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Secretary of State
By: (Signed)
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Commonwealth of Puerto Rico
OFFICE OF THE COMMISSIONER OF INSURANCE

RULE NO. 74

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Commonwealth of Puerto Rico
OFFICE OF THE COMMISSIONER OF INSURANCE
San Juan, Puerto Rico

RULE NO. 74

STANDARDS FOR THE REGULATION OF THE SALE, SOLICITATION, OFFER OR
MARKETING OF INSURANCE PRODUCTS BY DEPOSITORY INSTITUTIONS
OR THEIR AFFILIATES

SECTION 1- GENERAL PROVISIONS

SUBSECTION 1 - LEGAL BASIS

The Commissioner of Insurance of Puerto Rico hereby adopts Rule 74 of the Regulations of the Insurance Code under the provisions of Sections 2.040 and 27.131 of Public Law. 77, enacted on June 19, 1957, as amended, known as Code; of paragraph H, Section 2 of Reorganization Plan No. 3, effective June 22, 1994; Gramm-Leach-Bliley Financial Services Modernization Act of 1999, Public Law No. 106-102, enacted on November 12, 1999, as amended; Public Law. 382, enacted on September 6, 2000; and Public Law 170, enacted on August 12, 1988, known as the Uniform Administrative Procedures Act, as amended. The principle of preemption established in *Barnett Bank of Marion County, N.A. v. Nelson*, 517 U.S. 25 (1996) was also taken into consideration as well as the protection offered by the Gramm-Leach-Bliley Act to National Banks with regard to title insurance activities.

SUBSECTION 2 - PURPOSE

For the protection of consumers, this Rule is adopted to govern the methods, acts or practices of the depository institutions or their affiliates in the sale, solicitation, offering or marketing of insurance products or annuities.

SUBSECTION 3 - SCOPE

This Rule shall be applicable to the sale, solicitation, offering or marketing of insurance products or annuities, by any of the following:

- (1) National banks, savings and loans cooperatives (as authorized under Public Law. No. 6, enacted on January 15, 1990), and the authorized affiliates of the depository institutions (as defined in this Rule),

- (2) Persons who are engaged in these activities on the premises of a depository institution and its affiliates, and
- (3) Persons who are engaged in these activities on behalf of a depository institution and its affiliates.

With regard to credit insurance products, the scope of this Rule shall be the following:

(1) All the provisions of this Rule will be applicable to the sale, solicitation, offer or marketing of credit insurance products by the directors or any other person authorized by the Commissioner to act on behalf of the subsidiary corporation of the depository institution, except the provisions of Section 5 regarding Separation of Areas and Personnel.

(2) Only the provisions of Section 6 of the Rule regarding Commercial Documents, Files, Records and Books, and Section 7 regarding warnings and Disclosures will be applicable to the sale, solicitation, offer or marketing of credit insurance products by an authorized agent under the Code, who is not a director or person authorized by the Commissioner to act on behalf of the subsidiary corporation of the depository institution.

No provision of this Rule will be interpreted as preventing or limiting the applicability of any other provision of law, regulation, Circular Letter or Ruling Letters issued by the Commissioner that regulate credit insurance products; including, but not limited to the provisions of Chapter 18 of the Insurance Code; Circular Letter No. AM-111-9-782-79, dated September 21, 1979; Ruling Letter No. N-OE-12-11-87, dated December 11, 1987; and Ruling Letter No. N-C-9-98-98, dated October 9, 1998.

SECTION 2 - DEFINITIONS

The following terms and phrases shall have the meanings set forth below:

- (a) "Affiliate" - the term "affiliate" has the same meaning given to the term "affiliate" in section 104(g)(1) of the Gramm-Leach-Bliley-Act.
- (b) "Agent" - the term "agent" has the same meaning given to the term in Section 9.010 of the Insurance Code, including agents of subsidiary corporations, as defined in this Rule.
- (c) "General Agent" - the term "general agent" has the same meaning given to this term in Section 3.340 of the Insurance Code, including for general agents of subsidiary corporations, as defined in this Rule.
- (d) "Insurer" - the term "insurer" has the same meaning given to this term in Section 1.030 of

the Insurance Code.

