

Commonwealth of Puerto Rico
OFFICE OF THE COMMISSIONER OF INSURANCE
Guaynabo, Puerto Rico

RULE NO. 80 OF THE REGULATIONS OF THE
PUERTO RICO INSURANCE CODE

STANDARDS FOR THE REGULATION OF THE OPERATIONS OF
INTERNATIONAL INSURERS AND REINSURER

OFFICE OF THE COMMISSIONER OF INSURANCE
Guaynabo, Puerto Rico

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INTERNATIONAL INSURERS AND REINSURERS**

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RULE NO. 80

**STANDARDS FOR THE REGULATION OF THE OPERATIONS OF
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SECTION I. -LEGAL BASIS

The Commissioner of Insurance of Puerto Rico (the Commissioner) hereby repeals Rule No. 80 of the Regulations of the Puerto Rico Insurance Code, Regulation No. 7994 at the Department of State, currently in effect, and adopts a new Rule No. 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 according to the various amendments that have been made to Chapter 61 of the Puerto Rico Insurance Code (the Code).

This Rule shall be applicable to all insurers and reinsurers that seek to establish and receive authorization to transact insurance policies under the provisions Chapter 61 of the Code.

SECTION 3.- STATEMENT OF NEED AND OBJECTIVE

Chapter 61 of the Puerto Rico Insurance Code, the “International Insurers and Reinsurers Act of Puerto Rico”, (“Chapter 61”) established the initial legal basis for developing Puerto Rico as an International Insurance Center for the export of insurance and reinsurance services in international markets. Since the approval of the Act in 2006, the accumulated experience has reaffirmed that Puerto Rico has the ideal legal and regulatory framework, credentials, and tax structure for making our jurisdiction a leader in the international insurance market. Nevertheless, given its particular characteristics, the international insurance industry experiences rapid and continual change in response to a wide range of global factors that requires that insurance commissioners or regulators of the insurance industry to constantly update the legal and regulatory framework accordingly.

Given the need to update the legal framework that is applicable to the operations of the insurance and reinsurance international market in Puerto Rico, Public Law No. 39-2014 included several amendments to Chapter 61 directed at furthering the expansion and growth of the International Insurance Center at the forefront of prevailing trends in this market. Therefore, this Rule No. 80 is adopted for the purpose of updating the standards for regulating the establishment, authorization, and supervision of international insurers and reinsurers, in view of the various amendments that have been incorporated into Chapter 61. The Commissioner of Insurance may authorize international insurers to transact insurance, reinsurance, or related services business, subject to compliance with the requirements set forth in this Rule and Chapter 61, with Class 1, Class 2, Class 3, Class 4, Class 5, or Class 6 authorization, or combination of such classes, to operate through the International Insurance Center. The regulatory framework will provide adequate protection for policyholders, the public interest and responds to the needs and emerging changes in the insurance international market.

SECTION 4. - DEFINITIONS

All of the terms that are not defined in any particular manner in this Rule shall have the same meaning as stated in the Chapter 61 of the Code, and in Rules 81 and 82 of the Regulations of the Puerto Rico Insurance Code.

SECTION 5. - 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 6. - 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 7. - 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, and for any of the causes established in Section 61.060 of the Code and in the rest of Chapter 61.

SECTION 8. -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 document:

**[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 9. 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 600), 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 600), 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 36 of Publication 600 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 10. - 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. This amount may be reduced by the excess, if any, between the capital and surplus of the previous accounting year plus net premium written during the current account year, over the absolute total exposure with regard to coverage in effect for 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 written premium 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 premium 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 written premium 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 written premium 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. **The ratio of net premium plus written considerations and Capital and Surplus, established in the Operational Plan submitted along with the authorization application or amended and approved by the Commissioner, applied to net premium and considerations 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.
- 3. International Insurers with Class 6 Authority are not subject to provisions of this section.
- 4. Assets and liabilities assigned to segregated asset plans in segregated asset plans approved by the Commissioner for insurers with Class 5 Authority, as

well as the premium assigned to such segregated asset plans , are not subject to the provisions of this section.

SECTION 11. -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 actual financial situation of the insurer and transactions of the insurer up to the closing of the previous fiscal year.
 - a. The annual report may be filed, with the prior approval by the Commissioner, using Statutory Accounting Principles (SAP), as defined in the Accounting Practices and Procedures adopted by the National Association of Insurance Commissioners (NAIC). In that case, the annual report shall be filed using the form that corresponds to the type of operation, according to the annual report instructions published by the NAIC for the accounting year covered in the report.
 - b. The annual report may be prepared using Generally Accepted Accounting Principles for the United States (GAAP-US), 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.

i. The assets listed below are considered non-admitted assets for the purposes of determining the financial situation of an international insurer:

1. Accounts and premium receivable over 180 days;
2. Deferred acquisition costs;
3. Deferred Tax Assets;
4. Goodwill;
5. Movable property and fixtures that are not used at the main offices of the international insurer in Puerto Rico;
6. 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.

c. The annual report may be prepared using International Financial Reporting Standards (IFRS), 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.

i. The assets listed below are considered non-admitted assets for the purposes of determining the financial situation of an international insurer:

1. Accounts and premium receivable over 180 days;
2. Deferred acquisition costs;
3. Deferred Tax Assets;

4. Goodwill;
 5. Internally developed intangibles
 6. Movable property and fixtures that are not used at the main offices of the international insurer in Puerto Rico;
 7. 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.
2. 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 12. - INVESTMENTS

International insurers shall submit their Investment Plans along with the authorization application and maintain the filing current with regard to any change in such plan, which must 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. International insurers shall file along with the authorization application an Investment Plan to be implemented or otherwise comply with the investment requirements of Chapter 6 of the Code, except Sections 6.050(6) and (7), 6.070, and 6.110(4) such Chapter. Notwithstanding the provisions of Chapter 61 of

the Code, the Commissioner may approve the use of reliable alternative evaluation and appraisal methods.

3. The Commissioner may prohibit, limit or require divestment of any investment that threatens the solvency or liquidity of an international insurer.
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 9 of this Rule.
5. The Commissioner may allow an international insurer to include as an admitted investment any other non-admitted asset, as set forth herein.

SECTION 13. - INTERMEDIARIES

No producer or intermediary license will be required for individuals acting as such, with regard to reinsurance that has been assumed or ceded by an international insurer, except for Puerto Rico risk assumed or ceded by an international insurer that is authorized to do so. In such case, the producer or intermediary shall maintain the licenses required in the Insurance Code and the Regulations thereof. The provisions of Section 10.120 of the Code will be applicable to any person transacting surplus lines business through an international insurer.

SECTION 14. - 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): on an amount greater than twenty-five million dollars (\$25,000,000);
2. Ten thousand dollars (\$10,000): on 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): on 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): on 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): on 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): on 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): on an amount greater than two hundred fifty million dollars (\$250,000,000).

SECTION 15. - PRIVACY OF THE INFORMATION GATHERED

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 16. - 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 17. - 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 any other language should be accompanied by a certified translation into Spanish or English of the original text in the foreign language.

SECTION 18. - APPLICABILITY OF OTHER RULES AND REGULATIONS

In addition to the provisions of this Rule and Rules 81, 82, and 100 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 Insurance Code are not applicable to international insurers.

SECTION 19. - SEVERABILITY

If any word, sentence, paragraph, clause, 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, clause, section, or part that has been found to be null and void.

SECTION 20. - EFFECT

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

ÁNGELA WEYNE-ROIG
COMMISSIONER OF INSURANCE

Date of approval:

Date of Filing at the
Department of State of Puerto Rico:

Date of Filing at the
Legislative Library: