authority to require an auditor to provide information about his/her auditing activities and additional materials.
- 22.4. In the case that an auditor or a person who was an auditor provides the Supervision Service with statements specified in Provision 21 of this Law or with other information which the auditor deemed appropriate, the auditor shall not be considered to have breached the professional ethics or the law, thus he/she shall not be a subject to any legal penalty or other responsibility.

Article 23. Appointment of auditors by the Supervision Service

- 23.1. In the event that an insurance broker or a loss adjuster fails to hire an auditor compliant to Provision 20.1 of this Law, the Supervision Service may appoint an auditor for that insurance broker or loss adjuster.
- 23.2. The auditor specified in Provision 23.1 of this Law shall perform the duties and activities of the insurance broker / loss adjuster auditor specified in this Law.

CHAPTER SIX

Limitations for Insurance Intermediaries

Article 24. Limitations for an insurance intermediary and its key employees

- 24.1. A manager or an employee of a licensed insurance broker shall not be appointed as the director of an insurer.
- 24.2. A licensed loss adjuster shall not be appointed as an employee of a licensed insurance broker.

Article 25. Unlicensed insurer

- 25.1. A insurance intermediary is prohibited from working with insurers that are not licensed compliant to the Law on Labor.

25.2. Provision 25.1 of this law shall not apply to an insurance intermediary who cooperates with foreign insurers.

Article 26. Fees and compensation of insurance intermediaries

26.1. An insurance intermediary is prohibited from receiving, holding and making agreements related to premiums paid in accordance with insurance policies underwritten by an insurer except for the cases specified below:

26.1.1. The insurer agreed the intermediary to receive, hold and make agreements related to insurance premiums;

26.1.2. The Supervision Service granted a permission to do so.

Article 27. Change of information

27.1. An applicant applying for insurance intermediary license or an insurance intermediary or other persons requesting special permissions in accordance with this Law and the Insurance Regulations shall immediately inform the Supervision Service in writing if there is any change in the documentation or information provided to the Supervision Service prior to the determination of the application or request.

CHAPTER SEVEN

Market Conduct

Article 28. Misleading advertisement

28.1. Preparation and launching of misleading promotional activities or distribution of advertisements, information booklets, flyers and other materials that contain untrue and false information is prohibited.

28.2. The Supervision Service shall prohibit or order to renounce or change/make correction as necessary in the event that an insurance intermediary or its representative publishes and distributes information booklets, flyers, brochures or other similar documents that contain misleading or false information or that contravene public interests.

Article 28. Market conduct

29.1. The Supervision Service may issue a Market Conduct Code of Practice and it shall be the obligation of insurance intermediaries, their key employees and other relevant persons to follow that code.

CHAPTER EIGHT

Monitoring and On-site Inspections, Data Collection and Reporting

Article 30. Subjects of on-site inspections

30.1. The subjects of on-site inspections specified in Chapter 8 of this Law are insurance intermediaries, former insurance intermediaries, insurance intermediaries' subsidiaries or daughter companies.

Article 31. On-site inspection of activities of the subjects

31.1. The Supervision Service may take the following actions at any time with the purpose of investigating activities of the subjects within the authority provided by this Law:

- 31.1.1. Review the subject's affairs, activities, management, organizational structure and documents;
- 31.1.2. Check and count assets, cash, etc. in the ownership of the subjects;
- 31.1.3. Inspect the subject's books, records, accounts, financial statements and other documents and make copies as necessary.

31.2. If necessary, the Supervision Service may investigate the following areas of the subject's operation:

- 31.2.1. Review the subject's assets and capitals
- 31.2.2. Check the subject's compliance with this Law, other relevant laws, and the Insurance Regulations as well as the subject's observance of the requirements and guidelines imposed by the Supervision Service.

31.3. The Supervision Service shall provide the subject with the terms of reference of the on-site inspection prior to the inspection.

31.4. The Supervision Service, if it chooses, to employ auditors or other suitable persons to undertake the on-site inspection.

31.5. The on-site inspection shall be undertaken at least once in two years in a way that it shall not bother or distract the day-to-day activities of the subjects.

