

COMMONWEALTH OF PUERTO RICO

OFFICE OF THE COMMISSIONER OF INSURANCE

October 27, 1988

Circular Letter No. CA-10-1128-88

TO ALL INSURERS, GENERAL AGENTS, MANAGERS AND BROKERS
AUTHORIZED TO TRANSACT INSURANCE BUSINESS IN PUERTO RICO

Subject: Amendments to Rule LX of the
Regulations of the Insurance
Code of Puerto Rico

Dear Sirs:

The abovementioned rule was approved on March 18, 1987, to require all insurers authorized in Puerto Rico to file a copy of their annual statutory financial-statement with the National Association of Insurance Commissioners (NAIC).

At the same time, said rule established the confidentiality of the Insurance Regulatory Information System (IRIS) results and synopsis prepared by NAIC. To this effect, the IRIS ratios of a particular insurer were only furnished to said insurer and to the Commissioner of Insurance, in order to assist the latter in promoting an effective solvency surveillance.

Recently, however, the NAIC changed its policy in order to permit disclosure of the IRIS ratios, but maintaining the confidentiality of the evaluation (synopsis) thereof.

Taking into account NAIC'S new policy regarding disclosure of IRIS ratios, we are proceeding to amend accordingly the above captioned rule. As a consequence, after the effective date of the amendment no longer will IRIS ratios be considered confidential material, although NAIC'S evaluation thereon will still be granted a confidentiality status.

In view of the above, it is very important to emphasize the limitations of the referred ratios as indicators of the financial condition of an insurer. In this regard, the NAIC has established that "these ratios results alone do not constitute a company rating system and must be used in conjunction with other data and analysis to measure a company's financial stability."

Although this Office recognizes the benefits of disclosing the referred ratios, it is nevertheless a cause of concern for us, the possible improper use of that information as a tool for unfair competition.

The foregoing is even more significant taking into consideration that this subject matter lends itself to the unfair dissemination of information which may be false and maliciously critical of the financial condition of an insurer, and which could be designed to injure the business reputation of said insurer. Also the information could be used to set forth a misleading representation of the financial condition of a particular insurer.

It is convenient, therefore, to recall those provisions of the Insurance Code of Puerto Rico which deal with this type of conduct. Specifically, section 27.040(4) and (5) of the Insurance Code of Puerto Rico, 26 LPRA sec. 2704(4) and (5), establishes the following:

"No person shall make or disseminate orally or in any other manner any advertisement, information, matter, statement, or thing:

(1) ...

(4) Misrepresenting or exaggerating the financial condition, volume of business, or advantages of doing business through a particular broker or agency.

(5) Containing any assertion, representation, or statement with respect to the business of insurance or with respect to any person in the conduct of this insurance business, which is untrue, deceptive, or misleading."

Section 27.070 of the Insurance Code of Puerto Rico, 26 LPRA sec. 2707, stipulates that:

"No person shall make, publish, or disseminate or aid, abet or encourage the making, publishing or dissemination of any information or statement which is false or maliciously critical of or derogatory to the financial condition of an insurer, and which is designed to injure in its reputation or business any insurer, or any domestic corporation or group being formed pursuant to this code for the purpose of becoming an insurer, or other person engaged in the insurance business."

In addition, section 27.150 of the Insurance Code of Puerto Rico, 26 LPRA sec. 2715, provides that:

"No person shall make any misleading representations or incomplete or fraudulent comparisons of any insurance policies or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, or convert any insurance policy."

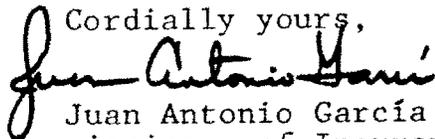
Finally section 9 of Rule XVI of the Regulations of the Insurance Code of Puerto Rico, establishes that:

"An advertisement shall not directly or indirectly make unfair or incomplete comparisons of policies or benefits or of the age of an insurer, a health services organization or any other person to which this rule is applicable, or to their relative position in the insurance business, or otherwise falsely disparage competitors, their policies, services or business methods."

Improper use of the now available information about IRIS ratios as a promotional tool in favor of a particular insurer or as competitive tool against any insurer will be considered by this Office as a violation of the above quoted sections of the law and will be severely penalized.

Authorized insurers, general agents and managers are hereby required to disseminate this information among all their insurance agents and other personnel.

Strict compliance with the provisions of this circular letter is hereby required.

Cordially yours,

Juan Antonio García
Commissioner of Insurance