

Government of Puerto Rico
OFFICE OF THE COMMISSIONER OF INSURANCE

Guaynabo, Puerto Rico

RULE No. 80

**STANDARDS FOR THE REGULATION OF THE OPERATIONS OF
INTERNATIONAL INSURERS AND REINSURERS**

SECTION 1. -LEGAL BASIS

The Commissioner of Insurance of Puerto Rico hereby repeals Rule 80 of the Regulations of the Puerto Rico Insurance Code currently in effect and adopts a new Rule 80, "Standards for the Regulation of the Operations of International Insurers and Reinsurers", in accordance with the provisions of Section 2.030 and of Chapter 61 of Public Law No. 77, enacted on June 19, 1957, as amended, known as the Puerto Rico Insurance Code (the "Code"), as well as Public Law. 170, enacted on August 12, 1988, as amended, known as the Uniform Administrative Procedures Act of Puerto Rico.

SECTION 2. - PURPOSE AND SCOPE

This Rule is adopted for the purpose of establishing the standards for regulating the establishment, authorization, operation, and supervision of international insurers.

This Rule will be applicable to all insurers and reinsurers seeking to establish and receive authorization to transact insurance policies through the Puerto Rico International Insurance Center, under the provisions of Chapter 61 of the Code.

SECTION 3. - DEFINITIONS

All of the terms defined in Chapter 61 of the Code and in Rules 81 and 82 of the Regulations of the Code, shall have the same meaning in this Rule.

SECTION 4. -INTERNATIONAL INSURER HOLDING COMPANIES

The provisions regarding international insurer holding companies are set forth in Rule 82 of the Regulations of the Code, which were approved jointly by the Office of the Commissioner of Insurance of Puerto Rico and the Department of the Treasury of the Commonwealth of Puerto Rico.

SECTION 5. - REQUIREMENTS FOR AUTHORIZATION OF INTERNATIONAL INSURERS

Insurers and reinsurers that qualify as international insurers and that are seeking to transact insurance policies through the Puerto Rico International Insurance Center will comply with the authorization requirements for international insurers as provided in Section 61.050 of the Code.

SECTION 6. - BASIS FOR REFUSING TO RENEW OR FOR REVOKING OR SUSPENDING A CERTIFICATE OF AUTHORITY

The Commissioner of Insurance (the "Commissioner") may refuse to renew or may revoke or suspend any certificate of authority issued to an international insurer under the provisions of Chapter 61 of the Code.

SECTION 7. -COMMERCIAL NAME

The Commissioner reserves the right to determine whether the name of an international insurer is appropriate. International insurers will comply with the following:

1. The denomination "International Insurer" or "II" should appear as part of the official name of the international insurer and must be used at all times as part of the official name or commercial name, if permitted, on all policies, applications, and other documents, as well as in all publications and presentations.
2. As part of any policy, binder, certificate or any other proof of insurance transacted by an international insurer or any person acting on behalf of the insurer, the following notice should appear in a prominent place, in bold type, on the first page of any such documents:

**[NAME OF THE INTERNATIONAL INSURER],
ORGANIZED UNDER CHAPTER 61 OF THE PUERTO
RICO INSURANCE CODE. NO COVERAGE ISSUED BY
THIS INSURER IS PROTECTED BY ANY GUARANTEE
OR INSOLVENCY FUND IN PUERTO RICO.**

**SECTION 8. -MINIMUM CAPITAL AND SURPLUS:-LETTERS OF CREDIT -
ASSETS IN PUERTO RICO.**

Under Chapter 61 of the Code, the Commissioner may accept letters of credit for any purpose as a permissible asset, as provided below:

1. The letter of letter of credit should be open, irrevocable, unconditional, and issued or confirmed by a qualified financial institution of the United States of America, as provided in Section 6.020(9) of the Code. The letter of credit should include the date of issue and date of expiration and should stipulate that the beneficiary only needs to present a sight draft under the letter of credit in order to obtain the funds and that no other document need be presented. The letter of credit should also indicate that it is not subject to any other condition or qualification other than those stipulated in the letter. Furthermore, the letter of credit itself will not contain any reference to any other agreement, document or entity except as set forth in this subsection.
2. The heading of the letter of credit may include a boxed section showing the name of the applicant and other appropriate information related to the letter of credit. The boxed section should clearly indicate that the information is only intended for internal identification.
3. The term of the letter of credit should be for at least one (1) year and should include an expiration clause, known as an evergreen clause, that prevents the letter of credit from expiring without due notification by the issuer. The evergreen clause should establish a period of at least thirty (30) days for the written notice, including notification to the Commissioner, before the expiration or non-renewal date.
4. The letter of credit should establish whether it is subject to the laws of Puerto Rico or the Uniform Custom and Practice for Documentary Credits of the International Chamber of Commerce (Publication 500), or any other subsequent publication governed by that publication, and that any draft against the letter of credit shall be presented in Puerto Rico at a USA-qualified financial institution.

