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OFFICE OF THE COMMISSIONER OF INSURANCE OF PUERTO RICO
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Approved: Maria Marcano-de León, Esq. Assistant Secretary of State

/s/

Signature

Department of State
Government of Puerto Rico

RULE NO. 103 OF THE REGULATIONS OF THE INSURANCE CODE OF PUERTO RICO

"REQUIREMENTS FOR SUBMITTING AND PROCESSING PARAMETRIC
CATASTROPHIC MICROINSURANCE IN PERSONAL LINES"

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**"REQUIREMENTS FOR SUBMITTING AND PROCESSING PARAMETRIC
CATASTROPHIC MICROINSURANCE IN PERSONAL LINES"**

SECTION 1. - AUTHORITY

The Office of the Commissioner of Insurance of Puerto Rico adopts Rule Number 103, entitled "Requirements for Submitting and Processing Parametric Catastrophic Microinsurance in Personal Lines" pursuant to the authority and powers provided in Section 2.030 of the Puerto Rico Insurance Code, Act No. 77, enacted on June 19, 1957, as amended, and under the provisions of Chapter 15 of the Insurance Code, known as "Microinsurance," as well as the provisions of Act No. 38, enacted on June 30, 2017, as amended, known as the "Uniform Administrative Procedure Act of the Government of Puerto Rico."

SECTION 2.- PURPOSE AND APPLICABILITY

This Rule is adopted for the purpose of establishing the regulatory scheme for microinsurance products that are directed at providing coverage for catastrophic risk in personal lines to foster access for all economic sectors in Puerto Rico to insurance coverage with low-cost premiums. This Rule it is intended to provide a financial protection tool for persons who otherwise could not purchase traditional insurance. The primary purpose of microinsurance is to create an inclusive financial protection system that will encourage the development of private insurance products that are accessible to the low-income population.

The guidelines set forth in this Rule shall be applicable to all filings of forms and rates for parametric microinsurance products to cover catastrophic risk in personal lines with the Office of the Commissioner of Insurance ("OCS"). The guidelines set forth in this Rule are applicable to all insurers, producers, authorized representatives or agents, distributors, administrators, or solicitors of catastrophic risk microinsurance products in personal lines.

SECTION 3. - STATEMENT OF NEED AND OBJECTIVE

The aftermath of Hurricanes Irma and Maria highlighted the lack of adequate financial security for a large part of the population in Puerto Rico, particularly the most vulnerable sectors due to their scarce financial resources. This is why, recognizing the social commitment to protect the vulnerable sectors of our population, Act No. 246-2018 was enacted, to facilitate access of microinsurance products in our market as a financial protection tool aimed to help the population face financial losses caused by catastrophic events. The inclusive nature of catastrophe microinsurance creates in Puerto Rico a new alternative of coverage access against catastrophic risk at an accessible cost based on the following considerations:

- Non-traditional distribution chains, that facilitate the acquisition by consumers of the microinsurance product through a Microinsurance Administrator and/or Microinsurance Solicitor, including and not limited to telecommunication services, commercial entities, cooperatives, and financial institutions.
- Direct catastrophic risk assumed by the insurer for the microinsurance class may be ceded in reinsurance up to one hundred percent (100%).
- Microinsurance is exempt from the special tax on premiums provided in Section 7.022(b) of the Code.
- The inherent design of microinsurance does not entail the imposition of deductibles or coinsurance payment on the consumer.
- In consideration of the parametric design, payment of indemnization under catastrophe microinsurance does not entail a claim adjustment process. This does not impair the provisions of Chapter 27 of the Code of Insurance, as applicable.

As provided in Chapter 15 of the Insurance Code, insurers that seek to write microinsurance in Puerto Rico must file the forms and rates to be used for microinsurance products with the Office of the Commissioner of Insurance ("OCI") for prior approval. Pursuant to Section 7, the Commissioner establishes the guidelines to regulate the rating practices to be used in microinsurance contracts or policies under this Rule, including the guidelines for the rate filing process, to ensure that the rates are not excessive, inappropriate, unfairly unequal, or otherwise defeats the purpose of the microinsurance.

SECTION 4. - DEFINITIONS

For the purposes of this Rule, the terms set forth below shall have the following meanings:

