

**REGULATION**  
year 2008 / number 03

**AMENDMENTS TO REGULATION NO. 2007-02**  
**ON**  
**INSURANCE AND REINSURANCE MEDIATION**

**Article 1 – Amendments to Regulation no. 2007-02 on Insurance and Reinsurance mediation.**

1. The following definition is added to article 1, paragraph 1:

**“Companies Law”:** means Law no. 47 of 23 February 2006 as subsequently amended and supplemented.

2. Article 5, paragraph 2 is replaced as follows:

"2. For each person registered under Section A, the following must be specified:

- a) registration number;
- b) registration date;
- c) surname, first name or name of the sole proprietorship;
- d) place and date of birth of the natural person or of the principal of the sole proprietorship;
- e) economic operator code;
- f) address of the main office and of any branches;
- g) name of the insurance undertakings on whose behalf the mediation activity is carried out;
- h) any measures adopted by the CENTRAL BANK."

3. Article 5, paragraph 3 is replaced as follows:

"3. For each person registered under Section B, the following must be specified:

- a) registration number;
- b) registration date;
- c) name of the company;
- d) personal details of the legal representative, directors and of those persons who perform functions similar to those of the director general;
- e) economic operator code;
- f) address of the main office and of any branches;
- g) name of the insurance undertakings on whose behalf the mediation activity is carried out;
- h) any measures adopted by the CENTRAL BANK."

4. Article 5, paragraph 4 is replaced as follows:

"4. For persons registered under Section C, the following must be specified:

- a) registration number;
- b) registration date;
- c) name of the company;
- d) registration number in the Register of authorised parties held with the CENTRAL BANK according to article 11 of the LISF, in which additional information is available;
- e) name of the insurance undertakings on whose behalf the mediation activity is carried out;
- f) any measures adopted by the CENTRAL BANK."

5. Article 7, paragraph 1 is replaced as follows:

"1. In order to be registered in Sections A and B of the register, the applicant shall satisfy the following honourability requirements:

- a) it shall not be an "Inadmissible Person" under the COMPANY LAW;
- b) it shall not have been convicted of the offences provided for in article 56 par. 9 of the COMPANIES LAW."

6. Article 7, paragraph 2 is replaced as follows:

"2. Should the registration be applied for by a company, the requirements outlined in the previous paragraph must be held by the natural persons who, directly or indirectly, exercises the control pursuant to article 2 of the LISF, by the legal representative, by all the directors and by those performing functions which, regardless of their names, are equivalent to those exercised by the director general of the company."

7. Article 8, paragraph 4 is replaced as follows:

"4. Should the registration be applied for by a company, the requirements outlined in this article must be held by the legal representative, by all the directors and by those performing functions which, regardless of their name, are equivalent to those exercised by the director general of the company. In any case, if the company's corporate purpose also includes conducting activities other than MEDIATION and which are not merely ancillary, the requirements provided for in this article shall be deemed to be sufficient if possessed by the person or persons who, in addition to covering one of the offices specified in this paragraph, are also unequivocally assigned on an exclusive basis to the tasks, powers and responsibilities related to the MEDIATION activities on the basis of an explicit provision of the Articles of Association or on an explicit resolution taken in compliance with the Articles of Association."

8. The following letter is added to article 8, paragraph 5:

"d) a certified copy of the Articles of Association currently in force or of the resolution of the meeting, should the company intend to avail itself of the right provided for in the second sentence of the previous paragraph."

9. The following article is added after article 8:

**Article 8-bis – Business plan and report on the organisational structure.**

1. The application for the registration in Sections A and B of the register, prepared according to the model set forth in Annex B, must also contain a programme which outlines the initial activity, its lines of development, the objectives pursued, the entrepreneurial strategies which will be followed to achieve them, together with any other element which might allow proper assessment of the initiative.

2. The business plan must outline at least the following:

- a) the type of insurance products for which the MEDIATION business will be carried out;
- b) the type of clients for which services and products are intended;
- c) the procedures with which the activity is intended to be performed (agency, sub agency, brokerage, simple consultancy, etc.) specifying any relation with other persons involved in the arrangement of the services rendered, in particular with insurance undertakings registered in San Marino or abroad, and with other insurance brokers registered in San Marino or abroad;
- d) the organisational structure and the network of partners (if any)."

