



THE INSURANCE COMMISSION
OF THE BAHAMAS

**REQUIREMENTS FOR INSURANCE
INTERMEDIARIES
under
THE INSURANCE ACT-2005
AND
INSURANCE REGULATIONS - 2010**

Lighter Side of Insurance

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"There you are, you are now insured against fire, theft, accident, flood and any attempt by me to sell you anymore insurance."



THE INSURANCE COMMISSION
OF THE BAHAMAS

OBJECTIVE

Definitions:

- ▶ What is an insurance Intermediary
- ▶ Main types of Insurance Intermediaries
 - *Agents*
 - *Sub-agents*
 - *Brokers*
 - *Salespersons*



OBJECTIVE

- ▶ **Registration**
- ▶ **Fees**
- ▶ **Statutory Filings**



INSURANCE INTERMEDIARY

Insurance Intermediary mean a broker, agent, sub-agent, or such other persons who give advise by way of directly offering, advertising or on a person to person basis in respect of insurance product and includes the promotion of such products and includes the promotion of such product or the facilitation of an agreement or contract between an insurer and a customer



AGENTS

DEFINITION:

Means a corporate body appointed by a registered insurer and not being an employee of the insurer, who solicits applications for insurance, collects money by way of premiums and acting in accordance with the relevant agency agreement may bind the registered insurer for whom the agent acts in the issue of insurance coverage.



REQUIREMENTS FOR THE AGENT

Part V of the Act

▶ **Capital:**

- authorized and paid-up capital (every agent shall maintain at all times a minimum paid-up capital and net assets value of not less than \$30,000.00).

- **Fidelity Bond:**

- (1) Every registered agent who is a limited company shall maintain:-
 - (a) fidelity insurance against losses arising from the dishonesty of employees, directors, and officers for amount of not less than-



REQUIREMENTS FOR THE AGENT

Part V of the Act...cont'd.

- (i) \$20,000 for any one employee
 - (ii) \$50,000 for any one officer or director; or
 - (iii) \$200,000 for any one occurrence in the aggregate including collusion, or
- (b) Maintain some other form of financial guarantee in a form approved by the Commission in an amount of at least \$200,000.00



Requirements for the Agent

Part V of the Act Continued

- (2) Where the fidelity insurance is withdrawn, cancelled or not renewed, the registered insurance agent shall immediately notify the Commission and shall immediately cease to solicit further insurance business until the fidelity insurance has been reinstated or replaced.
- (3) The fidelity insurance or any other financial guarantee under paragraph (10), shall include the activities on behalf of the sub-agent if any.



REQUIREMENTS FOR THE AGENT

Part V of the Act...cont'd.

Agency Agreements:

The entity shall submit together with his application form certified copies of his agency agreement and /or power of attorney, as well as any agreement relating to commission and other remuneration payable to him in respect of his agency.



SUB-AGENT

Definition:

Means any person appointed by an agent with the authority of the Company that is the agent's principal, and not being an employee of the agent, to solicit applications for insurance for insurance or to negotiate insurance through that Agent.

An application for a sub-agent's licence shall be by a sponsoring insurer, broker or agent indicating:



SUB-AGENT...cont'd.

- (a) it has taken steps to screen the applicant and is satisfied that the applicant is suitable to carry on business as a sub-agent or agent; and
- (b) in supporting the application accepts fully the acts, and errors and omissions of the applicant.



CATEGORIES OF SUB-AGENT

Sub-agents: (two categories)-

Category 1- Sole Proprietor:

An individual, producing annual commissions of \$100,000 or less, and is sponsored by one or two registered agents, brokers or insurers in accordance with section 123 (3) of Act, and

- **Category 2 - Corporate Sub-agent:**

A Company producing annual commissions in excess of \$100,000.



BROKER

Definition:

- Means a corporate body which acting with complete freedom as to their choice of undertaking and for commission or other compensation bring together, with a view to insurance or reinsurance of risks, persons seeking insurance or reinsurance and insurance or reinsurance undertaking, carry out work preparatory to the conclusion of contracts of insurance or reinsurance, and where appropriate, assist in the administration and performance of such contracts.