- (e) "Code" - means the Insurance Code of Puerto Rico, Public Law. 77, enacted on June 19, 1957, as amended, 26 L.P.R.A. et seq.
- (f) "Commissioner" - means the Commissioner of Insurance of the Commonwealth of Puerto Rico.
- (g) "Commission or compensation" - means the fee or compensation earned by a person who is duly licensed for the sale of insurance products, or annuities, calculated on the basis of a percentage of the premiums generated by the sale of an insurance policy.
- (h) "Subsidiary Corporation" - means any subsidiary corporation of a depository institution or of a financial holding company through which the depository institution will effect the sale, solicitation, offer, and marketing of insurance products or annuities.
- (i) "Consumer" - means any person who seeks, obtains or has obtained an insurance product or service or annuity from a depository institution or from a subsidiary corporation of the institution.
- (j) "Depository institution" - the term "depository institution" is limited to institutions included in the term "depository institution" as defined in Section 104 (g) (3) of the Gramm-Leach-Bliley-Act. The term refers only to all banks and savings and loans associations. Furthermore, for the purposes of this Rule, the term "depository institution" in Puerto Rico includes savings and loans cooperatives.
- (k) "Gramm-Leach-Bliley Act" - means the federal law titled "Gramm-Leach-Bliley Financial Services Modernization Act of 1999", Public Law No. 106-102, 113 Stat. 1338 (1999), as amended.
- (l) "Electronic medium" - means any electronic means for transmitting messages that uses a format that allows for a visual examination of the content of the message, whether by means of a monitor of a personal computer or any other means.
- (m) "Customer Service Representative" - means any employee of a depository institution who is responsible for: (1) opening new accounts, but is not authorized to accept deposits; (2) accepting applications for loans, but is not authorized to approve such loans, and, (3) answering consumer questions regarding the products and services offered by the depository institution and its affiliates.
- (n) "Person" - means a natural or legal person.

- (ñ) "Insurance"- the term "insurance" has the same meaning as set forth in Section 1.020 of the Code.
- (o) "Solicitor" - the term "solicitor" has the same meaning as set forth in Section 9.030 of the Code.

SECTION 3 - CORPORATE STRUCTURE

Any depository institution that proposes to sell, solicit, offer or market insurance products or annuities in Puerto Rico, other than a savings and loans cooperative, must establish or acquire for such purpose a corporate entity organized under the laws of the Commonwealth of Puerto Rico. This entity must have its principal place of business in Puerto Rico and obtain authorization from the Commissioner. However, any national bank authorized under the pertinent sections of the "National Bank Act," 12 U.S.C. 92, and other federal statutes, may engage directly or indirectly through its authorized subsidiaries or affiliates, in the sale, solicitation, offer or marketing of insurance products or annuities in the different States and territories of the United States of America and in the Commonwealth of Puerto Rico.

Savings and loans cooperatives may act as insurance agents of cooperative insurers authorized under the Code, as amended, in conformance with the provisions of Section 2.04(m) of Public Law. 6, enacted on January 15, 1990, as amended, known as the Cooperative Associations Act, and the provisions of this Rule, without being required to establish the corporate structure provided for herein.

In order for a savings and loans cooperative to engage in the sale, solicitation, offer and marketing of insurance products or annuities, issued by non-cooperative insurers, the cooperative will be required to obtain authorization for that purpose from the Corporation for the Supervision and Insurance of Cooperatives of Puerto Rico (COSSEC), as a condition for processing the appropriate license. If authorization is granted, the savings and loans cooperative, like any other depository institution, must establish or acquire a corporate entity organized under the laws of the Commonwealth of Puerto Rico,

having its principal place of business in Puerto Rico, and will have the obligation of complying with the provisions of the Code, the Regulations of the Code, and this Rule.

