

Autoridade Bancária e de Pagamentos de Timor-Leste
Banking and Payments Authority of Timor-Leste

GOVERNING BOARD RESOLUTION

Nº. 06/2007

**Concerning the Approval of the
Instruction Nº. 01/2007**

On the Licensing of General Insurance Companies

THE GOVERNING BOARD

Pursuant to:

1. Article 17. b of the UNTAET Regulation N.º 2001/30 given BPA the BPA the authority to adopt Rules, Instructions and Guidelines;
2. Article 3 of the Insurance Law Nº. 06/2005 of 6th July, on the regime for licensing, supervision and regulation of insurance companies and insurance intermediaries, in respect on the responsibility of BPA for the licensing, supervision and regulation of insurance companies and insurance intermediaries;
3. Article 9 of the Insurance Law Nº. 06/2005 of 6th July, on the regime for licensing, supervision and regulation of insurance companies and insurance intermediaries, in respect on the Licensing ;
4. Article 10 of the Insurance Law Nº. 06/2005 of 6th July, on the regime for licensing, supervision and regulation of insurance companies and insurance intermediaries, in respect on the Establishment of Insurance Companies;
5. Article 12 of the Insurance Law Nº.06/2005 of 6th July, on the regime for licensing, supervision and regulation of insurance companies and insurance intermediaries, in respect on the Licensing of Insurance Companies;
6. Article 39 of the Insurance Law Nº.06/2005 of 6th July, on the regime for licensing, supervision and regulation of insurance companies and insurance intermediaries, in respect on the Principles of Governance and Internal Control;
7. Article 165 of the Constitution of the Democratic Republic of Timor-Leste concerning the continued applicability of Laws in force at the date of the adoption of the Constitution.

Taking into Account that:

1. Insurance companies wishing to operate business in Timor-Leste shall obtain prior written authorization from BPA pursuant to the Insurance Law №.06/2005 of 6th July, on the regime for licensing, supervision and regulation of insurance companies and insurance intermediaries and the relevant instructions issued by BPA;
2. The principal shareholders, directors and senior officers proposed by insurance company shall meet fitness and propriety requirements and shall be subject to good corporate governance;
3. The business plans projections proposed by insurance companies shall be based on economic and finance sound analysis and grounded in reasonable assumptions and subject to prudential requirements.

For the purpose of:

1. Ensuring that the business activity conducted by insurance companies takes account of protection of the interest of policyholders' and is consistent with the viable, sustainable, and competitive advance of Timor-Leste insurance industry;
2. Fostering and strengthening the economy of Timor-Leste by promoting reputable and trustworthy services by the insurance industry;
3. Ensuring that information's delivery by insurance companies meets all the legal and prudential requirements as prescribed in the Insurance Law №.06/2005 of 6th July, on the regime for licensing, supervision and regulation of insurance companies and insurance intermediaries and the relevant instructions issues by BPA.

HEREBY RESOLVES TO APPROVE THE FOLLOWING

Instruction №. 01/2007

On the Licensing of General Insurance Companies

Chapter I

General Provisions and Requirements

Article 1

Applicability

This instruction applies to all applicants seeking to carry on the underwriting of general insurance business in Timor-Leste in respect of risks situated in national territory.

Article 2

Form of Application

1. The initial application for a license or subsequent application for another class of insurance business license shall be writing either in Portuguese and/or English.
2. The Applicant shall lodge the original and two complete copies to the BPA (including all the support documentations)
3. In the case of a proposed new insurance company, the insurance company founders shall sign the application.
4. In the case of a branch of an existing foreign insurance company, an authorized officer of the foreign parent insurance company shall sign the application and any subsequent applications.

Article 3 Designation of Spokesperson

1. Applicants shall authorize in writing a spokesperson to act on their behalf regarding the application.
2. All communications from the BPA related to the insurance application will be directed to the designated spokesperson. The spokesperson's name, address and telephone number shall be provided in the application.
3. If, during the time the application pending with the BPA, the name, address, or telephone number of the spokesperson changes, the BPA shall be notified in writing immediately.

Article 4 Minimum Capital

1. The minimum paid-in-capital for all insurance companies shall be an amount not lesser than five hundred thousand American dollars (US\$500,000.00) and shall be maintained at all time in a BPA authorized bank.
2. Compliance with the minimum capital shall not exempt insurance companies from observing solvency margins and prudential rules and an insurance company may, to that effect, be obliged by the BPA to increase its capital where such increase is deemed necessary by the BPA to observe said solvency margins and prudential rules.
3. The BPA will require a certificate from a BPA authorized bank verifying that the capital has been paid-up. This requirement will apply to all applicants for an insurance company licence received after the BPA has assumed regulatory and supervisory authority over all insurance companies carrying on insurance business in Timor Leste.