5. If the letter of credit is subject to the Uniform Custom and Practice for Documentary Credits of the International Chamber of Commerce (Publication 500), or any subsequent publication, the letter should specify and explicitly set forth an extension of time for submitting a draft against the letter of credit in the occurrence of one (1) or more of the events specified in Section 17 of Publication 500 or any other subsequent publication.
6. In any case, the international insurer should maintain in Puerto Rico at least the following, at all times:
 - i. An amount equal to the capital and surplus required in subsection 1 of Section 61.080 of the Code; or
 - ii. Five million dollars (\$5,000,000).

SECTION 9. - PREMIUM RATIO; LIQUIDITY RATIO

1. The value of the assets established in the international insurer's financial statement which has been reconciled according to Statutory Accounting Principles (SAP) set forth in this Rule, at all times shall exceed the value of the liabilities in the amounts set forth below:

- a. For international insurers with Class 1 Authority, the larger of the following amounts:
 - i. Five hundred thousand dollars (\$500,000), or
 - ii. Twenty percent (20%) of the net premiums written in the current accounting year.
- b. For international insurers with Class 2 Authority, the largest of the following amounts:
 - i. Seven hundred fifty thousand dollars (\$750,000), or
 - ii. Twenty percent (20%) of the net premiums written in the current accounting year, or
 - iii. The sum of the amount established in above paragraph (ii) plus thirty-three percent (33%) of the net premiums of insurance written for non-affiliated insureds.

- c. For international insurers with Class 3 Authority, the larger of the following amounts:
 - i. One million five hundred thousand dollars (\$1,500,000), or
 - ii. Thirty-three percent (33%) of the net premiums written in the current accounting year.
- d. For international insurers with Class 4 Authority, the larger of the following amounts:
 - i. One hundred million dollars (\$100,000,000), or
 - ii. Fifty percent (50%) of the net premiums written in the current accounting year.
- e. For international insurers with Class 5 Authority, the larger of the following amounts:
 - i. Seven hundred fifty thousand dollars (\$750,000), or
 - ii. Twenty-five percent (25%) of the net premiums written in the current accounting year.

2. International insurers should maintain a Minimum Liquidity Ratio under Section 61.090 of the Code, subject to the following:

- a. All international insurers should maintain liquid assets with a value of no less than eighty percent (80%) of the total amount of their liabilities.
- b. For the purposes of this section, the term "liquid assets" includes (i) fixed-term cash deposits; (ii) classified investments, such as bonds and non-mortgage obligations, common and preferred stock, and other classified investments; (iii) bonds and unclassified notes, valued according to the value reported on audited financial statements; (iv) real estate first mortgage investments; (v) payable and accrued investment income; (vi) accounts and premiums receivable for no more than ninety (90) days; (vii) reinsurance receivable balance; and (viii) funds retained by ceding reinsurers, for no more than one hundred and sixty (160) days.

- c. For the purposes of this section, investments in preferred or common stock of an affiliate are not considered liquid assets.

SECTION 10. - ANNUAL REPORT

All international insurers must prepare and file an annual report with the Commissioner, in accordance with Section 61.100 of the Code. This report is subject to the following requirements:

1. The international insurer will prepare an annual report on the financial situation of the insurer and transactions of the insurer up to the closing of the previous fiscal year.
2. The annual report should be prepared using Generally Accepted Accounting Principles (GAAP), provided that the notes of the report include a reconciliation of the difference between net profit and capital, and surplus as stated in the annual report which is prepared using the Statutory Accounting Principles (SAP) established herein. The notes of the annual report of the international insurer containing the reconciliation required in this paragraph shall be presented in the form established by the Commissioner.
3. The assets listed below are considered non-admitted assets for the purposes of determining the financial situation of an international insurer:
 - a. Accounts and premiums receivable for over one hundred and eighty (180) days;
 - b. Deferred acquisition costs;
 - c. Goodwill;
 - d. Movable property and fixtures that are not used at the main offices of the international insurer in Puerto Rico;
 - e. Computer software other than operating systems, provided, however, that the Commissioner may accept as an admitted asset an investment in software or part of certain software in a Ruling Letter issued at the request of the international insurer.
4. Surplus certificates or any other similar instrument issued to the owner of an international insurer that comply with applicable requirements of Sections 29.300 and 29.310 of the Code will not be considered liabilities of the

international insurer for the purposes of determining the insurer's financial situation.