SECTION 4 - LICENSES

SUBSECTION 1— LICENSE REQUIRED

- (a) A subsidiary corporation of the depository institution, as the term is defined in this Rule, may sell, solicit, offer or market insurance products or annuities, only if the subsidiary holds a license issued according to the provisions of the Code.
- (b) Savings and loans cooperatives, unless they are granted broader powers, may only sell, solicit, offer or market insurance products or annuities issued by cooperative insurers that are authorized under the Code and Section 2.04(m) of Public Law. 6, *supra*.
- (c) Only licenses for agents or general agents may be issued to a subsidiary corporation of a depository institution, and all of the provisions of the Code and its Regulations that are applicable to agents and general agents will be applicable to such.
- (d) A savings and loans cooperative that seeks to sell, solicit, offer or market insurance products or annuities, issued by authorized cooperative insurers, will only be issued licenses for agents and the provisions of the Code and its Regulations that are applicable to agents will be applicable to such.
- (e) The directors or any other person that on behalf of the subsidiary corporation is engaged in the sale, solicitation, offer or marketing of insurance products or annuities shall hold a license issued by the Commissioner, under the provisions of the Code and this Rule.
- (f) The Commissioner will only authorize employees of the depository institutions to act under the license of their subsidiary corporations if such employees of the depository institution qualify as customer service representatives, as this term is defined in paragraph (m) of Section 2 of this Rule.

SUBSECTION 2 - FINES, SUSPENSION AND REVOCATION OF LICENSES

The Commissioner may, under Sections 9.460, 9.470, and 9.480 of the Code, fine, suspend or revoke the license of an agent or general agent of any subsidiary corporation that allows its directors, officers, employees or any other person who does not hold a license issued under the provisions of the Code and this Rule, to sell, solicit, offer or market insurance products or annuities, from its place of business or from the premises of the depository institution or of any of its branches.

It shall be deemed that the sale, solicitation, offer or marketing of insurance products or annuities has been effected on behalf of a subsidiary corporation when:

- (1) A person who does not hold a license issued according to the Code and this Rule, effects the sale, solicitation, offer or marketing of insurance products and makes representations to a consumer that leads the consumer to believe that his or her acts are performed by or on behalf of the subsidiary corporation .
- (2) A person refers the consumer to a director or any other person authorized by the Commissioner to act on behalf of the subsidiary corporation.
- (3) The subsidiary corporation or the affiliate depository institution are identified or referred to in the documents of the sale, solicitation, offer or marketing of such products.

SECTION 5 - SEPARATION OF AREAS AND PERSONNEL

SUBSECTION 1 - SEPARATION AND IDENTIFICATION OF AREAS

The subsidiary corporation may sell, solicit, offer or market insurance products or annuities at the premises of the depository institution or of its affiliates, provided that it does so in an area that is physically separate from the area in which the deposit transactions are carried out, and is clearly distinguishable from the area in which credit is processed. The areas designated for the sale, solicitation, offer or marketing of insurance products or annuities shall be accessible and clearly identified.

The subsidiary corporation shall display signage inside the depository institution or its affiliates in the area designated for insurance activities, notifying the public regarding the availability of the insurance products or annuities offered there. These signs will identify the area designated for transacting insurance business and will display the name of the subsidiary corporation in a prominent,

simple, direct, and easily understandable manner, as it appears on its license, according to the provisions of Section 9.351 of the Code.

SUBSECTION 2 - SEPARATION OF PERSONNEL AND DUAL EMPLOYEES

The sale, solicitation, offer or marketing of insurance products or annuities may only be carried out by the directors or by any other person authorized by the Commissioner to act on behalf of the subsidiary corporation under the corporate license issued to the subsidiary.

However, the directors or any other person authorized by the Commissioner to act on behalf of the subsidiary corporation and who are also consumer service representatives of the affiliate depository institution, and who participate in the application process, solicitation or closing of a credit transaction, may not solicit or sell insurance products related to said transaction. Such dual employees may refer consumers in such transactions to any other director or person authorized by the Commissioner to act on behalf of the subsidiary corporation and who has not participated in the application process, solicitation or closing of such credit transaction, according to the provisions of Section 8 of this Rule. Dual employees may make such referrals only when the credit transaction has been approved, except in the case of a credit transaction that requires insurance in order to be approved.

Dual employees may not sell, solicit, offer or market insurance products or annuities using the desks that are designated for processing credit transactions.

SECTION 6 – BUSINESS DOCUMENTS, FILES, RECORDS, AND BOOKS

SUBSECTION 1- DOCUMENTS

The subsidiary corporation will use separate documents for the sale, solicitation, offer or marketing of insurance products or annuities, and will keep such in the principal place of business.

Separate documents will not be required when, the subsidiary corporation sells, solicits, offers or

market credit or flood insurance simultaneously with or related to an extension of credit by the depository institution or its affiliates

In the sale, solicitation, offer or marketing of credit insurance, the subsidiary corporation shall also be obligated to comply with the provisions of Chapter 18 of the Code.

SUBSECTION 2 - CLIENT FILES

Subsidiary corporations shall keep individual files on the sale, solicitation, offer or marketing of insurance products or annuities, and will keep such at its principal place of business. If any file of such a nature is kept on the premises of the depository institution or its affiliates, such files must be kept separate from any file related to extension of credit.

The individual files should contain information for the last five (5) years, as provided in Rule 12 of the Regulations of the Insurance Code.

SUBSECTION 3 – BUSINESS RECORDS AND BOOKS

The subsidiary corporation will also keep records, account books, and files, including all documents and communications related to consumer complaints, and any other document related to any insurance transaction, separate from the records, account books, files or documents of the depository institution on whose premises it operates.

These records, account books and files shall contain information for the past five (5) years, as provided in Rule 12 of the Insurance Regulations.

SUBSECTION 4 - INSPECTION OF BUSINESS RECORDS AND BOOKS BY THE COMMISSIONER

The Commissioner will have the power under the provisions of Section 13 of this Rule and Section 2.030(3) of the Code, to investigate and inspect any depository institution or its affiliates, and the

subsidiary corporation thereof, under the terms established herein. The depository institution, its authorized affiliates or the subsidiary corporation that is engaged in the sale, solicitation, offer or marketing of insurance products or annuities on the premises of the depository institution shall ensure that the files, records and books of the insurance business are accessible and available for review and inspection by the Commissioner or the Commissioner's authorized representative, as provided in Section 2.160 of the Code. The depository institution, its affiliates and the subsidiary corporation have the obligation to comply with the provisions of the Rule 1A of the Regulations of the Insurance Code.

SECTION 7 - WARNINGS AND DISCLOSURES

SUBSECTION 1 - REQUIRED DISCLOSURES

Because of its affiliation with a depository institution, when a subsidiary corporation sells, solicits, offers or markets insurance products or annuities to a consumer, or when such sale, solicitation, offer or marketing of insurance products is related to credit extended by such depository institution, the institution has the obligation to disclose the following:

- (1) The following must be disclosed before the insurance transaction is completed:
 - (a) The insurance product does not constitute a deposit or any other obligation of the depository institution, nor is it guaranteed by the institution.
 - (b) The insurance product is not insured by the Federal Deposit Insurance Corporation (FDIC), or any other federal agency.
 - (c) With regard to savings and loans associations, the insurance product is not insured by COSSEC.
 - (d) When applicable, the insurance product involves an investment risk, including the possibility of a decrease in its value and the loss of principal.

(2) The following must be disclosed when credit is being extended:

- (a) The depository institution will not condition the approval of the extension of credit on the purchase by the consumer of insurance products or annuities offered by the subsidiary corporation.
- (b) The depository institution will not condition the approval of the extension of credit on any agreement by the consumer to refrain from obtaining insurance products or annuities from entities that are not affiliated to the depository institution.
- (c) The depository institution will not reject the insurance submitted by the consumer related to the extension of credit, if such insurance complies with the requirements or standards of the depository institution with regard to coverage, financial solidity, and the services provided by the insurer.

(3) In the sale, solicitation, offer or marketing of credit insurance, the subsidiary corporation shall also provide the disclosures required in Section 18.080(1) of the Code.

SUBSECTION 2 - REQUIREMENTS REGARDING THE FORM OF DISCLOSURE

Subsidiary corporations will provide the disclosures required under the above Subsection 1, orally and in writing. These will be made in a prominent, simple, direct, and easily understandable form, designed to attract the attention of consumers regarding their nature and meaning. Disclosures related to insurance transactions must be provided before such transactions are completed. Those that are related to extension of credit transactions shall be provided at the time the consumer applies for such credit.

SUBSECTION 3 - ADDITIONAL REQUIREMENTS REGARDING THE FORM OF DISCLOSURE

Notwithstanding the provisions of the above Subsection 2, the following standards regarding disclosure will be applicable in the following cases:

- (1) When the sale of the insurance products or annuities is transacted by mail, simultaneously or as part of a credit application, the subsidiary corporation will not need to orally provide the disclosures required in Subsection 1.
- (2) When the sale of insurance products or annuities is done by telephone, simultaneously or as part of a credit application, the subsidiary corporation will orally provide the written disclosures required in Subsection 1(1). However, these disclosures must be provided in writing within the next three (3) business days, to be counted from the first business day following the sale; except when the extension of credit were denied or if after being approved, it were rescinded within such term. These disclosures shall comply with the requirements established in the above Subsection 2.
- (3) When the sale of insurance products or annuities, or the acceptance of an application for credit is carried out electronically (subject to the provisions of the "Electronic Signatures and National Commerce Act," 12 U.S.C. 7001 [c]), simultaneously or as part of a credit application, the subsidiary corporation may provide the written disclosures electronically, provided that the consumer consents to such being provided electronically, and provided that they are communicated in a format allowing for a printed copy to be obtained subsequently.
- (4) In the case of the sale of credit insurance, the subsidiary corporation shall also comply with the provisions of Section 18.080(2) of the Code regarding the manner in which the disclosures required in paragraph (1) of said Section are made.

SUBSECTION 4 - SHORT FORM WARNINGS OR DISCLOSURES

Warnings and disclosures required by this Rule may be provided in short form, if they comply with the requirements with regard to form set forth in this Section. Examples of warnings and disclosures provided in short form are:

- **THIS IS NOT A DEPOSIT**
- **THIS IS NOT INSURED BY THE FDIC**
- **THIS IS NOT INSURED BY ANY AGENCY OF THE FEDERAL GOVERNMENT**
- **THIS IS NOT GUARANTEED BY THE BANK**
- **THIS MAY DECREASE IN VALUE**

In the case of the subsidiary corporation of savings and loan cooperative, the warnings and disclosures shall include the following disclosure:

- **THIS IS NOT GUARANTEED BY COSSEC.**

SUBSECTION 5 - CONFIRMATION OF THE RECEIPT OF THE WARNING OR DISCLOSURE.

When the subsidiary corporation of the depository institution sells, offers, solicits or markets insurance products or annuities, as authorized under this Rule, it shall obtain a written confirmation from the consumer certifying that the consumer received the warnings and disclosures required in the form described above at the time the initial purchase of the insurance product or annuity.

If the sale, offer, solicitation or marketing was transacted by telephone, the subsidiary corporation shall:

- (a) Obtain an oral confirmation of the receipt of the warning or disclosure;
- (b) Maintain sufficient documentation in the case file to show that the oral confirmation was given by the Consumer; and
- (c) Make reasonable efforts to obtain written confirmation from the consumer.

Subsidiary corporations may provide the warnings or disclosures required herein, as well as the corresponding confirmation, by electronic media, provided that the consumer consents to receiving such warnings or disclosures electronically and provided that they are in a format that the consumer can retain or obtain in printed form.

