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2005-12-09 no 1421

Regulations no. 1421 on Insurance Mediation

Laid down by the Ministry of Finance on 9th December 2005 pursuant to Section 4-4, Section 5-4, cf. Section 7-7, Section 7-1, Section 9-1 and Section 10-2 of the Act of 10th June 2005 no. 41 on Insurance Mediation and Section 2-4 of the Act of 10th June 1988 no. 39 on Insurance Activity. Cf. the EEA Agreement, Annex IX no. 13b (Directive 2002/92/EC).

Chapter 1. Scope

Section 1-1. Scope

These Regulations apply to the mediation of direct insurance and reinsurance regulated by the Act of 10th June 2005 no. 41 on Insurance Mediation.

Chapter 2 of these Regulations concerning insurance applies to insurance brokerage firms and to insurance agencies that must take out insurance pursuant to Section 7-5 of the Act on Insurance Mediation.

Chapter 3 of these Regulations concerning the duty to inform customers applies to insurance brokers and to insurance agents.

Chapter 4 of these Regulations concerning the insurance undertaking's register of insurance agencies applies to insurance undertakings that are authorised to practise insurance activities in Norway pursuant to Section 2-1 of the Act of 10th June 1988 no. 39 on Insurance Activity.

Chapter 5 of these Regulations concerning the complaints scheme applies to insurance and reinsurance brokerage firms.

Chapter 2. Insurance

Section 2-1. Extent of liability insurance

The liability insurance shall cover an amount equivalent to at least EUR 1 million per claim.

Nevertheless, insurance intermediary firms that have up to 10 insurance intermediaries can limit their total liability insurance cover upwards to EUR 1.5 million per year.

Nevertheless, insurance intermediary firms that have more than 10 insurance intermediaries can limit their total liability insurance cover upwards to EUR 3 million per year.

Kredittilsynet may in individual cases decide that the liability insurance cover shall be higher than that which is required pursuant to paragraphs one to three.

Kredittilsynet may adjust the amounts mentioned in paragraph one to three based on the development of the European consumer price index.

Section 2-2. *Insurance covering the embezzlement of customers' monies*

The insurance covering the embezzlement of customers' monies shall cover at least 75% of the average balance of the client account during the course of the previous year. Section 2-1, paragraph four, of these Regulations applies equally.

Chapter 3. Duty to inform customers

Section 3-1. *Information from the insurance intermediary*

Prior to the conclusion of an insurance contract and in the event of changes to or the renewal of a contract, the insurance intermediary shall as a minimum provide the customer with the following information:

1. the insurance intermediary's name and address,
2. which register the insurance intermediary is registered in and how one can check that the firm is registered,
3. whether or not the insurance intermediary provides advice on the basis of an objective analysis, cf. Section 1-2, no. 2, alternative one, of the Act on Insurance Mediation.
4.
 - a) the size of the commission and/or other remuneration that the insurance intermediary receives from the insurance provider in connection with the conclusion of a contract concerning insurance, and
 - b) the size of the commission or other remuneration that the insurance intermediary will demand from the principal,
5. whether or not the insurance intermediary has a direct or indirect ownership interest in an insurance undertaking that amounts to more than 10% of the voting rights or capital.
6. whether or not an insurance undertaking or the parent company of an insurance undertaking has a direct or indirect ownership interest that amounts to more than 10% of an insurance intermediary's voting rights or capital,
7. the charge the policyholder is required to pay to the Norwegian Natural Perils Pool pursuant to Section 4a of the Act of 16th June 1989 no. 70 relating to Protection Against and Compensation for Natural Damage if fire insurance for risks in Norway

is mediated from an insurance undertaking that is not a member of the Norwegian Natural Perils Pool,

8. about out of court complaints schemes.

When the insurance intermediary informs the customer that it provides advice on the basis of an objective analysis, cf. paragraph one, no. 3, it is obliged to provide this advice on the basis of an analysis of a large enough number of the insurance contracts available on the market to enable it to make a recommendation in accordance with professional criteria concerning which insurance contract will suit the customer's needs.

When the insurance intermediary presents insurance solutions from one or more insurance undertakings to the customer without them being contractually bound to use these, they shall be so informed. The insurance intermediary shall at the customer's request tell them the names of the insurance undertakings it collaborates with. The insurance intermediary shall inform the customer of their right to request such information.

The insurance intermediary shall, particularly based on the information provided by the customer, as a minimum, clarify the customer's requirements and needs, and state reasons for any advice they give the customer concerning a specific insurance product. These clarifications shall be commensurate with the suggested insurance contract's complexity.