Article 32. On-site inspection related duties of the subjects and its key employees

32.1. The subject shall carry out the following duties during an on-site inspection:

- 32.1.1. Provide access to the its premises and assets;
- 32.1.2. Provide the inspector with possibilities to review required accounting/financial documents and other relevant documentation;
- 32.1.3. Give necessary information and explanations;
- 32.1.4. Obtain required data or documents from the relevant persons and submit to the Supervision Service.

32.2. The Supervision Service has the authority to require the subject's managers and key employees to provide the information/data and explanation which is deemed necessary.

Article 33. Inspection report

33.1. The Supervision Service shall distribute the summary report of the on-site inspection to the relevant persons in 45 days since the completion of the inspection.

- 33.2. An inspection reports shall include the following items:
- 33.2.1. Recommendations about the subject's management, structure, control and other areas deemed necessary;
 - 33.2.2. Whether or not the report recipient is required to make a response related to the report: if no response is required, issues and areas highlighted in the report.
- 33.3. If a response is required, the recipient shall make a response to the Supervision Service within 14 days after the receipt of the report unless otherwise specified in the report.

Article 34. The Supervision Service's authority of accessing data and information

- 34.1. In order to exercise its authorities and powers specified in this Law and other relevant laws and regulations or according to the requests made by foreign supervisory institutions, the Supervision Service may require the persons specified in Provision 34.2 of this law to provide the following information and documentation:
- 34.1.1. Particular types of or specified information;
 - 34.1.2. Particular types of or specified documents.
- 34.2. The requirement specified in Provision 34.1 of this Law shall be made to the subject and persons related to the subject, insurance intermediaries or persons who are expected to possess the information or documents. The requirement shall specify the period/time limit in which and the address to which information and documents shall be submitted.
- 34.3. The persons related to the subject specified in Provision 34.2 of this Law shall be determined by the Insurance Regulations.
- 34.4. To exercise the authorities and powers specified in Provision 34.1 of this Law, the Supervision Service may make the following requirements:
- 34.4.1. to prepare and submit information according to the prescribed forms and contents;
 - 34.4.2. to verify the submitted information and documents;
 - 34.4.3. to make relevant notes or explanations related to the submitted information and documents.
- 34.5. When collecting data compliant to this Law, the Supervision Service shall have samples or make copies of the relevant documents.
- 34.6. The person who received a requirement from the Supervision Service to submit information and document pursuant to Provision 34.1 of this Law is obliged to fulfill that requirement.

Article 35. Provision of assistance to foreign supervisory organizations

- 35.1. In the event that a foreign supervisory organization makes a written request for assistance to their activities, the Supervision Service may provide it with relevant information and documentations compliant to Article 35 of this Law.
- 35.2. The following considerations shall be taken into account when making a decision on whether or not to provide a foreign supervisory organization with information and documents:

- 35.2.1. whether the foreign supervisory organization provided the Supervision Service with similar assistance in the past or whether the foreign supervisory organization will provide similar assistance in future;
- 35.2.2. whether the possible assistance is in conformity with the laws of Mongolia and suitable for the public interests;
- 35.2.3. the nature of the area in which the assistance is asked to be provided and the importance of the area to Mongolia;
- 35.2.4. whether the foreign supervisory organization is prepared to cover the expenses which shall incur related to preparation of the requested information and documents;
- 35.2.5. whether the foreign organization is capable of meeting the confidentiality requirements specified in Provision 43 of this Law.
- 35.3. The Supervision Service may request the foreign supervisory organization to make clarifications and explanations related to the information or documents that it is requesting.
- 35.4. In the event that the foreign supervisory organization fails to respond to the request specified in Provision 35.3 of this Law, the Supervision Service may refuse to provide the requested assistance.

CHAPTER NINE

Enforcement

Article 36. Grounds for enforcement actions

- 36.1. The following are the grounds upon which the Supervision Service may take enforcement actions against insurance intermediaries:
 - 36.1.1. A contravention of this Law, other legislation and the Insurance Regulations;
 - 36.1.2. Carrying on business in a manner detrimental to the client and the public interests, or for an insurance agent, to the interests of the insurer;
 - 36.1.3. Becoming or likely to become insolvent;
 - 36.1.4. Failing to comply with tasks and directives given by the Supervision Service;
 - 36.1.5. Breach of any condition or requirement of the license or providing any false or misleading documents on making application for a license or subsequent to the issue of the license;
 - 36.1.6. Where a licensee or a director or key employee of the licensee or a person who owns more than 10 percents of the company share is not a fit and proper person;
 - 36.1.7. Providing the Supervision Service with any false, inaccurate or misleading information;
 - 36.1.8. Dissolving of an insurance broker or loss adjuster;
 - 36.1.9. Failing to carry out accounting activities and submit financial reports compliant to the established regulations;
 - 36.1.10. Refusing or failing to co-operate with the Supervision Service on a compliance inspections;
 - 36.1.11. Failing to pay a fine imposed by the Supervision Service on time;
 - 36.1.12. Other grounds specified in the relevant laws and regulations.