SECTION 8 - REFERRAL OF CONSUMERS

SUBSECTION 1-- GENERAL PROVISIONS

Any person, depository institution or affiliate of a depository institution may refer a consumer who expresses an interest in obtaining or having information about available insurance products or annuities to an agent or general agent of an insurer holding a license issued by the Office of the Commissioner of Insurance.

Any person, depository institution or affiliate of a depository institution may receive commissions or compensation, except as provided in this Section, as defined in this Rule, only if the institution or its affiliate holds an agent's license issued under the Code.

SUBSECTION 2 - REFERRALS BY UNLICENSED PERSONS

Any natural person who does not hold a license issued according to the provisions of the Code and who is an employee of the depository institution or its affiliates may refer a consumer who expresses an interest in obtaining or receiving information on the available insurance products or annuities, an insurance agent who is duly authorized by the Commissioner for such purpose. A natural person may not discuss the specific terms and conditions of such products with the consumer who requests information.

SUBSECTION 3 - INFORMATION THAT MAY BE PROVIDED

When making the referral, a natural person may only provide the consumer the following information:

- (1) The space designated for the sale of insurance products or annuities;
- (2) The name of the director or of any other person authorized by the Commissioner to sell, solicit, offer or market insurance products or annuities on behalf of the subsidiary corporation; and
- (3) The person's name.

Any additional orientation shall be provided persons authorized by the Commissioner to sell, solicit, offer or market insurance products or annuities, and exclusively within the areas provided for that purpose in the premises of the depository institution or its affiliates.

SUBSECTION 4 - COMPENSATION

Subject to the provisions of Chapters 9 and 27 of the Code, a natural person who does not hold a license in conformance with the Code and who is an employee of the depository institution or its affiliates may receive compensation for the referral of consumers to the subsidiary corporation, its directors or any other person authorized by the Commissioner to act on behalf of the institution, only if the compensation for the referral consists of a single nominal charge that does not exceed a fixed amount of dollars for each referral. Compensation for referrals will not depend on whether or not the consumer purchases or obtains an insurance product or annuity from the subsidiary corporation, its directors or any other person authorized by the Commissioner to act on behalf of the institution. Furthermore, any natural person who does not possess a license in conformance with the Code and who is an employee of the depository institution or its affiliates and is authorized to accept deposits from the public in the areas where such transactions take place on a regular basis may receive a single nominal charge for each consumer referral, regardless of whether it is a consumer or potential consumer, the amount of which will not exceed a fixed amount in dollars for each referral. The payment of such nominal charge will not depend on the result of the insurance transaction.

Natural persons who hold a license issued in conformance with the Code, or legal persons, depository institutions or affiliates thereof, may not receive compensation for referring consumers who are interested in obtaining or receiving information about available insurance products or annuities to the subsidiary corporation, its directors or any other person authorized by the Commissioner to act on behalf of the institution.

Compensation for each referral will not exceed the amount of TEN DOLLARS (\$10.00).

SECTION 9 - ADVERTISING

All advertising must comply with the requirements of the form of the warnings and disclosures established in Section 7 of this Rule and the provisions of the Ruling Letter N-CA-08-117-2000 dated August 2, 2000.

No provision of this Rule shall be interpreted as a release from the obligation to comply with the provisions of the Code that regulate the content and format of advertising to be used in the sale, solicitation, offer and marketing of insurance products or annuities to consumers.

SECTION 10 - PROHIBITED PRACTICES

SUBSECTION 1 – PAYMENT, RECEIPT, AND DIVISION OF COMMISSIONS

- (a) No person will pay, receive or share commissions or compensation for the sale of insurance, or related to such, to any subsidiary corporation that does not hold a license issued by the Commissioner in conformance with the provisions of the Code.
- (b) Unless duly authorized by the Commissioner for the sale, solicitation, offer or marketing of insurance products or annuities, no person may solicit or receive commissions or compensation for the sale of insurance, or for any activity related to such.