An insurance intermediary firm shall moreover have the same duty to inform as an insurance undertaking that practises activities in Norway has, cf. chapters 2 and 11 of the Act of 16th June 1989 no. 69 relating to Insurance Contracts.

The information mentioned in paragraph one, nos. 3, 5, 6 and 8, and in paragraphs two to four is not required to be provided when mediating insurance as mentioned in Section 9a the Act of 27th November 1992 no. 111 on Choice of Law on Insurance to policyholders mentioned in the same provision (major risks).

Chapter 4. Insurance undertaking's register of insurance agencies

Section 4-1. *Requirements concerning the register*

The insurance undertaking's register of insurance agencies shall be established electronically and be accessible to the public from the insurance undertaking's website. The insurance undertaking shall inform Kredittilsynet of the register's electronic address and any changes to it.

The insurance undertaking shall update the register on an ongoing basis.

Section 4-2. *The information that must be registered*

The following information must be registered:

- a) the insurance agency's name.
- b) the general manager and any other person who actually manages the insurance agency activities.

- c) the insurance agency's address or registered enterprise number.
- d) a list of the countries in which the insurance agency practises activities under the freedom of establishment.
- e) a list of the country/countries in which the insurance agency practises activities under the freedom to provide services.
- f) the supervisory authority in its home country.

The information in the register should also be made available in English.

Section 4-3. Archiving of documentation

The insurance undertaking shall archive the documentation that forms the basis for registration so that Kredittilsynet can easily acquaint itself with it during supervision. The duty to archive applies for as long as the insurance agency is registered and for at least 3 months after deletion from the register.

Chapter 5. Complaints scheme

Section 5-1. Complaints board for insurance and reinsurance brokering activities

The Ministry shall appoint a complaints board for insurance and reinsurance brokering activities. The board shall consider disputes between principals and insurance and reinsurance brokerage firms.

The board shall consist of a chair and 4-6 members, all with personal substitutes. The chair and substitute for the chair must hold law degrees. Insurance and reinsurance brokers as well as principals shall be represented on the board.

Section 5-2. The board's decisions

The board's decisions are advisory.

As long as a dispute is being considered by the board, neither of the parties can bring the dispute before the courts, cf. Section 9-1 of the Act of 10th June 2005 no. 41 on Insurance Mediation.

Section 5-3. Financing of the board's activities

The board shall be financed by annual fees and complaints fees as stipulated below. All insurance and reinsurance brokerage firms registered with Kredittilsynet must pay an annual fee. The annual fee can vary in relation to the firm's market share.

Insurance and reinsurance brokerage firms shall be charged a complaints fee for every written complaint to which the board has given thorough consideration.

Section 5-4. Guidelines for the board's activities

The Ministry shall lay down further guidelines concerning the board's activities, including provisions concerning composition, administrative procedures, and the settlement of the annual fees for insurance and reinsurance brokerage firms.

Chapter 6. Entry into force and transitional provisions

Section 6-1. *Entry into force*

These Regulations shall enter into force on 1st January 2006. At the same moment the Regulations of 24th November 1995 no. 923 on Insurance Broking are repealed.

Section 6-2. *Transitional provisions*

Insurance brokerage firms that as per 1st January 2006 are listed in Kredittilsynet's register shall, by no later than 1st July 2006, submit an application pursuant to Section 2-1 of the Act on Insurance Mediation. This does not apply to the insurance brokerage firms mentioned in Section 10-2, paragraph one, of the Act on Insurance Mediation. The insurance brokerage firms mentioned in the previous point shall, by no later than 1st July 2006, prove to Kredittilsynet that the qualification requirements in Chapter 3 of the Act on Insurance Mediation are fulfilled.

Reinsurance brokerage firms and insurance consultants that practised activities as per 1st January 2006 shall, by no later than 1st July 2006, submit an application pursuant to Section 2-1, cf. Section 6-1, of the Act on Insurance Mediation.

Insurance agencies that have concluded a contract concerning the mediation of an insurance undertaking's products as per 1st January 2006 shall, by no later than 1st July 2006, submit an application pursuant to sections 7-1 and 7-10 of the Act on Insurance Mediation.

Should Kredittilsynet not decide otherwise, undertakings mentioned in paragraphs one to three that have submitted an application by no later than 1st July 2006 can continue their activities until Kredittilsynet or the insurance undertaking has taken a decision concerning registration.

The insurance undertaking's register of insurance agencies pursuant to Section 7-1 of the Act on Insurance Mediation shall be functional from 1st May 2006.

Kredittilsynet can stipulate further transitional provisions.

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