



COMMONWEALTH OF PUERTO RICO
OFFICE OF THE INSURANCE COMMISSIONER

October 16, 2008

RULING LETTER NUMBER: 2008-93-PR

TO ALL INSURERS AUTHORIZED TO DO LIFE INSURANCE AND VARIABLE ANNUITIES BUSINESS IN PUERTO RICO AND ALL AUTHORIZED REPRESENTATIVES, GENERAL AGENTS, AND MANAGERS

PROVISIONAL LICENSES FOR THE SALE OF VARIABLE CONTRACTS IN PUERTO RICO

Dear Sirs and Madams:

In the past few days we have received several inquiries regarding license requirements for the sale of variable contracts in Puerto Rico, specifically regarding the requirement of holding a regular life insurance license in order to do business with variable contracts in this jurisdiction.

In this regard, we remind you of the requirements under the law and the regulations thereof for doing business with variable products in Puerto Rico.

Article 9.161 of the Puerto Rico Insurance Code ("Code") establishes the requirements to be complied with by all natural or legal persons who wish to sell variable products in Puerto Rico. In the case of a corporation, the corporation shall comply with the provisions of Article 9.160 of the Code, all applicable provisions of the Puerto Rico Uniform Securities Act and the Regulations thereof, and all such other requirements as the Insurance Commissioner, the Financial Institutions Commissioner or both may establish through regulation, order or administrative ruling. In the case of a natural person who wishes to obtain a license as an individual for the sale of variable products, said individual shall comply with the provisions of Articles 9.070 and 9.170 of the Code, all applicable provisions of the Puerto Rico Uniform Securities Act and the Regulations thereof, and all such other requirements as the Insurance Commissioner, the Financial Institutions Commissioner or both may establish through regulation, order or administrative ruling.

Furthermore, Rule 45 of the Regulations for the Code establishes the applicable standards for insurers that issue contracts for variable annuities in Puerto Rico. Article 1(b) of said Rule defines “agent,” for the purposes of said rule, as “any agent or broker who is duly authorized to sell life insurance in Puerto Rico.”¹ Furthermore, paragraph (c) of that Article states that a variable contracts agent, for the purposes of said Rule, means an “agent who sells or solicits the sale of variable contracts.” When the Rule mentions a “variable contracts agent” the rule refers to an “agent” or “broker”, who is duly authorized to sell life insurance, and who is also duly authorized to sell variable contracts. That is to say that all “variable contracts agents” must also be “agents” or “brokers” for the sale of life insurance in Puerto Rico in order to engage in said business.

Pursuant to the above, the Office of the Insurance Commissioner (“OIC”) established as a rule that any person who wishes to engage in the sale of variable contracts,² shall hold a license as an authorized insurance representative or producer who is duly authorized for the sale of life insurance and shall maintain said license during such time as said representative or producer is doing business with variable products. This requirement may only be fulfilled by holding a permanent license³ for life insurance and not through a provisional license.

 Further to evaluating the comments submitted to this Office and a careful analysis of the law and the regulations, we have determined that a person who holds a provisional license that was legally issued by the OIC for the sale of life insurance, complies with the requirement of holding a life insurance license to engage in the sale of variable products.

As can be seen in Article 9.440(1)(d) of the Code, the Insurance Commissioner is empowered to issue provisional producer licenses, to act as an authorized representative, to an applicant for a permanent insurance license who is waiting to take the respective examination. Likewise, Article 9.450(4) of the Code provides that a holder of a provisional license shall have all of the same rights and privileges as the holder of a permanent license of the same class, except that said holder will not have the right to receive nor will said holder receive any commission or compensation for new controlled business underwritten by said holder, unless the holder qualifies for a permanent license of the same class before the expiration of the provisional license.

In view of the above, applicants for a provisional license for the sale of variable contracts shall comply with the following requirements:

¹ The terms “agent” and “broker” were substituted with the terms “authorized representative and “producer,” respectively, under Public Law No. 10, enacted on January 19, 2006.

² Whether under a regular or a provisional license.

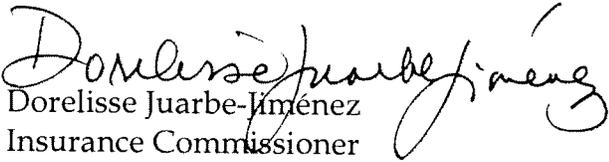
³ Under the context of this ruling letter, a permanent license shall be deemed such license as is obtained by passing a life insurance producer examination.

1. To hold a permanent license for the sale of life insurance in Puerto Rico or, instead, if the producer is acting as an authorized representative, to hold a provisional license for the sale of life insurance in Puerto Rico. In such case, the producer acting as an authorized representative shall first take the life insurance examination and then the examination for variable contracts.
2. To obtain a certification from the Office of the Financial Institutions Commissioner showing that the applicant is authorized to sell variable contracts under the Puerto Rico Uniform Securities Act.
3. To apply for the examination and provisional license for the sale of variable contracts.

If the applicant is waiting to take the life insurance examination and the variable contracts examination, and should fail to pass such examinations, the provisional life insurance license shall expire automatically, and the provisional variable contracts license shall be cancelled immediately, although the appointment for the variable products license shall not be cancelled. If, on the other hand, the applicant passes the life insurance examination, but not the variable contracts examination, the provisional life insurance license shall continue to be in effect until the expiration date provided for in the license, or until such license is replaced with a permanent license of the same class.

Strict compliance with the above is required.

Very truly yours,


Dorelisse Juarbe-Jiménez
Insurance Commissioner