10. In article 9, paragraph 2, the words "legal person" are replaced with the word "company".

11. Article 10, paragraph 5 is replaced as follows:

"5. Once the documents referred to under paragraph 4 above are received, the applicant must transmit to the CENTRAL BANK a copy of the authorisations or licenses obtained. Companies must also transmit a copy of the Articles of Association in force. The Articles of Association must expressly include, among the activities included in the corporate purpose, "insurance and reinsurance mediation". In the event that more than six months have elapsed from the release of the statement provided for under paragraph 4 above, the certificates evidencing the possession of the honourability requirements must be renewed".

12. In article 10, paragraph 6, the word "verified" is replaced with the word "ascertained".

13. Article 12, paragraph 1 is replaced as follows:

"1. The CENTRAL BANK may order the suspension from the register in the following cases:

- a) breaches of laws or of this Regulation;
- b) termination of the appointment or loss of the requirements necessary for the registration of a legal representative of an INTERMEDIARY established as a company, except where the CENTRAL BANK already verified the existence of such requirements as regards to the person who exercises the function of substitute legal representative of the company;
- c) termination of the appointment or loss of the requirements necessary for the registration of all of the directors and of the persons who perform functions equivalent to those of

the director general of an INTERMEDIARY established as a company, except where a legal representative remains in office for whom the CENTRAL BANK verified the existence of the requirements provided for under articles 7 and 8;

- d) suspension of the authorisations and licenses referred to under article 10, paragraph 4;
- e) failure to exercise the MEDIATION activity for more than twelve consecutive months".

14. Article 12, paragraph 2 is replaced as follows:

"2. In the cases referred to under letters b) and c) of the previous paragraph, the suspension remains effective until the INTERMEDIARY fills the vacant offices with persons for whom the CENTRAL BANK already verified the possession of the requirements provided for under articles 7 and 8; however, if the INTERMEDIARY does not do so within six months from the start of the suspension, the CENTRAL BANK may order the cancellation on its own motion. In the case envisaged in letter d) of the preceding paragraph, the suspension remains effective until the authorisations or licenses are reactivated. In the other cases, the CENTRAL BANK's decision specifies the period of the suspension, which shall not exceed six months; if, once this period has expired, the INTERMEDIARY has not resumed the activity, the CENTRAL BANK may order the cancellation on its own motion".

15. Article 15, paragraph 1 is replaced as follows:

"1. Besides the cases provided for in article 12, par. 2 above, the CENTRAL BANK may order the cancellation ex officio from the register in the following cases:

- a) loss by the INTERMEDIARY, in case it is a natural person, of the requirements necessary for the registration;
- b) violation of the provisions set forth in article 18 below or other serious violations of the law or of the other obligations envisaged in this Regulation. Seriousness may also result from the reiteration of violations already sanctioned with the suspension under article 12, par. 1, letter a);
- c) cancellation of the authorisations and licenses referred to under article 10, paragraph 4".

16. Article 16, paragraph 1 is replaced as follows:

"1. The CENTRAL BANK notifies the INTERMEDIARY in writing by means of a registered letter with acknowledgement of receipt, of any violations detected or other assumptions, specifying the underlying facts and documents, and grants a period of no less than sixty days to receive any objections. The impossibility to deliver the registered letter due to the unavailability of the intended recipient does not affect the continuation of the proceeding".

17. Article 16, paragraph 4 is replaced as follows:

"4. The procedure envisaged in this article does not apply to the suspension provided for in art. 12, par. 1, letters b) and c), which is ordered as soon as the underlying breach is ascertained, and in

particularly urgent cases for which the CENTRAL BANK decides to initiate the proceeding referred to in art. 34, letter f) of Law no. 96 of 29 June 2005".

18. In article 19, paragraph 6, letter a), the words "legal person" are replaced with the word "company".

19. In article 19, paragraph 6, letter e), the words "legal person" are replaced with the word "company".

20. The following letter is added to article 19, paragraph 6:

"g) any relationships with other INTERMEDIARIES in the register, such as the existence of common shareholders or directors, specific cooperation arrangements or other situations which may lead to a conflict of interest with the client".

21. Article 23, paragraph 1 is replaced as follows:

"1. Not later than on 31 March of each year, all the INTERMEDIARIES recorded in the register must provide the CENTRAL BANK with a report on the activities performed during the previous year, prepared according to the model set forth in Annex C. The INTERMEDIARIES recorded under Sections A and B of the register must enclose a certification evidencing that they still fulfil the requirements referred to in article 7 above, updated to a date within six months from that of forwarding, and a copy of the civil liability insurance policy referred to in article 17, par. 3".