Article 37. Types of enforcement actions

- 37.1. On the basis of the grounds specified in Article 36 of this Law, the Supervision Service shall take the following types of enforcement actions:
- 37.1.1. revocation or suspension of the license;
 - 37.1.2. cancellation or termination of the license;
 - 37.1.3. the appointment of an examiner as specified in Article 42 of this Law;
 - 37.1.4. the giving of a directive as provided in Article 41 of this Law;
 - 37.1.5. the appointment of a suitable qualified and experienced specialist who is responsible for advising the insurance intermediary on the proper conduct of its business;
 - 37.1.6. imposing of a fine.

Article 38. Revocation or suspension of the license

- 38.1. The following grounds shall trigger the Supervision Service to suspend or revoke the license:
- 38.1.1. presence of any of the grounds specified in Provision 36.1 of this Law;
 - 38.1.2. failing to incept its operation within 6 months after the granting of a license or stopping to operate;
 - 38.1.3. failing to make the payment of the annual fee within two months after the payment deadline;
- 38.2. The license shall be suspended for the following periods:
- 38.2.1. for the period prescribed by the Supervision Service;
 - 38.2.2. until the directives or requirements of the Supervision Service is fulfilled by the licensee
- 38.3. The period specified in Provision 38.2.1 shall not be longer than 6 months.
- 38.4. In the event that a licensee fails to meet the requirement specified in Provision 39.2.2 within 6 months after the suspension of the license, the license shall be cancelled.
- 38.5. The Supervision Service shall deliver a statement to the licensee specifying the grounds on which the license is being suspended prior to the suspension and record the date of delivery.
- 38.6. In the event that the licensee who received the suspension statement specified in Provision 38.5 of this Law fails, within 14 days after the receipt of the suspension statement, to submit to the Supervision Service a written explanation of the reasons why the license should not be suspended, the license shall automatically be suspended.
- 38.7. If the license is suspended, the Supervision Service shall deliver to the licensee a written statement stating:
- 38.7.1. that the license is suspended;
 - 38.7.2. the grounds based on which the license was suspended and the date of suspension;
 - 38.7.3. the period for which the license is suspended.
- 38.8. The Supervision Service shall publicly announce the suspension in accordance with the Insurance Regulations.

Article 39. Termination or cancellation of the license

- 39.1. The following are the grounds upon which the Supervision Service shall terminate/cancel a license:
- 39.1.1. the licensee made a request to have its license cancelled;
 - 39.1.2. the insurance broker or the loss adjuster was dissolved;
 - 39.1.3. an evidence that the licensee provided the Supervision Service with any false or forged documents on making application for the license was discovered;
 - 39.1.4. repeatedly or seriously breached the conditions of the license;
 - 39.1.5. failed to meet the Supervision Service requirements of remedial actions within the suspension period.
- 39.2. The Supervision Service shall deliver a statement to the licensee specifying the grounds on which the license is being cancelled prior to the cancellation and record the date of the statement delivery.
- 39.3. In the event that the licensee who received the cancellation statement specified in Provision 39.2 of this Law fails, within 14 days after the receipt of the cancellation statement, to submit to the Supervision Service a written explanation of the reasons why the license should not be cancelled, the license shall automatically be cancelled.
- 39.4. If the license is cancelled, the Supervision Service shall deliver to the licensee a written statement stating:
- 39.4.1. that the license is cancelled;
 - 39.4.2. the grounds based on which the license was cancelled and the date of cancellation;
- 39.5. The Supervision Service shall publicly announce the cancellation in accordance with the Insurance Regulations.