REQUIREMENTS FOR BROKER

Capital:

- Every registered insurance broker shall maintain at all times a minimum paid up share capital and minimum net assets value of not less than an amount equal to the maximum deductible amount of the broker's professional indemnity insurance policy or \$50,000, whichever is the greater.



PROFESSIONAL INDEMNITY

POLICY AND LIMIT - 104

- (1) Every registered insurance broker shall maintain and continue to maintain in force, in respect of his insurance brokerage activities, and placed with a carrier acceptable to the Commission, a professional indemnity policy with a minimum limit of indemnity for any one claim and in any one insurance period of 12 months.



PROFESSIONAL INDEMNITY POLICY AND LIMIT 104...cont'd.

(2) The limit of the indemnity under paragraph (1)
shall be –

(a) A sum equal to –

(i) The aggregate insurance brokerage/commission income relating the average of three years immediately preceding the date of commencement of the professional indemnity insurance cover (applicable to an insurance broker who has been in business for more than three years);



PROFESSIONAL INDEMNITY POLICY AND LIMIT... cont'd.

- (ii) the projected insurance brokerage / commission income for 12 months for the period of the professional indemnity insurance cover (applicable to an insurance broker who has been in business for less than three years); or
 - (b) A sum of not less than \$500,000, and not more than \$5,000,000.
- 3. Insurance cover in excess of the amounts prescribed in paragraph (1) (a) may be required by the commission to meet the requirement of an individual broker



PROFESSIONAL INDEMNITY POLICY AND LIMIT... cont'd.

- (4) The professional indemnity insurance prescribed in paragraph (1) shall extend to include the activities on behalf of the broker and sub-agent, if any.
- (5) Where as a result of a claim or claims the indemnity available shall fall below the amount determined in paragraph (1), the broker shall effect a reinstatement of cover up to not less than the original before the loss.



PROFESSIONAL INDEMNITY POLICY AND LIMIT...cont'd.

- (6) In the event that such professional indemnity insurance is withdrawn or cancelled, or the said insurance is not renewed, the said broker shall immediately notify the Commission and shall immediately cease to solicit further insurance business until such professional indemnity insurance has been reinstated or replaced.



PROFESSIONAL INDEMNITY POLICY AND LIMIT...cont'd.

- (7) For the purpose of this regulation, “insurance brokerage/commission income” means income derived from advising on or arranging any contract which contains an element of insurance, irrespective of the extent of such insurance element.



COMMENCEMENT OF INSURANCE COVERAGE -108

The professional indemnity and other insurance coverage under regulations 104 to 106 shall be effected by the registered entity within forty-five days after registration.



POWER OF ATTORNEY OR GUARANTEE

ETC. - 109

- (1) The power of attorney, agency agreement or guarantee under paragraph (1), shall include the activities of sub-agents, if any.
- (2) Every registered insurance agent shall provide evidence satisfactory to the Commission of a power of attorney, or agency agreement between the agent and the insurer for whom such agents acts.



POWER OF ATTORNEY OR GUARANTEE ETC. – 109...cont'd.

- (3) In the event that the power of attorney, agency agreement or guarantee under paragraph (1), is withdrawn or such agreement is determined, the registered insurance agent shall immediately notify the Commission and cease to solicit further insurance business on behalf of that insurer until such power of attorney, agreement or guarantee is reinstated.



ALTERNATIVE TO POWER OF ATTORNEY - 110

A registered insurance agent may, as an alternative to meeting the requirement under regulation 109, maintain a professional indemnity insurance in same manner and for the same amount as a registered insurance broker as in regulation 104.



INDEMNITY POLICY AND FIDELITY INSURANCE - 111

Every company that is registered as both a broker and agent shall maintain both a professional indemnity insurance policy and fidelity insurance.



DEEMED INSURANCE BROKER - 112

For the purpose of these regulations, ***an agent*** who acts on behalf of more than one insurer is deemed to act as an insurance broker and shall be required to maintain professional indemnity insurance as in regulation 104.



SUSPENSION OF CERTIFICATE OF REGISTRATION - 113

In the case of a sub- agent, if the professional indemnity insurance or fidelity insurance or power of attorney, agency agreement or guarantee as the case may be, referred to in regulations 104(4), 106(3) and 109(2), is for any reason withdrawn from the sub-agent, then the licence of the sub-agent is *ispo facto* suspended until such time as such professional indemnity insurance, fidelity insurance, power of attorney, agency agreement or guarantee, as the case may be, is reinstated.



