

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

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**GOVERNING BOARD RESOLUTION**

**N.º. 07/2007**

**Concerning the Approval of the**

**Instruction N.º. 2/2007**

**On the Licensing of Insurance Intermediaries**

**THE GOVERNING BOARD**

**Pursuant to:**

1. Article 17.b of the UNTAET Regulation N.º. 2001/30, on the Banking and Payment Authority of East Timor, given BPA the BPA the authority to adopt Rules, Instructions and Guidelines;
2. Article 3 of the Insurance Law N.º.06/2005 of 6 July 2005, on the regime for licensing, supervision and regulation of insurance companies and insurance intermediaries, concerning on the responsibility of BPA for licensing, supervision and regulation of insurance companies and insurance intermediaries;
3. Article 9 of the Insurance Law N.º.06/2005 of 6 July 2005, on the regime for licensing, supervision and regulation of insurance companies and insurance intermediaries, concerning on the Licensing;
4. Article 11 of Insurance Law N.º.06/2005 of 6 July 2005, on the regime for licensing, supervision and regulation of insurance companies and insurance intermediaries, concerning on the Establishment of Insurance Intermediaries.
5. Article 13 of the Insurance Law N.º.06/2005 of 6 July 2005, on the regime for licensing, supervision and regulation of insurance companies and insurance intermediaries, concerning on the Licensing of Insurance Intermediaries ;
6. Article 39 of the Insurance Law N.º.06/2005 of 6 July 2005, on the regime for licensing, supervision and regulation of insurance companies and insurance intermediaries, concerning 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:**

1. Insurance intermediaries wishing to operate business in Timor-Leste shall obtain prior authorization from BPA pursuant to the Insurance Law N. ° 06/2005 of 6 the July and the relevant instruction issued by BPA.
2. The principle shareholders, directors and senior officers or the proposed insurance intermediaries if natural persons shall meet fitness and propriety requirements;
3. The business plan proposed by insurance intermediaries shall be based on a sound analysis grounded in reasonable assumptions;

**For the purpose of:**

1. Ensuring that the business activity conducted by insurance intermediaries takes into account the fundamental interest of policyholders' protection and is consistent with the viable 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 the licensing application information's delivery by insurance intermediaries meets all the legal and prudential requirements as prescribed in the Insurance Law N.° 06/2005 of 6<sup>th</sup> July, on the regime for licensing, supervision and regulation of insurance companies and insurance intermediaries, and the relevant instructions issued by BPA.

**HEREBY RESOLVES TO APPROVE THE FOLLOWING****Instruction №.2/2007****On the Licensing of Insurance Intermediaries****Chapter I  
General Provisions and Requirements****Article 1  
Applicability**

This instruction applies to all applicants seeking to carry on business as an insurance intermediary that is as an insurance agent, insurance sub-agent, and/or insurance brokers, in Timor – Leste concerning of risk situated in Timor – Leste.

**Article 2**  
**Form of Application**

1. The application for a license or subsequent application for higher license shall be in writing either in Portuguese and/or English.
2. The applicant shall lodge the original and two complete copies of the application with the BPA.
3. In the case of a proposed new insurance intermediary that is a company, the application shall be signed by the founders.
4. In the case of a branch of an existing foreign insurance intermediary, an authorized officer of the foreign parent insurance intermediary shall sign the application. The appropriate designated insurance intermediary authority shall sign 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 insurance intermediaries either legal or natural persons, other than insurance brokers, shall be an amount not lesser than five thousand USD (US\$5,000) and shall maintained at all time in a BPA authorized bank.
2. Compliance with the minimum capital/ minimum value of assets shall not exempt insurance intermediaries from observing solvency margins and prudential rules and an intermediary may, to that effect, be obliged by BPA to increase its capital/minimum value of assets where such increase its capital/ minimum value of assets where such increase is deemed necessary by the BPA to observe the said rules.

3. The BPA will require a certificate from a BPA authorized bank verifying that the capital/minimum value of assets has been paid-up. This requirement will apply to all applicants for an insurance intermediaries licence received after the BPA has assumed regulatory and supervisory authority over all insurance intermediaries carrying on insurance business in Timor-Leste.

**Article 5**  
**Establishment of Insurance Intermediaries**

1. No person shall engage in a business regulated under this instruction, or assume to act as a licensee unless he or she is licensed under the provision of this instruction and the Insurance Law N.º 06/2005 of the 6<sup>th</sup> July, on the regime for licensing, supervision and regulation of insurance companies and insurance intermediaries;
2. No person shall act as insurance intermediary or as manager of an insurance intermediary unless he or she has demonstrated to the BPA that he or she is technically and professionally qualified to control and manage the affairs of the intermediary;
3. The same insurance intermediary may not carry on classes of insurance business in the general insurance and life insurance simultaneously.

**Article 6**  
**Insurance Brokers**

1. An insurance broker must not provide intermediary services for customers for domestic insurance with an unlicensed insurer without the approval of the BPA.
2. The BPA may grant an approval under this Article if:
  - (a). Insurance for the particular risk is not available from a licensed insurer in Timor-Leste;
  - (b). the Insurance is available but the terms and conditions are unreasonable.
3. The BPA must do its best to ensure that an insurance broker acts within the authority given by the customers to the insurance broker.
4. The BPA has competence established under the instruction apply sanctions to the Brokers insurances intermediaries committed in violation subject to the provision Article 22.2 of the Insurance Law N.º 06/2005, concerning on the Regime of Licensing, Supervision and Regulation of Insurance companies and Insurance Intermediaries.

**Chapter II**  
**Information Required for Establishment of Insurance Intermediaries**

**Article 7**  
**General Requirements**

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

1. A formal application to carry on insurance intermediary business for general or life insurance business in the format provided by the BPA.
2. Full detailed Curriculum Vitae (CVs) of the intermediary or main shareholders (when they hold or will hold more than 10% of paid-up shares), if applicable, directors, if applicable, and senior officer proposed for the insurance intermediary, if applicable. The CV(s) shall summarize the respective professional history and academic background. The CV(s) of the intermediary or of the proposed senior managers should, in particular, demonstrate considerable insurance industry experience, training and knowledge. Tangibly, this means that the proposed intermediary if a natural person or senior managers should ordinary have a recognized business degree from a reputable academic institution and/ or a recognized insurance industry qualification and/or considerable professional qualifications should be submitted to the BPA for review;
3. Complete, certified personal balance sheets/income statements of financial resources for the intermediary or main shareholders, if applicable, directors, if applicable, and senior managers proposed for the insurance intermediary, if applicable. The BPA recognized bank or audit firm shall certify statements of sufficient financial resources. Any exceptions shall be approved by BPA;
4. Three professional references for the intermediary or each of the individual main shareholders (if applicable), directors (if applicable) and senior managers for the proposed insurance intermediary operation.
5. A list of individuals employed by or acting for the insurance intermediary with authoritative documents evidencing their professional and academic qualifications;
6. Copy lease contract with a landlord evidencing a place of business to which formal legal notice can be served;
7. Audit Firm: the proposed licensed audit firm for the proposed insurance intermediary shall be approved by the BPA. Tangibly, this means that the BPA recognises the licensed audit firm as capable of providing the needed insurance industry audit expertise;

8. Agents may qualify for an insurance intermediary license without the necessary education and experience by participating in an intense insurance company-training program approved by the BPA. After completing three months of training, three months of probation and in receipt of a diploma certified by an appropriate insurance company officer, in technical knowledge and sales skills, actual and class room, a trainee may apply for an intermediary license by meeting the requirements of this instruction. All sales by a trainee shall be counter signed by a responsible company licensed agent/officer;
9. Any agent, sub-agent, brokers the shareholders, if applicable, directors, if applicable, and senior officer 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 intermediary license was deliberately falsified the insurance intermediary, the shareholders, if applicable, directors, if applicable and senior officer of the proposed insurance intermediary will be subject to fines. 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 intermediary may be immediately withdrawn;
10. 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 intermediary license, unless an authoritative court in or elsewhere authoritatively dismisses the charges;
11. Persons having been declared bankrupt by any authoritative court in Timor-Leste or elsewhere are disqualified from further consideration. Similarly, persons having served as shareholders, directors or managers in a bankrupt business enterprise will also be disqualified from further consideration.

## **Article 8**

### **Requirements for Insurance Intermediaries that the are Natural Person**

Further to the information requirements set forth in Article 7, the local intermediaries' applicants that are natural persons shall provide information follows:

1. A certified copy of a birth certificate or other authoritative document evidencing that the applicant is of legal age;
2. A certified copy of an authoritative or other authoritative document evidencing the applicant is a Timor-Leste and is resident in Timor-Leste;
3. A certified copy of an authoritative document concerning of the criminal record of the applicant;
4. In respect of applicant are not national of Timor-Leste a statement from the home country insurance supervisor authority either in English or Portuguese or a certified translation in any of such language, certifying that the applicant is not inhibited of insurance intermediation activities in such country of origin.

**Article 9**  
**Requirements for Insurance Intermediaries that are Companies**

Further to the information requirements set forth in Article 7, the local intermediaries' and/or branch of insurance intermediary applicant that are companies shall provide information's as follows:

1. A certified copy of the minute of the meeting of the Governing Board or founding shareholders of the foreign insurance intermediary wherein the applicant's license application was approved and an officer was authorized to sign and submit the application to the BPA;
2. The original charter document or equivalent documentation for the proposed insurance intermediary company along with its company by-laws or equivalent documentation;
3. 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 intermediary company. The list should include the shareholding of each main shareholder.

**Article 10**  
**Branch of Foreign Insurance Intermediary**

Applicants for branch of foreign insurance intermediary shall be providing the additional information as follow:

1. Statement from home country insurance supervisor; for applicants incorporated outside of Timor-Leste desiring to establish a branch operation in Timor-Leste, the BPA will require a letter from the home country insurance intermediary supervisor confirming that :
  - (a). the parent company intention to establish a branch insurance intermediary operation in Timor-Leste, including the name and address of the place of incorporation.
  - (b). the company is solvent and meet all the regulatory requirements in the home jurisdiction, including all solvency/capital adequacy, good standing insurance company , supervised on consolidate basis and agrees to keep the BPA informed of any significant development adversely affecting the parent company financial soundness and/or reputation globally. .
2. Audit Financial Statements: an applicant from outside Timor-Leste wanting to operate a Timor-Leste insurance intermediary company branch shall 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 at least four of those preceding three years.

**Article 11**  
**Specific Requirements for Broker Insurance**

Applicant for insurance brokers shall provide additional information as follows:

1. 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 broker company evidencing that such shareholders are not insurance companies or persons related to an insurance company as defined in the Insurance Law № 6/2005;
2. The original or a certified copy of the proposed professional indemnity insurance or unconditional financial guarantee;
3. The original or certified copy of the professional liability insurance policy or unconditional financial guarantee providing indemnity of not less than US\$250,000.
4. The competence of BPA to determine in the concrete case, of the referred previously number it required to the brokers insurance shall be submit the documents to BPA.

**Chapter III**  
**Final Provision**

**Article 12**  
**Significant Change to Business Plan**

All significant change to the business plan affecting operational of the insurance intermediaries include, but not limited to the shareholders, administrator, director and senior officers shall be obtain prior written approval by the BPA before to their adoption and implementation. Violations of this requirement will be subjected to sanctions prescribed insurance law № 6<sup>th</sup> July, on the regime for licensing, supervision and regulation of insurance companies and insurance intermediaries or BPA instructions

**Article 13**  
**Definite Period of License**

1. The insurance intermediaries' license shall be granted subject renewable process for definite period of time of one (1) year or annually and shall not be transferable. Any exceptions shall be approved by BPA.
2. The BPA shall either approve or reject it on a preliminary basis within ninety (90) days after the completed receipt of the application form for a license establish insurance intermediary and shall notify the applicant in writing, indicating the ground for such a decision.



**Article 14**  
**Entry into Force**

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

Signed at Dili, this 17 August 2007

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Abraão de Vasconcelos  
Chairman