Article 5 Establishment of Insurance Company

1. No person shall engage in a business regulated under this instruction, or assume to act as licensee unless he or she is licensed under the provision of this instruction

and the Insurance Law. №.06/2005 of 6th July, on the regime for licensing, supervision and regulation of insurance companies and insurance intermediaries.

2. Insurance companies shall take on the form of a limited liability company.
3. The same insurance company may not carry on classes of insurance business in the general insurance and life insurance simultaneously.

Chapter II Information Required for the Establishment of Insurance Companies

Article 6 General Requirements

All applicants hereinafter “local incorporate insurance companies and/or branch of foreign insurance companies” shall provide information as follows:

1. A formal application to carry on insurance business for general insurance in the format provided by the BPA;
2. A certified copy of the minute of the meeting of the governing board or founding shareholders authorizing the establishment of the insurance company, approving the applicant’s license application and authorising an officer to sign and submit the application to the BPA;
3. The original charter document or equivalent documentation for the proposed insurance company, in the terms refer in this Instruction, along with its by-laws or equivalent documentation.
4. Full, detailed Curriculum Vitae (CVs) of the main shareholders (when they hold or will hold more than 10% of paid-up shares), directors and senior officers proposed for the insurance company:
 - (a). the CVs shall summarize the respective professional history and academic background;
 - (b). the CVs of the proposed senior officers should, in particular, demonstrate considerable insurance industry experience, training and knowledge; tangibly, this means that the proposed senior officers should ordinarily have a recognised business degree from a reputable academic institution and/or a recognised insurance industry qualification and/or considerable professional insurance experience;
 - (c). certified copy of academic and professional qualifications should be submitted to the BPA for review.
5. Complete, certified personal balance sheets/income statements of financial resources for the main shareholders, directors and senior officers proposed for

insurance companies. A BPA recognized bank or audit firm shall certify statements of sufficient financial resources. Any exceptions shall be approved by BPA;

6. A list of all individuals, with their addresses and nationalities, who are/will be the registered main shareholders (as defined above) or ultimate beneficial owners of the insurance company. The list should include the shareholdings of each principal shareholder;
7. The shareholders, directors and senior officers proposed for insurance companies shall be "fit and proper" to exercise their responsibilities. Accordingly, in the event that the BPA subsequently discovers that any aspect of the information provided in connection with the application for an insurance company license was deliberately falsified, the insurance company (if applicable), the shareholders, the directors and the senior officers of the proposed insurance intermediary will be subject to fines as establish un the Insurance Law. №.06/2005 of 6th July, on the regime for licensing, supervision and regulation of insurance companies and insurance intermediaries. A pending application will be immediately rejected in this case. Where a license was granted on the basis of this falsified information, the license of the insurance company will be immediately withdrawn;
8. Applicants found to have engaged in any activities resulting in criminal charges, past or pending, will be automatically disqualified from further consideration. This disqualification will apply to the present and future applications for an insurance company license, unless an authoritative court in Timor-Leste or elsewhere authoritatively dismisses the charges;
9. Persons have been declared bankrupt by any authoritative court in Timor-Leste or elsewhere are disqualified automatically from further consideration. Similarly, persons having served as shareholders, directors or senior officers in a bankrupt business enterprise will be disqualified from further consideration.
10. The business plan submission by applicant shall be containing of elements as follows:
 - (a). Financial Projections: a forecast of financial results for the first three years of operations. The applicant should be able to readily justify all of its financial estimates. These projections will take the form of Income Statement Projections and Balance Sheet Projects.
 - (b) In this respect the applicant should provide financial projections and equivalent solvency calculations under the following scenarios:
 - (i) X number of policies is the same for three years and average claims cost increases by 10% each year and average premium per policy is the same for each of the years.
 - (ii) X incurred loss ratio is comparable and consistent with area averages for the industry for the three years.

(c) A prescribed format for the financial forecast statements will be used by the applicant, comprising a description of the main assumptions that include details on:

- (i) Calculation of unearned premiums;
- (ii) Calculation of deferred acquisition costs (DAC);
- (iii) Valuation of investments;
- (iv) Number of policies per year;
- (v) Average premium of policies per year;
- (vi) Average claims costs for claims paid;
- (vii) Commission rates paid each year to insurance intermediaries;
- (viii) Average return on investments;

(d). Minimum Solvency Margin Calculations: the applicant shall provide a realistic calculation of the applicant's minimum solvency margin for each of the three years of the operations is necessary. The formula for the calculation of the Solvency Margin is described in other applicable instructions issued by BPA;

(c). Distribution: proposed method of distribution for each insurance class, e.g. direct selling, through banks or any other financial institution, or through an agent or a broker.