22. In article 24, paragraph 1, the word "ten" is replaced with the word "thirty".

23. The following paragraphs are added to article 24:

"2. The INTERMEDIARIES included in Section B of the Register that intend to change their legal representative or directors or any persons who perform functions, regardless of their name, equivalent to those of the director general of the company, must previously request the authorisation from the CENTRAL BANK, enclosing the documents requested under articles 7 and 8.

3. Within thirty days from the date of receipt of the application, the CENTRAL BANK, having verified the existence of the requirements specified in Part II, Title II, issues a decision for the acceptance or rejection thereof.

4. Following the authorisation, the INTERMEDIARIES must fulfil the obligations envisaged under the COMPANIES LAW.

5. The CENTRAL BANK, after receiving the documents related to the changes referred to in paragraph 2 and having verified the compliance of the persons for whom the possession of the honourability and professional requirements had been verified, shall amend the public register".

24. In article 26, paragraph 1, the words "that have been included in Sections A or B of the register for at least eighteen months" are added after the words "The INTERMEDIARIES"."

25. Article 26, paragraph 2 is replaced as follows:

"2. Within ninety days from the receipt of a request, the CENTRAL BANK releases a decision of acceptance or rejection, based on the assessment, also by means of specific inspections, of the following circumstances:

- a) adequacy of the organisational procedures outlined, with reference to the activities to be carried out;
- b) actual and continuous exercise of the activity in San Marino during the eighteen months prior to the date of application;
- c) regular fulfilment of the requirements provided for in this Regulation".

26. The following letter is added to article 27, paragraph 1:

"c) the business plan containing the information referred to in article 8-*bis*, paragraph 2, letters a), b) and c)".

27. In article 27, paragraph 2, the wording "to acquire further authorisations or licenses" is replaced with the wording "to fulfil any additional requirements".

28. The form for the self-certification of compliance with the integrity requirements (Annex A), the model for application for registration (Annex B), the model of report on the activities carried out (Annex C) and the model of authorisation request for performing insurance mediation activities in the Republic of San Marino by foreign persons (Annex D) are replaced by the respective models included in the annexes.

## **Article 2 – Entry into force.**

1. This Regulation shall enter into force on 5 December 2008.

## **Article 3 – Consolidated text of Regulation no. 2007-02.**

1. The text of Regulation no. 2007-02, consolidated to include the amendments introduced by this regulation, shall be made available on the web site of the CENTRAL BANK of the Republic of San Marino ([www.bcsm.sm](http://www.bcsm.sm)).

**ANNEX TO REGULATION NO. 2008-03**

**NEW MODELS OF ANNEXES A, B, C, D,  
TO REGULATION NO. 2007-02**



# **ANNEX**

## **A**

### **Self certification of compliance with the honourability requirements**

Republic of San Marino, \_\_\_\_\_

SELF CERTIFICATION OF COMPLIANCE WITH THE HONOURABILITY REQUIREMENTS  
FOR THE PURPOSES OF THE SUPERVISION ON THE BANKING, FINANCIAL AND  
INSURANCE SYSTEM

I, the undersigned \_\_\_\_\_ born on  
\_\_\_\_\_ in \_\_\_\_\_  
and resident in \_\_\_\_\_ (RSM) in  
\_\_\_\_\_ I.S.S.  
code \_\_\_\_\_, citizen of \_\_\_\_\_, fully aware of the civil  
and criminal responsibility I undertake for the veracity of the statements hereunder

HEREBY DECLARE

pursuant to Law no. 165 of 17 November 2005 and the implementing measures issued by the Central  
Bank of the Republic of San Marino, that:

- a) I am not involved in any situation that characterises an "inadmissible Person" pursuant to Law  
no. 47 dated 23 February 2006 as amended and supplemented;
- b) I have never been subject to any arrangement with creditors or any equivalent procedures in  
foreign countries over the last five years;
- c) I have never been convicted of the facts envisaged by Article 56, paragraph 9 of Law no. 47 dated  
23 February 2006, as subsequently amended and supplemented.

I HEREBY AUTHORISE

the Central Bank of the Republic of San Marino to carry out any relevant and necessary verification with  
the competent Offices to prove the veracity of my statements in this document.

In witness thereof.