- a. "Microinsurance"- means a low-premium and low-coverage policy in which the indemnity benefit is based on a predetermined fixed amount established in the terms of the policy. For the purposes of this regulation, the word "microinsurance" refers to catastrophic microinsurance.
- b. "Catastrophic Microinsurance"- means the class of parametric microinsurance that offers coverage against financial loss for individuals who are residents of Puerto Rico caused by the the following risks: earthquakes, storms, cyclones, hurricanes, flooding, fire and/or other natural disaster that occurs in a geographic area of Puerto Rico or adjoining it, as predetermined in the terms of the policy. The right to the benefit provided in the policy will be based on a predetermined fixed amount that arises upon the occurrence of the catastrophic *triggering event* as recognized by a competent federal or state agency or entity, as the case may be.
- c. "Parametric Insurance"- is the kind of insurance contract, which unlike traditional insurance, insures the policyholder against the occurrence of an event specified in the contract, by paying a predetermined fixed amount of money based to the magnitude of the triggering event, (the "*trigger level*"), and not based on an adjustment of the actual loss. The insurable interest is verified at the time of executing the contract and consists in the fact that the insured has a reasonable expectation that he will incur an economic loss in the event that the predetermined adverse event, as established in the contract, occurs. The parametric product may provide for an automatic method of payment by the insurer, upon the occurrence of the triggering event, or a method of payment in which the insurer requires the insured to provide notice of the occurrence of the event.
- d. "Magnitude of the catalytic event ("*Trigger level*") - this represents the minimum intensity of a triggering event upon which the insurance begins to pay.
- e. "Verifying Government Agency or Entity"- means for the purposes of this regulation, a federal or state government agency or entity with expertise and competence, that monitors, gathers and publishes technical information on atmospheric, geological, and environmental conditions as a reference to determine the catastrophic nature and/or the parameters of the occurrence of the triggering event, as the case may be. The Simple Policy will expressly

state the government agency or entity that will be used to corroborate the occurrence of the triggering event.

- f. "Application Form" - the document (whether on paper or in digital format) to be completed by the individual that seeks to acquire the catastrophic microinsurance being marketed, on the basis of which the insurer will develop the Simple Policy.
- g. "Simple Policy"- refers to the document used to formalize the catastrophic microinsurance contract, which shall contain simple language and a concise description of the coverage being contracted and the conditions, using a font size of at least 12 point , not to exceed four letter-sized pages.
- h. "Explanatory Guide for the Insured" - means the document provided on paper or in a digital format to the insured at the time of executing a catastrophic microinsurance policy contract, which explains how the product works and the automatic indemnity (compensation) process. If the product does not provide for an automatic compensation, the Guide must include the necessary information for the insured to be informed of the process that should be used to notify the occurrence of the insured event and to receive the compensation. The Guide formulated in simple language and with clear instructions, in which the use of visual guides or flowcharts will prove useful.
- i. "Technical Note"- means the supporting documentation and information through which the OCI receives the analysis on the actuarial elements or factors that form the basis for establishing the rate, including the method used to establish the parameters in the catastrophic microinsurance model. The technical note must include a certification issued by a qualified actuary certifying that the rates and premiums that the insurer will use are reasonable and consistent with the provisions of Chapter 15 of the Code and this Rule.
- j. "Microinsurance Administrator"- means the legal person or entity, for-profit or non-profit, that is duly organized and constituted under the laws of the Government of Puerto Rico, in good standing, appointed or designated by an insurer that is authorized to oversee and inspect the administration of a microinsurance program and the microinsurance policy services of the insurer, and perform other functions that the insurer may assign it under the terms of the contract, as provided in Section 15.042 of the Code.

- k. "Microinsurance Solicitors"- means the natural person who is eighteen (18) years old or older, who is contracted by a microinsurance administrator or a general agent, as an employee or as an independent contractor to offer, sell, and advice consumers about microinsurance, on its behalf, as provided in Section 15.043 of the Code.
- 1. "Georeference Variable"- means the latitude and longitude coordinates used to determine the position or zone of the insured property on the basis of which the parameters for determining the microinsurance coverage are calculated, as applicable.

SECTION 5. -FILING OF FORMS AND RATES

- 5.1 The insurer must submit the rates and forms of the catastrophic microinsurance products with the Commissioner for prior approval for their use in the market. The insurer may use the catastrophic microinsurance product that has been submitted according to this Rule once it has been approved or once the sixty (60) day period from the date of filing has elapsed, unless the Commissioner disapproved its use. It is further provided, that if the information submitted in the filing is insufficient and therefore the Commissioner requests additional information, the period elapsed from the time the Commissioner notifies the request for additional information until it is submitted, will not count in the computation of the sixty (60) day period.
- 5.2 The Commissioner, with prior written notice, advising of the right to request a hearing, may withdraw approval at any time of an approved catastrophic microinsurance product, if the insurer fails to comply with any of the provisions of this Rule or Chapter 15 of the Insurance Code.
- 5.3 All forms and rates for catastrophic microinsurance products will be submitted through the System for Electronic Rate and Form Filing ("SERFF"), under the Type (TOI) number 33 "Other Lines of Business" and the Subtype (SubTOI) NUMBER 33.0001 "Other Personal Lines".
- 5.4 The filing shall include a Cover Letter, stating the name of the insurer that is making the filing under the signature of an authorized person, in compliance with Section 3(a)(1) of the Rule 24 of the Regulations of the Puerto Rico Insurance Code. The Cover Letter will be included

in the "Supporting Documentation" section of SERFF and contain the following information:

- a. A detailed explanation of the purpose of the file, as well as the proposed use of each form.
- b. The names of all of the forms submitted with their respective identification numbers.
- c. If the filing was previously not approved, an explanation shall be provided regarding how the objections stated in the letter of disapproval were addressed.
- d. If the form filed is similar to another that was previously approved or is under evaluation, the differences between such and the reason for filing the new form.