EXPIRATION OF CERTIFICATE OF REGISTRATION -114

A registered insurance broker's, agent's or sub-agent's certificate of registration expires on the date of the effective cancellation or renewal of an insurance policy required under regulation 104 to 107, unless before the date the insurance is replaced or the broker, agent or sub agent is in compliance with regulation 104 to 107.



FOREIGN INSURANCE INTERMEDIARY – IA(122)

- (1) A person who is not a Bahamian within the meaning of Section 2 of the Companies Act or a permanent resident with a right to work and who is not a full-time employee of a registered insurer or insurance intermediary may not be registered pursuant to this Part to carry on business as an insurance intermediary except as a Non- Resident Insurance Intermediary.



FOREIGN INSURANCE

INTERMEDIARY –IA(122)...cont'd.

- (2) A Non-Resident Insurance Intermediary-
 - (a) may not solicit business in the Bahamas except through a registered insurance intermediary of the same classification;
 - (b) must maintain an agreement with a registered insurance intermediary, the terms of which must be approved by the Commission.



FOREIGN INSURANCE

INTERMEDIARY -122...cont'd.

- (c) may not otherwise operate or establish a presence in The Bahamas independent of or to the exclusion of the registered insurance intermediary with whom he has executed the agreement except as prescribed;
- (d) must provide evidence to the satisfaction of the Commission that there exists in respect of the company such minimum capital and/or insurance coverage as prescribed under section 122; and



FOREIGN INSURANCE

INTERMEDIARY – IA(122)...cont'd.

- (e) may not solicit or carry on any class of insurance business unless it has deposited with the Commission such amount as may be prescribed.
- (3) Any person who contravenes this section is guilty of an offence and is liable on summary conviction to a fine not exceeding twenty-five thousand dollars or to imprisonment for eighteen months or both and in case of continuing offence to a further penalty of five hundred dollars for each day on which the offence is continued after the conviction.



DEPOSITS - 115

All foreign intermediaries registered in accordance with the Act, and pursuant to the requirements of Section 122 of the Act, shall be required to deposit with the Commission such amounts as is set out below: -

Gross Annual Commission or Fees Deposit (in The Bahamas)		Amount of
Up to \$500,000	-	\$50,000
\$500,000 to \$1,000,000	-	\$100,000
\$1,000,000 to \$2,000,000	-	\$200,000
Over \$2,000,000	-	\$500,000



DOCUMENTARY EVIDENCE (FOREIGN INTERMEDIARIES) - 116

The foreign intermediaries under regulation 115 shall be required to provide documentary evidence to the Commission that they have minimum capital, professional indemnity have minimum capital, professional indemnity insurance, errors and omission and/or fidelity insurance as required under regulations 96 to 100 and 104 to 106.



PART VI OF THE REGULATIONS

This part provides for the registration of insurance salespersons, agents, sub-agents, and brokers.)

SECTIONS 24, 119, AND 121 OF THE ACT



SALESPERSON'S LICENCE CATEGORY

-117

Under these regulations salespersons shall be licenced in one of two categories –

- (a) **Category 1:** “Tied , Employed” Exclusive” Salespersons

Any individual employed full time by a company, whether salaried only or by way of a combination of salary and commissions, for the sole purpose of soliciting business on behalf of or selling the insurance products of their employer only;



SALESPERSON'S LICENCE CATEGORY -117...cont'd.

(b) Category 2: “Commissioned” Salesperson

Any individual remunerated solely by way of commissions by any registered sub-agent, agent, broker, or long-term insurer for the sole purpose of soliciting business on behalf of or selling the insurance products of such sub-agent, agent broker, or long-term insurer.



REGISTRATION - 119

- (1) Where the entity makes application for registration as a broker, agent, or corporate sub-agent–
 - (a) the entity shall be incorporated and registered under the companies Act (Ch.308.) to transact insurance business; and
 - (b) the corporate name of the entity shall include the words “Insurance Broker” or “Assurance Broker” as the case may be, unless otherwise permitted by the Commission.