\_\_\_\_\_

Republic of San Marino, \_\_\_\_\_

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NOTARISATION OF THE SIGNATURE

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# **ANNEX**

## **B**

### **Model of application for registration**

**APPLICATION FOR THE REGISTRATION OF A NATURAL PERSON IN THE  
REGISTER OF INSURANCE AND REINSURANCE INTERMEDIARIES**

**To the Central Bank of the Republic of San Marino  
Supervision Committee  
Via del Voltone, n. 120  
47890 SAN MARINO**

I, the undersigned (*surname and name*)

\_\_\_\_\_

born in \_\_\_\_\_ on \_\_\_\_\_ ,  
resident in \_\_\_\_\_ (RSM),  
request to be entered under Section A (individuals and sole proprietorships) of the register of insurance  
and reinsurance intermediaries established pursuant to article 27 of Law no. 165 dated 17 November 2005.  
For this purpose, I declare that the main place of business, where the relevant documentation will be kept,  
is located in the Republic of San Marino at the following address:

\_\_\_\_\_.

I enclose to this application the following documents (*if alternative documentation is provided for, please check the  
boxes in question*):

1. copy of an identity document;
2. self certification of compliance with the honourability requirements;
3. *curriculum vitae* signed in original;
4. the education qualification certificate or a certified copy thereof;
5. appropriate documentation certifying the possession of the professional requirements;
6. business plan prepared pursuant to article 8-*bis* of Regulation no. 2007-02.

San Marino, \_\_\_\_\_

\_\_\_\_\_  
(*certified signature of the applicant*)

**APPLICATION FOR THE REGISTRATION OF A COMPANY IN THE REGISTER OF  
INSURANCE AND REINSURANCE INTERMEDIARIES**

**To the Central Bank of the Republic of San Marino  
Supervision Committee  
Via del Voltone, n. 120  
47890 SAN MARINO**

I, the undersigned (*surname and name*)

\_\_\_\_\_

born in \_\_\_\_\_ on \_\_\_\_\_ ,

resident in \_\_\_\_\_ ,

in my capacity as (please fill in only the option of interest):

legal representative of the company \_\_\_\_\_

promoter of the company under formation \_\_\_\_\_

request that the aforementioned company be entered in Section B of the register of insurance and reinsurance intermediaries established pursuant to article 27 of Law no. 165 dated 17 November 2005.

For this purpose, I declare that the main place of business, where the relevant documentation will be kept, is located in the Republic of San Marino at the following address (*in case of companies under formation, this information may be omitted or a provisional location may be specified*):

\_\_\_\_\_ .

I, the undersigned declare that the natural persons who, directly or indirectly, exercise the control over the company pursuant to article 2 of Law no. 165 dated 17 November 2005, are the following:

(*please specify surname, name, place and date of birth, residence*):

1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

4. \_\_\_\_\_

5. \_\_\_\_\_

I declare that the office of director responsible for the insurance mediation activity or of CEO (or equivalent functions) are (*or will be, in case of a company under formation*) covered by the following persons:

	<b>SURNAME, NAME, DATE AND PLACE OF BIRTH, RESIDENCE</b>	<b>OFFICE</b>
1		
2		
3		
4		

\*\*\*\*\*

**Please find enclosed the following documentation:**

1. business plan, with the indication of any branches, the overall number of staff members, the expected operational procedures (agency, sub agency, mere consultancy, brokerage etc.) and any insurance companies for which it will operate, volumes of premiums broken down by life and non-life insurance, expected to be collected in the first three years of activity;
  - certification evidencing the possession of the honourability requirements (or self certification for the residents of the Republic of San Marino) provided for under article 7 of Regulation no. 2007-02;
  - documentation evidencing the possession of the professional requirements provided for under article 8 of Regulation no. 2007-02;
2. copy of the certificate of good standing and of the license (for already established companies).

Any communication related to this application may be forwarded to the following address (*to be filled in only if different from the address specified in the premise*):

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San Marino, \_\_\_\_\_

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*(certified signature of the applicant)*

# **ANNEX**

## **C**

### **Model of report on the activities performed**



**REPORT ON THE ACTIVITIES PERFORMED DURING THE YEAR \_\_\_\_\_**

by the intermediary

\_\_\_\_\_

registered in the Register created pursuant to article 27 of Law no. 165 dated 17 November 2005, under no. \_\_\_\_\_ .