Article 40. The Supervision Service's application to the Court for protection of assets of insurance intermediaries

- 40.1. The Supervision Service may apply to the Court in order to protect the interests of the public, clients and the insured as well as the assets and activities of the insurance intermediaries in the event that the license of an insurance intermediary was suspended or cancelled, or in the presence of the grounds specified in Provision 38.1 and Provision 39.1 of this Law.
- 40.2. When making court application specified in Provision 40.1 of this Law, the Supervision Service is not obliged to notify the insurance intermediary.
- 40.3. In the event that the license is not suspended or cancelled, the Court application may be made prior to the delivery of suspension or cancellation statement to the licensee specified in Provision 38.5 and Provision 39.2 of this Law.
- 40.4. Under the specification of Provision 4.1 of this Law, the following actions may be taken:
- 40.4.1. make a decision to forbid the insurance intermediary to transfer or make an agreement or contract to disburse the assets in its ownership;
 - 40.4.2. appoint a representative who is empowered to manage the activities of an insurance intermediary prior to suspension or cancellation of the intermediary's license;
 - 40.4.3. apply to the Court for dissolving of an insurance company;

- 40.4.4. summon relevant persons in order to receive information about the activities of an insurance intermediary.
- 40.5. When appointing the representative specified in Provision 40.4.2, the Court shall determine his/her authorities, wage amount, and the procedure to submit reports to the Court and the Supervision Service.
- 40.6. The Court may take any of the following actions related to the representative:
 - 40.6.1. Assign tasks and directives related to the representative's exercising of his/her rights and duties;
 - 40.6.2. Change the representatives rights and authorities;
 - 40.6.3. End the representative's authorities.

Article 41. Directives

- 41.1. In the event of taking enforcement actions, the Supervision Service may give the following directives to the insurance intermediary to:
 - 41.1.1. restrict the insurance intermediary from undertaking particular activity(ies) on a temporary basis;
 - 41.1.2. prohibit the insurance intermediary to make agreements/contracts related to particular activities;
 - 41.1.3. require the insurance intermediary to submit necessary information and documents in a time limit shorter than what is provided in this Law, other relevant laws and legislations and Insurance Regulations.
 - 41.1.4. in the case of a client or an insurance agent, require to take necessary actions with the purpose to protect the interests of the insurer.
- 41.2. An insurance intermediary is obliged to observe any directive given by the Supervision Service as specified in Provision 41.1 of this Law.
- 41.3. Article 41 of this Law shall equally apply to the insurance intermediaries whose licenses are suspended or cancelled.

Article 42. Appointment of the examiner

- 42.1. When taking enforcement actions on the basis of the grounds specified in Provision 36.1 of this Law, the Supervision Service may appoint one or more persons as the examiner to examine and inspect the activities of the insurance intermediary.
- 42.2. The examiner appointed according to Provision 42.1 of this Law is empowered to make examination in the following areas:
 - 42.2.1. scope and nature/condition of the insurance intermediary activities;
 - 42.2.2. particular issues and problems of the insurance intermediary's activities;
 - 42.2.3. controlling activities by the insurance intermediary and its shareholders.
- 42.3. If deemed necessary, the examiner may examine the activities of the insurance intermediary and its branches/subsidiaries at any time.
- 42.4. The assignment period and conditions shall be determined by the Supervision Service.

CHAPTER TEN

Miscellaneous

Article 43. Information confidentiality

- 43.1. When exercising their authorities specified by this Law and other legislation, the Supervision Service and other relevant organizations and officials shall keep any information related to the following persons:
- 43.1.1. a person applying for a license;
 - 43.1.2. an insurance intermediary, or a former insurance intermediary, and a subsidiary or daughter company of an insurance intermediary;
 - 43.1.3. a client or a former client;
- 43.2. Provision 43.1 shall not apply in the following cases:
- 43.2.1. the person agreed, in writing, to disclose its information;
 - 43.2.2. the Supervision Service required to disclose the information;
 - 43.2.3. necessitated by their duties, the heads and managements of the Court, prosecutor's office, police department, intelligence office and law enforcement organization requested a disclosure;
 - 43.2.4. a person who is required to obtain confidential information in order to fulfill its duties provided by the law;
 - 43.2.5. the information is accessible to the public through other sources or the information is already publicized;
 - 43.2.6. the information that can be disclosed in a manner that the involved person specified in Provision 43.1 will not be disclosed or when the information is publicized in summary bulletins/brochures or as a statistical data.
 - 43.2.7. the supervisory authority made a written request compliant to Provision 35.1 of this Law.