REGISTRATION 119...cont'd.

- (2) Any person registered to carry on insurance business in the Bahamas at the commencement of the Act shall-
 - (a) apply to the Commission, within the prescribe time period, to be registered under the Act.
 - (b) submit to the Commission the necessary documents and particulars required, together with the prescribe fee set out in the Third Schedule
- (3) Every application for registration under Part V of the Act shall –
 - (a) made to the Commission in Form 3 of the First Schedule ; and



REGISTRATION 119...cont'd.

- (b) accompanied by a receipt obtained from the Commission upon payment of the fees as specified in the Third Schedule.



APPLICATION DOCUMENT - 120

- (1) An application for a salesperson's licence or renewal shall be accompanied by :-
 - (a) a statement by a sponsoring insurer, broker or agent indicating that:-
 - (i) it has taken steps to screen the applicant and is satisfied that the applicant is suitable to carry on business as a salesperson; and
 - (ii) in support of the application it accepts fully the acts, errors and omission of the applicant;



APPLICATION DOCUMENT

120... cont'd.

- (b) certified documents to prove educational or experience qualifications of the applicant.
- (2) An application for registration as a broker, agent or corporate sub-agent shall be accompanied by -
 - (a) Certified documents to prove educational or experience qualifications of the partners, directors, senior managers, individual adjusters, brokers, etc.;



APPLICATION DOCUMENT

120... cont'd.

- (b) a business plan which shall include, among other things, a three year projection of Premium Generation, Commission (or “adjusting”) Income on class-by-class basis, and other income, all on a month by-month basis, together with an itemized statement of projected expenses on a month-to month basis.



APPLICATION DOCUMENT

120... cont'd.

- (c) the audited opening balance sheet, or audited financial statements of the applicant for the financial year immediately preceding the date of application; and
- (d) where appropriate, certified copies of the instruments constituting the firm (certification to be done by the Registrar of Companies) and a statement setting out the details of beneficial shareholding.



APPLICATION DOCUMENT

120... cont'd.

- (3) An application for a sub-agent or agent's license shall be accompanied by a Statement by a sponsoring insurer, broker, or agent indicating that
- - (a) it has taken steps to screen the application and is satisfied that the applicant is suitable to carry on business as a sub-agent or agent; and
 - (b) in support of the application the sponsor accepts fully the acts, errors and omission of the applicant



APPLICATION DOCUMENT

120... cont'd.

- (4) Where an application is for registration as an agent or sub-agent, the applicant shall submit together with his application form certified copies of his agency agreement or power of attorney, as well as any agreement relating to commissions and other remuneration payable to him in respect of his agency.
- (5) Where the application is submitted for registration as a broker, agent -



APPLICATION DOCUMENT

120... cont'd.

- (a) proof to the satisfaction of the Commission must be submitted that there is in force professional indemnity, fidelity, or errors and omissions insurance cover of not less than the prescribed amount placed with an insurer approved by the Commission;
- (b) the Commission must be satisfied that in the case of the company, the paid up capital in cash is not less than the prescribe amount.



DISCLOSURE OF MANAGER ETC.; 123

- (1) Where a body corporate makes application for registration as a broker, agent or sub-agent, the company shall specify the managers and or controllers of the company.
- (2) The certificate of registration of the body corporate shall specify the officer or officers who may act there under in the name of the company.



DISCLOSURE OF MANAGER ETC.; **121...cont'd.**

- (3) A certificate of registration of a company or of any offer of that company may be cancelled or suspended.



APPLICATION FOR AGENTS ETC TO BE CERTIFIED - 122

- (1) Every application for registration of an agent or sub-agent shall be certified by the insurer or agent on behalf of whom the agent or sub-agent may act.
- (2) Every application for registration or renewal of a salesperson shall be certified by the insurer by the agent by the salesperson is employed or contracted at the time of his application.



APPLICATION FOR AGENTS ETC TO BE CERTIFIED – 122...cont'd.

- (3) Where a broker, an agent or a sub-agent rated carried on business in The Bahamas immediately before the effective date of the Act, the application must be accompanied by a letter from the insurance companies to which services were provided indicating that the insurance companies were satisfied with the competence and method of conduct of business of the applicant, and the ethical standards maintained by the applicant in the performance of its work.