SECTION 11. - INVESTMENTS

International insurers should submit their Investment Plans for approval by the Commissioner. The Plans will comply with the provisions on investments in Section 61.110 of the Code, as well as the following:

1. Capital and minimum surplus of the international insurer in accordance with Section 61.080 of the Code will be maintained in cash, cash equivalents or irrevocable letters of credit issued by an authorized bank in the Commonwealth of Puerto Rico or by a bank that belongs to the Federal Reserve System and has been approved by the Commissioner.
2. Under subsection 1 of this Section, an international insurer with Class 1 Authority will not be subject to restrictions on allowable investments, although it is provided that the Commissioner may prohibit, limit or require divestment of any investment that threatens the solvency or liquidity of an international insurer.
3. Subject to the provisions of subsection 1 of this Section, an international insurer with Class 2, Class 3, Class 4 or Class 5 should submit, along with the application for a certificate of authority, the Investment Plan the insurer proposes to implement, or otherwise comply with the investment requirements in Chapter 6 of the Code, except Sections 6.050(6) and (7), 6.070, and 6.110(4) of the Chapter. Notwithstanding the provisions of Chapter 61 of the Code, the Commissioner may approve the use of reliable alternative methods of evaluation and assessment.
4. The letters of credit may be retained by the international insurer and may be included as admitted investments, subject to approval by the Commissioner, provided they comply with the requirements set forth in Section 8 of this Rule.
5. The Commissioner may allow an international insurer to include as a permitted investment any other non-admitted asset, as set forth herein.

SECTION 12. - INTERMEDIARIES

No producer license will be required for individuals acting as intermediaries for the exercise of such functions, whether with regard to Puerto Rico risk or any other risk related to reinsurance assumed or ceded by an international insurer. The provisions of Section 10.120 of the Code will be applicable to any person transacting surplus lines business through an international insurer.

SECTION 13. - CONTRIBUTIONS AND FEES

All international insurers will pay, on or before the date of the initial authorization and on each renewal date of the authorization, an annual contribution according to the volume of written or assumed premiums, as set forth below:

1. Five thousand dollars (\$5,000): for an amount no greater than twenty-five million dollars (\$25,000,000);
2. Ten thousand dollars (\$10,000): for an amount greater than twenty-five million dollars (\$25,000,000) but less than fifty million dollars (\$50,000,000);
3. Twenty thousand dollars (\$20,000): for an amount greater than fifty million dollars (\$50,000,000) but less than seventy-five million dollars (\$75,000,000);
4. Thirty-five thousand dollars (\$35,000): for an amount greater than seventy-five million dollars (\$75,000,000) but less than one hundred million dollars (\$100,000,000).
5. Fifty thousand dollars (\$50,000): for an amount greater than one hundred million dollars (\$100,000,000) but less than one hundred fifty million dollars (\$150,000,000).
6. Sixty-five thousand dollars (\$65,000): for an amount greater than one hundred fifty million dollars (\$150,000,000) but less than two hundred fifty million dollars (\$250,000,000), and
7. Seventy-five thousand dollars (\$75,000): for an amount greater than two hundred fifty million dollars (\$250,000,000).

SECTION 14. - PRIVACY OF INFORMATION

Except as provided in Section 61.250 of the Code, the Office of the Commissioner of Insurance will maintain the confidentiality of all information that is obtained from an international insurer in an investigation or report and will not reveal the information to any person or authority whatsoever.

The Office of the Commissioner of Insurance may publish statistical data, provided the information is published in a consolidated or aggregate form, or if it is information that the Commissioner deems should be made public.

SECTION 15. - POWERS OF THE COMMISSIONER

The Commissioner will have the authority as provided in Sections 2.030 and 61.260 of the Code to examine and investigate any person to whom this Rule is applicable, for the purpose of verifying compliance with the applicable provisions of the Rule and the Code.

SECTION 16. - USE OF THE SPANISH OR ENGLISH LANGUAGE

All files, reports, and any other material submitted to the Commissioner by an international insurer, or on behalf of an international insurer, will be submitted in Spanish or in English. Any filing in another language should be accompanied by a certified translation into Spanish or English of the original text in the foreign language.

SECTION 17. - APPLICABILITY OF OTHER RULES AND REGULATIONS

In addition to the provisions of this Rule and Rules 81 and 82 of the Regulations of the Code, international insurers will also be subject to the provisions of Rules 1, 1-A, 2, 12, 19, 20, as well as any other Rules that from time to time may be approved by the Commissioner and are deemed to be applicable to international insurers.

Except as explicitly stated otherwise in this Rule, all other provisions of the Regulations of the Code of Insurance are not applicable to international insurers.

SECTION 18. - SEVERABILITY

In any word, sentence, paragraph, subsection, section, or part of this Rule were found to be null and void by a Court of competent jurisdiction, the order of the Court will not

affect or invalidate the remaining provisions of this Rule and the effect of the order will be limited to the word, sentence, paragraph, subsection, section, or part that has been found to be void.

SECTION 19. - EFFECT

The provisions of this Rule will enter into effect thirty (30) days after filing with the Department of State of Puerto Rico, in accordance with the provisions of Public Law No. 170, *supra*.

RAMÓN L. CRUZ COLÓN
COMMISSIONER of INSURANCE

Date of approval:

Date of Filing with
the Department of State:

Date of Filing at
the Legislative Library: