

LEGAL NOTICE NO. 378

REPUBLIC OF TRINIDAD AND TOBAGO

THE INSURANCE ACT, 2018

REGULATIONS

MADE BY THE MINISTER UNDER SECTION 279 OF THE INSURANCE ACT
AND SUBJECT TO NEGATIVE RESOLUTION OF PARLIAMENT

THE INSURANCE (INTERMEDIARIES) REGISTRATION
REGULATIONS, 2020

1. These Regulations may be cited as the Insurance (Intermediaries) Citation
Registration Regulations, 2020.

2. (1) In these Regulations—

Interpretation

“Act” means the Insurance Act, 2018;

Act No. 4 of
2018

“accredited institution” means a statutory body or company incorporated under the Companies Act, whose educational programmes and awards are accredited by the Accreditation Council of Trinidad and Tobago;

“CPD activity” means a seminar, lecture, conference, certified appropriate e-learning tutorial, workshop or course or module in relation to the categories referred to in regulation 12(2), recognised by an approved educational institution or other accredited institutions, and any other activity specified by the Central Bank;

“CPD hour” means the time spent attending or completing a CPD activity in accordance with these Regulations;

“CPD year” means each twelve month period beginning on the date of registration, or renewal of registration of an intermediary, after the commencement of the Act;

“examinations” means the examinations referred to in PART IV of the Act necessary to qualify a person to act as or carry on business as an agent, a broker, a sales representative or an adjuster;

“Minister” means the Minister to whom the responsibility for finance is assigned.

PART I

APPLICATION FOR REGISTRATION AS AN INTERMEDIARY

Application for
Registration
as an
intermediary

3. An application for registration under PART IV of the Act shall be made in accordance with section 111 of the Act and these Regulations.

Application for
brokerage or
agency

4. (1) An application for registration as a brokerage or agency shall be accompanied by—

- (a) a statement of the name of the applicant and the address of its registered office and head office in Trinidad and Tobago;
- (b) the name, address, nationality, experience, and other relevant information, including the information required for the purposes of Schedule 5 to the Act pertaining to each—
 - (i) director and officer;
 - (ii) controlling shareholder or significant shareholder;
 - (iii) shareholder holding five per cent or more of any class of shares;
 - (iv) proposed director and officer;
 - (v) proposed controlling shareholder and proposed significant shareholder; and
 - (vi) person proposing to hold five per cent or more of any class of shares;
- (c) the name, address, nationality, experience, and other relevant information, including the information required for the purposes of section 136(5) pertaining to the proposed auditor;
- (d) a certified copy of the articles of incorporation or continuance, by-laws or other constituent documents and the certificate of incorporation or certificate of continuance under which the applicant is incorporated, continued or constituted;
- (e) a statement of the types and classes of insurance business that the applicant proposes to carry on;
- (f) in the case of an application by or on behalf of a company that has been carrying on business other than that of an agency or brokerage prior to the application, a copy of its audited financial statements for the three consecutive years immediately preceding the application, except that where the company has been functioning for less than three years, a copy of the audited financial statements for each year it has been in operation shall be sufficient;

- (g) a business plan and the projected financial statements for the three consecutive years immediately following the proposed commencement date for carrying on business of an insurance agency or business of an insurance brokerage;
- (h) in the case of a brokerage application, a certified statement, or where this cannot be produced, such proof as the Central Bank may require,—
 - (i) of the ability of the applicant to meet the requirement of a minimum stated capital of not less than such amounts as required pursuant to section 116 of the Act;
 - (ii) that there is in force professional indemnity insurance cover as required pursuant to section 116 of the Act and details of such professional indemnity insurance; and
 - (iii) of any proposed preferential arrangement;
- (i) in the case of an agency application, copies of its agency agreement or power of attorney as well as any agreement relating to commissions and other remuneration payable to it in respect of its agency.

(2) An agency application shall be stamped, signed and dated by a duly authorised officer of the insurer on behalf of which the agency shall act.