SUBSECTION 2 - CONDITIONS ON THE EXTENSION OF CREDIT

- (a) No depository institution or its affiliates may require a consumer, as a condition for the extension of credit to obtain insurance products through its subsidiary corporation.
- (b) No depository institution or its affiliates may deny a consumer an extension of credit because the consumer obtains an insurance product from persons who are unrelated to the subsidiary corporation.
- (c) No depository institution or its affiliates may delay the extension of credit because the required insurance product was not issued or sold by the subsidiary corporation.

- (d) No depository institution or its affiliates may condition the extension of credit on having the required insurance be issued or sold by the subsidiary corporation.
- (e) No depository institution or its affiliates may incur in any act or omission the purpose of which or effect thereof is to make it difficult for a consumer to obtain insurance through persons who are unrelated to the subsidiary corporation.
- (f) No depository institution or its affiliates may condition the extension of credit to the consumer obtaining credit insurance, or if such insurance were obtained, that it be provided by the subsidiary corporation.

SUBSECTION 3 - CHARGES AND DISCOUNTS

- (a) No depository institution or its affiliates may require any person or the insurer, agent or general agent of the institution, to pay a separate charge which would not be required if the insurance product were obtained through the subsidiary corporation .
- (b) No depository institution or its affiliates may include in the extension of credit transaction the cost of any insurance obtained through the subsidiary corporation, without the consent of the consumer. This provision will not be applicable to credit or flood insurance.
- (c) No depository institution or its affiliates may grant any reduction, discount or incentive related to bank products, accounts or interest to be earned on such, as an incentive for the consumer to obtain an insurance product or annuity through the subsidiary corporation.
- (d) No depository institution or its affiliates may grant any reduction, discount or incentive related to bank products, accounts or interest to be earned on such, as an

incentive for the consumer to cancel any policy that is currently in effect and substitute such policy with an insurance product or annuity obtained through the subsidiary corporation

- (e) Any transfer of business, that is to say, a replacement of a policy, will be subject to the applicable provisions of Section 9.400 of the Code and Rule 42 of the Insurance Regulations.
- (f) No subsidiary corporation may grant or obtain reductions or discounts, or share commissions related the insurance products or annuities in the sale of insurance products or annuities, except as provided in Section 9.390(2) of the Code, with regard to the exchange of business and sharing of commissions.

SUBSECTION 4 – DISCRIMINATION DUE TO DOMESTIC VIOLENCE

No subsidiary corporation or its authorized affiliates may use a consumer's or an insured's status as a victim of domestic violence to discriminate in the sale, solicitation, offer or marketing of life or health insurance products regarding underwriting, the cost of the insurance products, renewal, and the determination of the scope of coverage, or with regard to payment of claims covered by such products, except as required or permitted by law.

For the purposes of this section it shall be deemed that a consumer or insured is a victim of domestic violence when a relative, household member, intimate companion or guardian incurs in any of the following acts:

- (1) Attempting to inflict or inflicting or threatening to inflict on the victim physical or severe emotional damage, or psychological trauma, or incurring in rape or sexual assault.
- (2) The person is involved in a behavior pattern or repeatedly commits acts against the victim, including the following the person without proper authorization, under circumstances that

create in the victim a well-grounded fear that the victim will suffer bodily trauma or harm.

- (3) Restricting the freedom of the victim ("False imprisonment").
- (4) Attempting to inflict or in effect inflicting damage on the property of the victim for the purpose of intimidating the victim or controlling the victim's behavior.

SUBSECTION 5 - MISREPRESENTATIONS

No subsidiary corporation or its affiliates may make misrepresentations in its advertising or promotional materials that could confuse the consumer or lead the consumer to conclude erroneously that:

- (a) The product being sold by the subsidiary corporation is protected by the good faith and credit of the federal government, and that it is insured by the Federal Deposit Insurance Corporation;
- (b) In the case of savings and loans cooperatives, that the product being sold is insured by COSSEC;
- (c) With regard to insurance products or annuities involving investment risk, the product does not entail such risk, nor a possible risk of loss of value nor loss of principal;
- (d) In the case of a depository institution or its affiliates, the extension of credit will be subject to the purchase by the consumer of an insurance product from a subsidiary corporation, and that the consumer is not free to acquire the consumer's own insurance products from any other entity.