APPLICATION TO RENEW **CERTIFICATE - 123**

An application to renew a certificate of registration shall be –

- (a) Made in the form prescribed by the Commission set out in forms 1,2 and 3 of the Second schedule;
- (b) accompanied by the receipt obtained from the Commission upon payment of the prescribed fee (Third Schedule); and
- (c) made to the Commission no later than thirty days before the anniversary date of issue of the certificate.



USE OF SALES FORCE - 124

With regard to the utilization of salesperson –

- (a) life and health insurance companies shall continue to utilize their own “Tied” or “Commissioned” sales forces, of which each member must be licenced and registered by the Commission.
- (b) property and casualty insurance companies may only sell their products through registered agents, sub-agents, and brokers;



USE OF SALES FORCE - 124...cont'd

- (c) registered agents, sub-agents, brokers selling brokers selling property and casualty insurance products may utilize “Tier” or “Employed” salespersons, and such salespersons are required to be licenced and registered by the Commission.



LISTING OF SALESPERSON OR TECHNICAL REPRESENTATIVES - 125

Every registered insurance company, sub-agency, agency and broker shall submit to the Commission annually, in the appropriate form, a list of all salespersons or technical representatives employed or commissioned by the insurance company, sub-agency, agency, or broker.



SALESPERSON LICENCED TO ONE **INSURER -126**

No salesperson shall be licenced under the Act to solicit or sell products for more than one insurer (Long Term), broker agent or sub agent at one time.



OTHER PROVISIONS (INSURANCE REGULATIONS) :-

Category 1 Salesperson -127

No Category 1 salesperson or sub-agent shall be licenced to act for an employer engaged in any non-insurance (or related) activity except as approved by the Commission

Disclosure rules-128

All categories of salespersons, brokers, agents and sub-agents shall be subject to disclosure rules where they are obligated to advise potential customers about who they represent and for which classes of business they are permitted to sell.



OTHER PROVISIONS (INSURANCE REGULATIONS) –cont'd.

Product of employer-129

No salesperson or sub-agent shall solicit business from any customer other than in respect of the products of his employer or principal.

Salesperson and insurer not an insurer etc.-130

No salesperson shall act as or purport to be an insurer, broker, agent or sub-agent, and no sub-agent shall act as or purport to be an insurer, broker, or agent



OTHER PROVISIONS (INSURANCE REGULATIONS) –cont'd.

Salespersons etc to reveal certificate of registration - 131

Salespersons, brokers, agents and sub-agents are to reveal their licence to a customer or potential customer, if requested.

Agents and sub-agents -132

No category 1 sub-agent shall be licenced under the Act to solicit or sell products for more than one long term and one general insurer, broker, or agent at any one time, in accordance with section 123(3) of the Act.



OTHER PROVISIONS (INSURANCE REGULATIONS) –cont'd.

Category 1 sub-agent not to incorporate for licence-133

No category 1 shall be required to incorporate as a prerequisite for a licence.

Category 2 sub-agent to incorporate for licence-134

Category 2 sub-agents shall be required to incorporate as a prerequisite for a licence.



OTHER PROVISIONS (INSURANCE REGULATIONS) –

....cont'd.

Rebating prohibited-136

Section 137 of the Act which prohibits rebating shall apply to all categories of sub-agents.

Monthly accounts of brokers- 137

Every registered broker shall keep, in relation to insurance placed with him relating to each class or classes of insurance business for which he is registered,



OTHER PROVISIONS (INSURANCE REGULATIONS) –cont'd.

accounts showing all receipts and expenses relating to such insurance business, and such accounts shall be completed not later than twenty-one days after the end of month in respect of which they are prepared.

Monthly records of agents-138

All registered agents and sub-agents shall keep, with respect to policies issued or renewed by them, such monthly records as will enable the amount due to them by their principals or due by them to their



OTHER PROVISIONS (INSURANCE REGULATIONS) –cont'd.

principals to be determined, and such records shall be completed not later than twenty-one days after the end of the month in respect of which they are prepared.