5. An application for registration as a broker, agent, sales representative or adjuster shall be accompanied by the following:

- (a) a statement of the name, address and occupation of the applicant, including the information required for the purposes of Schedule 5 to the Act in respect of the applicant;
- (b) in the case of an application as a broker or agent, the name, address and endorsement of the brokerage or agency for which the applicant is to be registered as either a broker or an agent;
- (c) in the case of an application as a sales representative, the name, address and endorsement of the insurer, brokerage or agency for which the applicant is to be registered as a sales representative; and
- (d) in the case of an application as a broker, agent, sales representative or adjuster, details on any shareholdings in an insurer or an agency.

Application for
broker, agent,
sales
representative
or adjuster

Application for
renewal
certificate

6. An application to renew a certificate of registration issued under section 117 of the Act shall be made to the Central Bank not later than twenty business days before the anniversary date of issue of the certificate of registration and shall be accompanied by—

- (a) the endorsement of the insurer, brokerage or agency, where applicable;
- (b) in the case of a brokerage or agency, the names of the brokers and agents who shall act for and on behalf of the brokerage or agency;
- (c) in the case of an agency or a brokerage, the names of the sales representatives who are employed by the agency or brokerage;
- (d) in the case of a brokerage, details of its professional indemnity insurance; and
- (e) in the case of a sales representative, agent, broker or adjuster, evidence that he has met the continuing professional development requirements pursuant to section 119 of the Act and these Regulations.

Failure to
renew
certificate
within the
prescribed
time

7. A person who does not submit an application to renew a certificate of registration within the period required in regulation 6 shall—

- (a) thereafter submit a new application for registration in accordance with the requirements of these Regulations and section 111 of the Act; and
- (b) provide a written explanation of his failure to submit an application before the period required in regulation 6.

PART II

APPROVED EDUCATIONAL INSTITUTIONS

Approved
educational
institution

8. An approved educational institution shall, in consultation with the Central Bank, determine—

- (a) the scope and form of examinations, except that no examination shall be wholly oral; and
- (b) the prescribed fee payable by a candidate for such examinations.

Examinations

9. Examinations shall be held at least once each year.

Approved
educational
institute to
issue certificate

10. An approved educational institution shall issue to every person who passes an examination a certificate to that effect signed by the head of the institution.

PART III

CONTINUING PROFESSIONAL DEVELOPMENT

11. For the purposes of regulations 12 to 17, “intermediary” means an agent, broker, sales representative and adjuster.

Interpretation
of
“intermediary”

12. (1) Subject to subregulation (3), every intermediary shall complete a minimum of twelve CPD hours for each CPD year.

CPD
Requirements

(2) The Central Bank may, from time to time, specify in writing the number of CPD hours to be completed by intermediaries in relation to the following categories:

- (a) classes of insurance business for which an intermediary is registered;
- (b) ethics;
- (c) relevant laws and regulations; and
- (d) any other categories which, in the opinion of the Central Bank, are relevant to the business for which the intermediary is registered.

(3) Notwithstanding the provisions of subregulations (1) and (2), the minimum continuous professional development requirements of an intermediary may be prorated in the event—

- (a) that the intermediary is registered for a period of less than one year pursuant to section 117 of the Act;
- (b) of an intermediary’s maternity leave entitlement, as prescribed by any written law;
- (c) of illness, where the illness is for a duration of not less than six weeks and is supported by a medical certificate issued by a medical practitioner registered with the Medical Board of Trinidad and Tobago, who is not a relative of the intermediary;
- (d) of illness occurring whilst the intermediary was in another jurisdiction, where the illness is for a duration of not less than six weeks and is supported by a notarized medical certificate issued by a medical practitioner registered with a recognized body in that jurisdiction, who is not a relative of the intermediary; or
- (e) the intermediary is appointed to public office, national service or given an overseas assignment by his employer, for a duration of not less than six weeks but not more than 12 months and is supported by documentary evidence.

(4) An intermediary shall commence CPD activities in accordance with regulation 13, twelve months after the commencement of these Regulations.

CPD Hours

13. (1) CPD hours may be obtained by attending or participating in a CPD activity recognised by an approved educational institution, an accredited institution or attending or participating in such activities approved by the Central Bank.

(2) The Central Bank may, from time to time, publish a list of the approved educational institutions and CPD activities referred to in subregulation (1) by means of posting such list on its website or otherwise.

