

REGULATION ON DETECTION, NOTIFICATION AND RECORDING OF WRONGFUL INSURANCE PRACTICES, AND PRINCIPLES AND PROCEDURES FOR FIGHTING AGAINST THESE PRACTICES

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PART ONE

Objective, Scope, Basis and Definitions

Objective

ARTICLE 1

(1) The objective of this Regulation is to regulate the principles and procedures relating to detection, notification, assessment and reporting of the wrongful insurance practices to ensure an effective struggle with the wrongful insurance practices, and the principles and procedures relating to the obligations of all related parties of the insurance relationship within this context.

Scope

ARTICLE 2

(1) This Regulation covers the policy holders, insurance companies, insurance brokers and the parties in an insurance relationship, as well as the parties playing a role in this relationship.

Basis

ARTICLE 3

(1) This Regulation has been prepared pursuant to Article 32 of the Insurance Law No. 5684 and dated 3/6/2007, and Article 1 of the Private Pension Savings and Investment System Law No. 4632 and dated 28/3/2001.

Definitions

ARTICLE 4

(1) The following expressions in this Regulation shall have the following respective meanings;

- a) Centre: Insurance Information Centre founded as per the Regulation on Insurance Information Centre published in the Official Gazette No. 26972 and dated 9/8/2008,
- b) Undersecretariat: Undersecretariat of Treasury,
- c) Insurance intermediary: Insurance agency and insurance broker,
- ç) Company: Insurance/reinsurance company founded in Turkey, and the Turkish organisation of insurance/reinsurance company founded abroad, and the pension company,
- d) Wrongful insurance practice: All kinds of actions taken in order to offer unjust interest for one or more parties who are in an insurance relationship, or who are involved in this relation, within the scope of this Regulation.

PART TWO

Wrongful Insurance Practices

Types of wrongful insurance practices

ARTICLE 5

(1) The wrongful insurance practices governed in this Regulation shall cover the below listed situations:

- a) intracompany wrongful insurance practices: wrongful insurance practices undertaken against the company by employees at any level within the Company, alone or with third parties from inside and/or outside the company.
- b) wrongful insurance practices by policy holder and the wrongful insurance practices at the claim stage: wrongful insurance practices against the company by the policy holders, the relevant parties in an insurance relationship, and the parties that play a role in this relationship such as claim follow-up

brokers, those who carry out the management and liquidation of damages, insurance loss adjusters, at the stages of conclusion and implementation of the insurance contract as well as the insurance claim payment process.

c) wrongful insurance practices by intermediary: wrongful insurance practices of insurance brokers against companies, policy holders or relevant persons who are in an insurance relationship.

ç) other wrongful insurance practices: wrongful insurance practices other than the cases listed in sections (a), (b) and (c).

PART THREE

Liabilities of Relevant Parties in the case of Wrongful Insurance Practices

Business integrity and code of ethics

ARTICLE 6

(1) Companies and intermediaries shall take the necessary measures in order to raise the business integrity to higher standards.

Fighting against wrongful insurance practices

ARTICLE 7

(1) Companies and intermediaries shall establish effective methods for the prevention, detection, recording, elimination of wrongful insurance practices and their notification to the relevant authorities, and allocate the necessary resources to this end.

Precautions

ARTICLE 8

(1) Companies and intermediaries shall take the necessary measures in order to detect the potential risks in the case of wrongful insurance practices, and to control the processes where wrongful insurance practices may occur.

Training

ARTICLE 9

(1) Companies shall ensure that all employees, including the board of directors, receive trainings on wrongful insurance practices whose content is established by the Undersecretariat.

Liability to provide information

ARTICLE 10

(1) Companies shall inform the insured, beneficiaries and right holders about the consequences of providing them with wrong information in matters that shall have an impact on insurance benefits.

(2) Action shall be taken against the intermediaries who lead to wrongful insurance practices directly or indirectly, as per the fourth paragraph of Article 11 of the Insurance Agencies Regulation published in the Official Gazette repetitive no. 26847 and dated 14/4/2008 or the provisions of Article 21 of the Regulation on Insurance and Reassurance Brokers published in the Official Gazette No. 26913 and dated 21/6/2008, depending on the relevance.

Liability to notify

ARTICLE 11

(1) Insurance companies should notify in writing the relevant person of the situation in the case they decline a claim due to a suspicion of a wrongful insurance practice and record such denial of claim into a database established for this purpose within the headquarters.

PART FOUR

Assessment of Wrongful Insurance Practices and Reporting of Such Practices

Database

ARTICLE 12

(1) The headquarters shall establish a special database where information in connection with wrongful

insurance practices is recorded and which can be accessed by authorized users and companies to be determined by the Undersecretariat.

(2) Suspicious cases stated in this database shall be classified depending on their respective severity.

(3) Controls based on data processing allowing systematic risk assessment on the basis of the insured, right holder, service provider within the confines of the insurance, and those relevant persons who constitute a party in the benefit subject to insurance shall be established within this database.

Information sharing

ARTICLE 13

(1) Insurance companies shall take into consideration the information in the database prepared by the Headquarters for this purpose, when accepting business and in any risk assessment.

Notification to relevant authorities

ARTICLE 14

(1) In the case the Headquarters establishes that the wrongful insurance practice constitutes a crime as a result of systematic controls or within the confines of statements notified to the Headquarters, the Headquarters shall be obliged to notify the relevant legal authorities and the Undersecretariat of the said case.

PART FIVE

Provisional and Final Provisions

Wrongful insurance practices prior to the publication of this Regulation

PROVISIONAL ARTICLE 1

(1) Companies shall be obligated to record the cases which are considered to have been wrongful insurance practices that have existed prior to the publication date of this Regulation and especially those that have been decided as such by a court of law, or have been subject to legal inquiry, in the Headquarters' database in a data form as set forth by the Headquarters within three months following the publication date of this Regulation.

Entry into Force

ARTICLE 15

(1) In this Regulation;

a) Provisional Article 1 shall enter into force on the date of its publication,

b) Other provisions shall enter into force on 1/6/2011.

Enforcement

ARTICLE 16

(1) The provisions of this Regulation shall be executed by the Minister in charge of the Undersecretariat of Treasury.