



Government of Puerto Rico
OFFICE OF THE COMMISSIONER OF INSURANCE

RULING NO.: CA-8-1578-2000
August 25, 2000

**TO ALL INSURERS AUTHORIZED TO UNDERWRITE PROPERTY
AND CASUALTY INSURANCE IN PUERTO RICO AND
TO ALL THEIR GENERAL AGENTS AND MANAGERS**

Subject: Compensation of general agents

Dear Ladies and Gentlemen:

It has been long the long standing practice of the insurance industry that the compensation for general agents has been included in the portion of the dollar premium dedicated to "Acquisition Costs", which is deemed to include commissions paid to agents and brokers as well as other expenses associated with production, solicitation, sales, field supervision, advertising and collection.

On the other hand, according to the Insurance Code of Puerto Rico, the essential nature of a general agent is the underwriting and policy servicing operations of the insurer, a task that, although partially related to the acquisition of the business, is in reality more akin to the administrative functions normally performed by an insurer and not by sales intermediaries. To that effect Section 3.340 of the Insurance Code of Puerto Rico, 26 L.P.R.A. sec. 334, establishes that:

"a 'general agent' is a person appointed by or under contract with an insurer as an independent contractor or on commission, in whole or in part, with power or duty generally to supervise the underwriting and policy service operations of the insurer, to appoint agents for the insurer, and to perform such other functions as are vested in general agents by the custom of the kind or kinds of insurance transacted or type of insurer represented." (emphasis supplied)

Considering that the scope of the functions performed by general agents is in essence different than the functions of "acquiring the business", since the former substantially perform services to insurers that fall within other components of the premium dollar distribution, it is the position of this Office that, in determining the compensation to general agents, insurers should take said fact into consideration and make the necessary adjustments in order that rate filings reflect this reality.

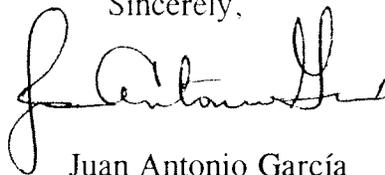
Related to this issue, a study ordered by the Asociación de Agentes Generales, ("AGESE"), and presented to this Office, indicates that the percentage of premiums associated with the intervention of the General Agent in the administration of the business is in the order of 6.5%. AGESE has also indicated to this Office that the findings of the study have been discussed with insurers who have presented no objection thereto.

In view of the foregoing we are hereby establishing the following directives:

- (1) The premium dollar distribution underlying a rate shall be developed taking into consideration the fact that any compensation provided to a general agent will be considered part of the administration expenses of the insurer, and thus must be set apart from the compensation corresponding to insurance agents and brokers.
- (2) Any dollar premium distribution that contains a 6.5% allowance for expenses related to general agents, that is otherwise in compliance with the Insurance Code of Puerto Rico, shall not be considered excessive by this Office, and in consequence, insurers may legally contract said proportion as the compensation which will be paid to general agents in total compliance with Sections 12.130 and 27.100 of the Insurance Code of Puerto Rico.

Strict compliance with the provisions of this ruling is hereby required.

Sincerely,



Juan Antonio García
Commissioner of Insurance