Article 44. Appeal of the Supervision Service decisions

- 44.1. A natural or legal person shall address any dispute related to the activities of insurance intermediaries to the Supervision Service for resolution. In the event that the person refuses to accept the Supervision Service decision, he may appeal the decision in the Court within 10 working days after the decision came into force.
- 44.2. The act of appealing shall constitute a ground for suspending the Supervision Service decision and Provision 19.2 and Provision 19.3 of the Law on Administrative Responsibilities shall not apply to the activities of insurance intermediaries.

Article 45. Sanctions

- 45.1. If a breach of the Law on Insurance Intermediaries and regulations is not a subject to criminal sanctions, the State Inspector shall apply the following administrative sanctions:
- 45.1.1. In the event of conducting insurance intermediation activities without the corresponding license, the illegally earned income shall be confiscated and a fine amounting 500000-1000000 Tugrugs shall be imposed on an

- insurance broker or a loss adjuster and 200000-500000 Tugrugs on an insurance agent;
- 45.1.2. A fine amounting 500000-1000000 Tugrugs shall be imposed on an insurance broker or a loss adjuster that failed to create the minimum amount of capital fund specified in Article 14 of this Law;
- 45.1.3. A fine amounting 500000-1000000 Tugrugs shall be imposed on an insurance broker or a loss adjuster that failed to make the shares payment in cash as specified in Provision 15.1 of this Law;
- 45.1.4. An insurance agent who failed to conduct its accountant activities as specified in Provision 16.2 of this Law shall be imposed with a fine amounting 500000-1000000 Tugrugs;
- 45.1.5. An official/employee who breached Provision 20.2 of this Law when appointing an auditor shall be imposed with a fine amounting 50000-100000 Tugrugs;
- 45.1.6. A fine amounting 50000-100000 Tugrugs shall be imposed on an auditor who failed to perform the duties specified in Provision 22.1 and Provision 22.2 of this Law;
- 45.1.7. A fine amounting 500000-1000000 Tugrugs shall be imposed on an insurance broker or a loss adjuster who breached Provision 25.1 of this Law and worked with unlicensed insurers;
- 45.1.8. An insurance intermediary breached Article 26 of this Law shall be imposed with a fine amounting 500000-1000000 Tugrugs;
- 45.1.9. A person who failed to fulfill the duty specified in Provision 32.1 of this Law shall be imposed with a fine amounting 500000-100000 Tugrugs and the case of an employee, the fine amount shall be 50000-100000 Tugrugs;
- 45.1.10. A fine amounting 500000-1000000 Tugrugs shall be imposed on a person failed to perform the duty provided in Provision 33.3 of this Law;
- 45.1.11. If an insurance intermediary who failed act upon the requirement specified in Provision 34.6 of this Law, a fine amounting 500000-1000000 Tugrugs shall be imposed;
- 45.1.12. An employee/official who failed to act upon the directive specified in Article 41 of this Law shall be imposed with a fine amounting 50000-100000 Tugrugs, and in the case of an insurance intermediary, the fine imposed for such breach shall be 500000-1000000 Tugrugs;
- 45.1.13. If an insurance intermediary fails to make notification to the Supervision Service as specified in Provision 14.4 and Article 27 of this Law, a fine amounting 100000-150000 shall be imposed;
- 45.1.14. An employee/manager or official who failed to follow and act upon the directives of the Supervision Service directed to implement the Law on Insurance Intermediaries and other legislation shall be imposed with a fine amounting 50000-100000 Tugrugs, in the case of an insurance intermediary that committed such failure, the fine amounts shall be 500000-1000000 Tugrugs.

Article 46. Limited responsibility of the Supervision Service official

- 46.1. An official of the Supervision Service shall not take any responsibility in any case except that there is evidence that he/she executed his/her duties specified in this Law, other relevant legislation and the Insurance

Regulations in an unjust manner or deliberately departed from executing these duties.

Article 47. Entry into force of the Law

47.1. This Law shall come into force starting from the date of entry into force of the Law on Insurance.

S. TUMUR-OCHIR, SPEAKER OF THE PARLIAMENT OF MONGOLIA