(3) Where an intermediary earns CPD hours in excess of the minimum yearly requirement referred to in regulation 12(1), up to two of the excess CPD hours may be carried into the following CPD year.

(4) The time spent by an intermediary on activities such as travelling to a CPD activity, registration for a CPD activity, or social events shall not be treated as a CPD activity or CPD hours for the purposes of these Regulations.

CPD Year

14. Without prejudice to regulation 12(3) and (4), an intermediary shall complete CPD hours required under regulation 12(1) by the end of the twelfth month in each CPD year, except in the year of renewal of registration where CPD hours must be completed before the time required for submission of an intermediary's application for renewal of registration.

Record
keeping
regarding
CPD

15. (1) An intermediary shall maintain a written record of the CPD hours and CPD activity undertaken by him or her, in order to demonstrate compliance with these Regulations and the Central Bank may specify the form and content of such written record to be so maintained.

(2) An intermediary shall keep records of all supporting documentation in respect of a CPD activity undertaken as evidence of attendance at, participation in and completion of such CPD activity, including, but not limited to, attendance sheets, certificates of attendance, certificates of completion, computer printouts or other record of completion or written confirmation from his employer.

(3) The records required to be kept under subregulations (1) and (2) shall be retained by an intermediary for a minimum period of six years.

Returns

16. (1) An intermediary shall file a CPD Return together with each application for renewal of registration under regulation 6, declaring—

(a) that he has completed the minimum requirement of CPD hours for each CPD year in accordance with these Regulations; and

(b) the CPD activities that make up the CPD hours under paragraph (a).

(2) An intermediary shall apply to the relevant approved educational institution for written verification that the activities listed in the CPD Return constitute a CPD activity and such written verification shall be submitted together with the CPD Return made pursuant to subregulation (1).

(3) In the case of an agent or sales representative, the CPD Return filed under subregulation (1) shall be endorsed by the relevant insurer, brokerage or agency, as the case may be, with whom the intermediary is registered.

(4) The Central Bank may specify the form of the CPD Return, the written declaration and the written verification to be filed in accordance with subregulations (1) and (2).

17. (1) Where an intermediary fails to complete the minimum CPD hours required under these Regulations, he shall be allowed to complete the outstanding CPD hours—

Failure to
comply with
CPD
Requirements

- (a) in the case of a CPD year which occurs other than in a year of renewal of registration, within the following CPD year, in addition to the CPD hours required in that CPD year; or
- (b) in the case of a CPD year, which is also a year of renewal of registration, within the first six months of the following CPD year, in addition to the hours required in that CPD year and the certificate of registration shall be stated to be conditional upon the completion of the outstanding CPD hours,

where the intermediary did not incur a shortfall in CPD hours within the previous three CPD years.

(2) Subject to subregulation (3), an intermediary who—

- (a) fails to comply with regulation 16 or 17(1); or
- (b) makes a false or materially incorrect CPD Return,

will be deemed to be in breach of the continuing professional development requirements and the Central Bank may either revoke the registration of an intermediary or refuse to grant an application for renewal of registration as the case may be.

(3) Where an intermediary fails to comply with regulation 16 or 17(1), but did not make a false return, the Central Bank may, in lieu of the action under subregulation (2), suspend or defer the renewal of the registration of an intermediary until such time as the intermediary complies with all relevant CPD requirements under regulation 16.

(4) For the avoidance of doubt, an intermediary whose registration is suspended or whose renewal or registration has been deferred under subregulation (3) shall not carry on business as an agent, broker, sales representative or adjuster, as the case may be, during the period of suspension of deferral or renewal of such registration.

PART IV

MISCELLANEOUS

Exemption
from
examinations

18. A person who has carried on business as—

- (a) an agent;
- (b) a broker;
- (c) an adjuster; or
- (d) a salesman under the former Act,

in a particular class of insurance business and who was exempted from the examinations referred to in the Insurance (Agents, Brokers, Salesmen and Adjusters) (Registration) No. 12 of 1982 by the Central Bank shall be exempted from the examinations referred to in these Regulations.

Commence-
ment

19. These Regulations shall come into operation on 1st January, 2021.

Dated this 6th day of November, 2020.

C. IMBERT
Minister of Finance