Annual audited accounts submitted to the Commission-139

Within four months of the close of each financial year, the broker, agent or corporate sub-agent shall submit to the Commission a copy of the audited



OTHER PROVISIONS (INSURANCE REGULATIONS) – ...cont'd.

accounts, balance sheet and profit and loss account of the brokerage with a business or agency as case may be, for that financial year.

Audit of accounts of brokers and agents etc **140**

- (1) The accounts required under regulation 139 shall be audited by an auditor within the meaning of section. 58 (1) of the Act.



OTHER PROVISIONS (INSURANCE REGULATIONS) –cont'd.

- (2) The auditor making the audit shall state in a certificate to the account whether or not –
- (a) the books of the Accounts have been properly kept;
 - (b) the balance sheet and profit and loss account present fairly the state of the broker's or agent's affairs at the end of the financial period to which they relate;



OTHER PROVISIONS (INSURANCE REGULATIONS) –cont'd.

- (c) The agent or broker, as the case may be, has satisfied the requirements under regulations 137 and 138 and has presently paid over all moneys received for an insurer or an insured as the case may be, during the period to which the accounts relate.



FEES 143 (Third Schedule)

▶ **Amount of fee:**

(1) For Filing of an application for new
Licence and registration of-

- | | |
|-------------------------------|---------|
| (a) a firm/company of brokers | - \$300 |
| (b) individual sub-agent- | - \$75 |



FEES... cont'd.

- ▶ (d) a firm/company of agent or sub-agent - \$300
- ▶ (e) a salesperson - \$75



INITIAL LICENCE/REGISTRATION AND **SUBSEQUENT ANNUAL RENEWAL OF** **REGISTRATION**

- | | |
|-----------------------------------|----------|
| (a) firm/company of brokers | - \$1000 |
| (b) a firm/company of agents | - \$1000 |
| (c) a firm /company of sub-agents | - \$300 |
| (d) individual sub-agent- | - \$100 |



INITIAL LICENCE/REGISTRATION AND SUBSEQUENT ANNUAL RENEWAL OF REGISTRATION...cont'd.

(e) Salespersons:

- Ordinary life - \$100
- Industrial life - \$50

Property & Casualty - \$100

Combination Licence:

- Ordinary Life plus
property & casualty - \$200



INITIAL LICENCE/REGISTRATION AND SUBSEQUENT ANNUAL RENEWAL OF REGISTRATION...cont'd.

- ▶ Industrial life plus
- ▶ Property & Casualty - \$150



Penalty For Late Payment of Fees **-145**

Any person or company who under these regulations is required to pay any annual registration fee, and fail to pay such fee within a period of thirty days after the date on which such fees becomes due and payable, shall, in respect of his registration for that year, pay to the Commission in addition to the appropriate annual registration fee payable under the regulations, a late fee, as specified in paragraph 11 of the Third Schedule.



Insurance Business Without Registration Fee is an Offence -146

Notwithstanding regulation 145, any person who carries on, in The Bahamas, any insurance business after the date on which the appropriate annual registration fee becomes payable without having paid such fee, is guilty of an offence and is liable on summary conviction –

- (a) in the case of a company, to a fine not exceeding five hundred dollars and to a further fine not exceeding fifty dollars for every day or



Insurance Business Without Registration Fee is an Offence -148 cont'd

part thereof on which the offence continues after conviction;

(b) in the case of an individual, to a fine not exceeding two hundred and fifty dollars and to a further fine not exceeding twenty-five dollars for every day or part thereof on which the offence continues after conviction.



Recovery of registration Fees -147

Without prejudice to regulations 145 and 146, and registrations which remains unpaid after thirty days from the date on which such fee becomes payable may be recovered as a debt due in civil proceedings.



Suspension of Licence - 148

The Commission may suspend the licence of an individual or company where the registration fee remains unpaid for more than ninety days from the date on which such fee become payable.

(ICB policy- Automatic suspension will take place after 90 days)



Register - 149

The Commission shall keep a register in which shall enter the names of all companies and individuals by whom the appropriate annual registration fee has been paid for each year.



Forms

The forms set out in the First Schedule, with such variations as the circumstances of each case may require, shall be used in all matters to which they relate.



THE END

I'm sure you are now excited
about the new Insurance Act
and Regulations!
Thanks for coming!