(d). Reinsurance Program: the program should address issues such as the net retention levels proposed; details of the reinsurance company, and the type of reinsurance program proposed, e.g. excess of loss, pro-rata.

(e). Marketing Plan: a marketing plan identifying the proposed insurance company's prospective customers. This could involve segmenting the market by demographic statistics, e.g., income levels, gender, age occupation etc.

(f). Fees/Commissions: information respecting the fees/commissions the proposed insurance company is planning to pay to insurance intermediaries. Insurance companies found to be offering percentages in excess of the fees/commissions indicated in their business plans will be subject to possible sanctions. The proposed insurance company should explain how it would ensure that the intermediaries it will be using are financially sound, reputable and trustworthy in their dealings with the Timor-Leste public.

(g). Auditing Firm: the name and contact details of the licensed audit firm for the proposed insurance company. The audit firm submitted must be able to demonstrate that it has gained sufficient experience in having audited insurance companies. The audit firm must also be able to show that it fully understands the issues and challenges associated with auditing the insurance operations of a Timor-Leste insurance company.

- (h). Actuary/Claims expertise: a description of the actuarial or provision for claims expertise that the proposed insurance company will employ in: (1) setting appropriate premium levels; and (2) establishing appropriate technical provisions levels, including the provision for claims and the provision for unearned premiums for a general insurance company; and, for a life insurance company, a description of the valuation actuarial expertise that the applicant will employ for the same considerations as for a general insurance company and, additionally in establishing mathematical provisions and setting provisions for adverse deviations. The BPA will expect that both general insurance and life insurance actuaries and provision for claims experts will dispose a recognised professional qualification.
- (i). Banking Arrangements: an outline of the proposed banking arrangements in Timor-Leste with which the proposed insurance company will be dealing. The applicant must identify who will have signing power over large cash transactions in and out of the applicant's bank accounts (USD \$5,000 and above).
- (j). Investment policy: an outline of the proposed insurance company's suggested investment policy. Describe how the proposed insurance company will ensure that there are sufficient funds available to pay claims as they come due;
- (k). Sample Documentation: the Applicant shall provide sample policy and claim documents and premium rates;
- (l). Internal control: internal control mechanisms (e.g. double signature requirements, Board of Director approvals etc.) to be employed. Copies of policies, procedures (specially authorization controls on disbursements) and practices developed in this respect must be submitted for approval by the BPA;
- (m). Information technology: a description of the computer and telecommunications systems the proposed insurance company will be using.
- (n). Disaster Recovery Plan: a copy of its business resumption/disaster recovery plan will be submitted for approval to BPA.
- (o). Other Key Personnel: nominated persons for the roles of Compliance Officer and Internal Auditor.

Article 7
Additional Requirement for Branch of Foreign Insurance Companies

Applicants for a branch of foreign insurance companies shall provide additional information as follows:

1. For applicants incorporated outside of Timor-Leste desiring to establish a branch operation in Timor-Leste, the BPA will require a statement from the home country insurance supervisor, either in Portuguese and/or English or a certified translation in any such languages, confirming:
 - (a). the approval for the parent company to establish a branch operation in Timor-Leste, including the name and address of the foreign parent insurance company.
 - (b). the company is solvent and meet all the regulatory requirements in the home jurisdiction, including all solvency margin/capital adequacy and good standing of the insurance company, and agrees to keep the BPA informed of any significant development adversely affecting the parent company financial soundness and/or reputation.
2. An applicant from outside Timor-Leste wanting to operate a Timor-Leste insurance company branch must submit its audited annual financial statements for the last three years either in Portuguese and/or English (a certified English translation is acceptable). When applicable, the annual accounts of the applicant's parent company and related companies for the preceding three years should be submitted in the same language format. The applicant will be expected to have made profits in those preceding three years of the operation.
3. The proposed licensed audit firm for the proposed insurance company must be approved by the BPA.

Chapter III Final Provisions

Article 8 Significant Changes to Business Plan

1. All significant change to the business plan affecting operational of the insurance companies include, but is not limited to the shareholders, administrator, directors and senior officers shall obtain prior written approval by the BPA before their adoption and implementation.
2. Violations of this requirement will be subjected to sanctions prescribed under the Law 06/2005, of 6th July, on the regime for licensing, supervision and regulation of insurance companies and insurance intermediaries or BPA instructions.

Article 9 Entry into Force

The instruction as set forth in the present decision shall come into force on the subsequent day of its publication on the *Jornal da República*.

Signed at Dili, this 17 August 2007

Abraão de Vasconcelos
Chairman