



**COMMONWEALTH OF PUERTO RICO
OFFICE OF THE COMMISSIONER OF INSURANCE**

WHEN REPLYING
PLEASE REFER TO

April 5, 1988

Ruling Letter No. N-E-2-17-88

TO ALL DOMESTIC INSURERS

Re: Procedure and criteria used by the Office
of the Commissioner of Insurance to
authorize domestic insurers to reinsure
risk with non-admitted insurers

Dear Sirs:

Under Section 4.120(1) (b) of the Puerto Rico Insurance Code, domestic insurers may only reinsure with non-admitted insurers if prior authorization is obtained from the Commissioner of Insurance in writing. Furthermore, Section 5.110 (1) of the Code establishes that insurers may not obtain credit for risk transferred as reinsurance to non-admitted insurers, unless the reinsurance has been transacted pursuant to the aforementioned Section 4.120.

Pursuant to the discretion granted in said Section 4.120, we are hereby establishing the criteria we will use to grant such approval. To this effect we will only allow reinsurance with non-admitted insurers of an amount that is up to 30% of ceded reinsurance, provided that the following conditions are met:

1. The Commissioner has received satisfactory evidence that the financial condition and practices related to the processing of claims of the non-admitted insurer during the past five years provide sufficient guarantee that the public interest will be adequately protected.
2. Evidence is provided to the Commissioner that the non-admitted insurer is a authorized insurer in the insurer's state or country of domicile for the kind or kinds of reinsurance that it proposes to accept in such manner and that it has been so for at least the five (5) immediately preceding years before the proposed date of the contract.

3. Evidence is provided to the Commissioner that the non-admitted insurer is reputable in terms of its operations as such, and that the business has been managed competently and reliably.
4. The insurer complies with the standards and financial requirements that are applicable to any other similar admitted insurer.
5. The reinsurer maintains deposits in Puerto Rico as guarantee for the payment of its obligations, if such deposits are kept subject to withdrawals by the ceding insurer or under the control of such.
6. The annual volume written in Puerto Rico does not warrant authorization here.

It is further provided that domestic insurers may not cede risk to an non-admitted insurer, whether directly or indirectly if:

1. A substantial number of the outstanding shares of the non-admitted insurer are owned or controlled, directly or indirectly, by an institution engaged in money lending in Puerto Rico, or if the non-admitted insurer has a substantial financial interest in, directly or indirectly, or as owner, subsidiary or affiliate, or is owned or controlled, directly or indirectly, by any entity engaged in money lending in Puerto Rico that also has a substantial financial interest in such, or relationship as owner, subsidiary or affiliate.
2. A substantial part of the outstanding shares of the non-admitted insurer is owned or controlled, directly or indirectly, by a domestic insurer, if such non-admitted insurer has a relationship as owner, subsidiary or affiliate of a domestic insurer.

So that we may have sufficient information to exercise our discretion, the ceding insurer shall request in writing authorization to cede risk to an non-admitted insurer at least sixty (60) days before the reinsurance contract enters into effect. The application shall enclose the following information:

1. The reinsurer's most recent original audited financial statement, duly sworn.

2. Certification from the insurance supervisory official of the state or country of the domicile of the non-admitted insurer, to the effect that the insurer is duly authorized as such in the state or country to transact the kind of insurance proposed for reinsurance here, including the date of authorization.
3. The most recent examination report, duly certified, of the examination of the non-admitted reinsurer by the supervisory official of insurance in the insurer's state or country of domicile. If the reinsurer is not organized in the United States and will not be subject to supervision or examination, the supervisory official of insurance in said country shall submit a certification to that effect. The original certification showing the signature of the respective official shall be submitted and acknowledged by the consul or embassy of the United States in that country or by the Secretary of State of that country.
4. The ratio of the premium ceded by the domestic insurer to the non-admitted reinsurers with regard to the premium ceded to admitted insurers during the year in which the application is submitted.
5. Kind of risk to be reinsured.
6. Copy of the contract or binder with such non-admitted reinsurer, which shall include, among the basic requirements of a reinsurance contract, the insolvency clause required by the National Association of Insurance Commissioners. If the reinsurance will be placed through a reinsurance broker, the reinsurance contracts shall contain the intermediary clause required by the National Association of Insurance Commissioners.
7. Evidence that the reinsurer is reputable in terms of its operations as such, and that the business has been managed competently and reliably.

Insurers who reinsure with non-admitted insurers without obtaining authorization from the Commissioner of Insurance shall be subject to applicable legal sanctions. In addition, if authorization is not obtained, or authorization is denied for whatever reason, the domestic insurer will not be able to obtain credit for risk ceded to such non-admitted insurers.

If authorization is obtained to use an non-admitted insurer, the authorization shall be effective for one year from the date of the reinsurance contract, at the termination of which the ceding insurer shall again apply for our authorization, according to the guidelines set forth in this letter.

This Ruling Letter supersedes Ruling Letter Number E-2-873-82, dated February 26, 1982 and any other communication issued by this Office in this regard..

Strict compliance by all domestic insurers is hereby required with respect to the guidelines set forth in this Ruling Letter. Applications for reinsurance with a non-admitted insurer will only be processed if the application complies with the above requirements.

Very truly yours,

SIGNED

Juan Antonio García
Commissioner of Insurance