SECTION 11- COMPLAINTS AND REQUESTS FOR INVESTIGATION

Any consumer who has reasons to conclude that a depository institution, its affiliates, or the subsidiary corporation acts or has acted in violation of the standards established in this Rule, may request that the Commissioner investigate the situation and will have at the consumer's disposal all actions and remedies provided by the Code, the Regulations, and any standard established by the Commissioner.

SECTION 12 – UNFAIR PRACTICES AND FRAUD

Nothing provided in this Rule shall be interpreted to exclude other provisions of Chapter 27 that regulate commercial acts or practices in the insurance business which constitute unfair methods of competition, or fraudulent acts or practices.

SECTION 13 - POWERS OF THE COMMISSIONER

- (a) The Commissioner will have the power and authority, as provided in Section 2.030 of the Code, to examine and investigate all activities related to the insurance business of depository institutions, their affiliates and their respective subsidiary corporations that are subject to the provisions of this Rule and the Code, in order to determine whether such entities have engaged in any practice that is prohibited under this Rule or any unfair practice, as provided in Section 27.131 of the Code.
- (b) The Commissioner will notify, if the Commissioner should deem it necessary, federal banking agencies, the Office of the Commissioner of Financial Institutions of Puerto Rico and COSSEC, as the case may be, of the Commissioner's intention to examine or investigate any depository institution, its affiliates and/or subsidiary corporations.

SECTION 14 - SUPPORT AND TRANSITION COMMITTEE**SUBSECTION 1 - COMPOSITION AND PURPOSE**

The Commissioner will appoint a Support and Transition Committee comprised of representatives of consumers, the different sectors of domestic agents and general agents, insurers, depository institutions, Commissioner of Financial Institutions and COSSEC. The purpose of this Committee will be to submit reports to the Commissioner regarding the progress of the implementation of this Rule.

SUBSECTION 2 – EFFECTIVE TERM

The Committee will be in effect for a term of two (2) years, to be counted from the date of its constitution. The Commissioner will have the option, as the Commissioner may deem necessary, of extending the term for one additional (1) year.

SUBSECTION 3 - RESPONSIBILITY

The Committee will be responsible for periodically providing the Commissioner with the following information:

- (a) reports related to the administration of the implementation of the legal and regulatory measures related to this Rule;
- (b) observations regarding the practices and methods being used by the entities that are subject to the provisions of this Rule related to the sale, solicitation, offer and marketing of insurance products or annuities;
- (c) any other information that the Commissioner may deem relevant and necessary for the performance of the duties of the Commissioner's position as regulator of the insurance industry in Puerto Rico.

SECTION 15 - SEVERABILITY

If any word, sentence, paragraph, subsection, section or part of this Rule were found to be null or invalid by a court of competent jurisdiction, the order entered by such court will not affect or invalidate the remaining provisions of this Rule and the effect of the order will be limited to said word, sentence, paragraph, subsection, section or part that was found to be invalid.

SECTION 16 – EFFECTIVE DATE

The provisions of this Rule will enter into effect thirty (30) days after the Commissioner publishes a notice in a newspaper of general circulation in Puerto Rico, once a week, for two (2) consecutive weeks, stating that this Rule has been approved.

(Signed)

JUAN A. FLORES-GALARZA
SECRETARY OF THE TREASURY

(Signed)

FERMIN CONTRERAS-GOMEZ
COMMISSIONER OF INSURANCE

Date of approval: September 21, 2001

Date of Filing
with the Department of State: October 25, 2001

Date of Filing
with the Library of the Legislature: October 25, 2001