Identification details of the applicant:

The mediation activities were carried out mainly as:

*(please see points no. 1 and 2 of the compilation instructions)*

Agent *(specify the Principal Company)* \_\_\_\_\_

Sub agent *(specify the Principal Company)* \_\_\_\_\_

*(specify the Principal Company)*

Broker

Other *(please specify)* \_\_\_\_\_

Legal representative \_\_\_\_\_

Contact person \_\_\_\_\_ telephone \_\_\_\_\_

Opening hours \_\_\_\_\_

Rules of organisation and conduct (article 17) (only for Sections A and B):

Civil liability insurance policy taken out during the year of reference:

Limit of liability per claim

Aggregate limit of liability

Procedure for the collection of the premiums for the insurance undertakings:

Payment to the current account open in the name of

\_\_\_\_\_

Other *(please specify)*





<i>Surname</i>	<i>Name</i>	<i>Place and date of birth</i>	<i>Residence</i>

San Marino, \_\_\_\_\_

\_\_\_\_\_  
*(signature of the legal representative)*

### Compilation instructions

- Type of intermediary means:
  - *Agent* : the person who was appointed as insurance intermediary directly from an insurance undertaking;
  - *Sub agent* : the person who was appointed as insurance intermediary from an agent of an insurance undertaking;
  - *Broker* : the person who carries out mediation activities independently from any agency or sub agency agreement with an insurance undertaking;
  - *Other*: other cases which may be related to the insurance or reinsurance mediation activity as defined by the LISF, other than the cases outlined above (to be specified by the interested party).
- Specify the full name of the insurance undertaking on whose account insurance contracts were concluded in San Marino – directly (as agent) or indirectly (as sub agent)–.

## **ANNEX**

### **D**

# **Model of authorisation request for performing insurance mediation activities in the Republic of San Marino by foreign persons**

**To the Central Bank of the Republic of San Marino  
Supervision Committee  
Via del Voltone, n. 120  
47890 SAN MARINO**

**Authorisation request of foreign insurance intermediaries for performing insurance mediation  
activities in the Republic of San Marino**

I the undersigned \_\_\_\_\_,  
born in \_\_\_\_\_ on \_\_\_\_\_,  
resident in \_\_\_\_\_,

in my capacity as *(please fill in only the option of interest)*:

- A.1) natural person self-employed professional;
- A.2) principal of the sole proprietorship *(please specify full name)* \_\_\_\_\_  
\_\_\_\_\_
- A.3) legal representative of the company *(please specify full name of the company)*  
\_\_\_\_\_

\_\_\_\_\_ ,  
authorised to carry out insurance mediation activities in *(specify the country)* \_\_\_\_\_, under  
the control of the supervisory authority *(specify the supervisory authority in the country of establishment)*  
\_\_\_\_\_, registered in the register *(specify the name of the register or  
equivalent database provided for under the regulations in the country of establishment and the details of such registration)*  
\_\_\_\_\_ ,

request to be authorised to carry out insurance mediation activities in the Republic of San Marino  
pursuant to article 27 of the Regulation which created the register of insurance and reinsurance  
intermediaries.

Documents enclosed:

- a) A statement of the supervisory authority in the country of origin specifying that the insurance  
intermediary applying for the authorisation conducts insurance mediation business in such

country and that there is no impediment to the exercise of such activities in the Republic of San Marino;

- b) Documentation evidencing the appointment for insurance mediation by companies that have successfully completed the procedure referred to in Part V, Title II of the Regulation which created the register of insurance and reinsurance intermediaries;
- c) Business plan that outlines at least the type of insurance products for which the mediation activities will be carried out, the type of clients to whom the services will be directed, and the procedures with which the activity is intended to be performed (agency, sub agency, brokerage, simple consultancy, etc.), specifying any relation with other persons involved in the organisation of the services rendered, in particular with insurance undertakings registered in San Marino or abroad, and with other insurance brokers registered in San Marino or abroad.

Any communication related to this request shall be forwarded to the following address:

\_\_\_\_\_  
\_\_\_\_\_

For the purposes of the Regulation that established the register of insurance and reinsurance intermediaries, I, the undersigned declare that the offices in the Republic of San Marino where the documentation related to the activities carried out in the Republic of San Marino are kept, or will be kept, are located at the following address:

\_\_\_\_\_  
\_\_\_\_\_

San Marino, \_\_\_\_\_

\_\_\_\_\_  
*(certified signature of the applicant)*