5.5 The documents or files shall be submitted in unprotected PDF or Excel format so that a search can be made within the file. All Excel files shall also be submitted in printable PDF format. Scanned documents will not be accepted.

5.6 All SERFF fields shall be completed as applicable for the filing.

5.7 The following documents must be included in the SERFF "Form Schedule Tab":

- a. Marketing materials, advertisements, information. (i.e. Application Form, Simple Policy, Explanatory Guide for the Insured)

5.8 The following documents must be included under the SERFF "Supporting Documentation Tab":

- a. Cover Letter.
- b. Memorandums, evidence of prior approval, translations certifications .
- c. If it is a revised document, all changes to the form and/or manual must be highlighted (redlined document) to distinguish from the previous version.
- d. Actuarial memorandums and certifications.
- e. Technical Note.
- f. Compliance Monitoring Plan for the Training Program for Microinsurance Solicitors.
- g. Any other documentation needed to supplement or validate any of the previously required documents.

5.9 If the OCI notifies any objection, the following procedure must be observed:

- a. The letter of objections shall be answered with a "Response Letter," and not through Amendments, or a Note to Reviewer.
- b. Each objection shall be answered individually in the "Response Letter" and include the respective revised form (redlined document).
- c. The Amendments shall only be used if a document or form was inadvertently omitted, or if it is necessary to correct an error in the attached documents, before the filing status changes to "Under Review."
- d. All communications (requests for extensions of time, status requests, etc.) shall be made through SERFF as a "Note to Reviewer".
- e. Any other means of communication will be deemed not to have been received.

SECTION 6. - CONTENT REQUIREMENTS FOR FORMS AND SUPPORTING DOCUMENTATION

6.1 The Application Form, the Simple Policy, and Informative Guide for the Insured, will be drafted in simple language that facilitates reading and understanding.

6.2 The following documents must be submitted as part of the filing of the catastrophic microinsurance product:

a) Application Form

- i. The Application Form shall establish the insurer's method for identifying the georeference.
- ii. The Application Form shall not be longer than one page or the equivalent in digital format. The form shall be focused on gathering basic information on the individual who is the beneficiary, and information relevant to the product, and shall provide the premium options with the respective predefined benefits for selection by the beneficiary.
- iii. The Application Form may be integrated with the Explanatory Guide for the Insured observing the requirements set forth in sub-paragraph (c) of this Section.

b) Simple Policy

- i. Microinsurance policies must be drafted in precise, clear, and simple language, on no more than four (4) letter-size pages and clearly establishing the covered risks, exclusions, and other conditions that create rights and obligations, so that a lay person can understand the terms and conditions, without reference to clauses or covenants that are not contained in the policy. Specialized terms may not be used.
- ii. The policy will set forth the specific risk and the period of time covered by the policy, the georeference variable, the triggering event that gives rise to the right to bring a claim, the insured amount, and the specific amount to be paid when the established criterion is met. The exclusions shall be general and in no way related to the individual risk.
- iii. There shall be an express prohibition of automatic renewal and multiple contracts for the same insurable interest. Thirty (30) days before the expiration date of the policy, the insurer will issue an expiration notice to the insured.
- iv. The policy shall set forth a streamlined and simple process that the insured should follow to notify the occurrence of the event, if applicable, and the general information that the insured or the beneficiary should submit to show the occurrence of the covered risk. The information that may be required to notify the occurrence of the event shall be limited to such information that is reasonable and strictly necessary to show the occurrence of a covered event, the triggering event, and the insured's right to compensation. The insurer shall corroborate the occurrence of the triggering event based on the agreed parameters, the georeference of the insured, and the information of the Verifying Government Agency or Entity. The resolution of a notice of the occurrence of the event shall be made no later than 10 calendar days from of the date of receipt of the notification.
- v. The microinsurance policy will not include special insurability requirements or prior verifications with regard to the insured or insurable risk, and it will be sufficient for executing the microinsurance contract to identify the insured and that the consumer sign the microinsurance Application Form. Any matter

related to information not previously requested from the insured in the Application Form may not be considered as grounds for denying the compensation.

- vi. The title of the policy shall unequivocally mention that it is catastrophic microinsurance and indicate the type of risk that is covered.
- vii. There shall be an express provision regarding the prohibition of amendments to the contract and its clauses and terms for the duration of the contract. It is further provided that, as an exception, in the event of a change of residence while a policy is in effect, the terms of the policy may be amended considering the new georeference.
- viii. It should be advised that failure to pay the premium will entail the automatic suspension of coverage, from the due date of the obligation. The insurer shall notify the consumer in writing of the suspension of the coverage due to non-payment of the policy within three (3) days following the suspension. The insurers will have no obligation to pay for damages or compensation for losses that occur during the period in which coverage is suspended. The notification of suspension may be sent through email in compliance with the guidelines and rules of the OCI regarding the use of electronic means for handling insurance.
- ix. When a policy has been suspended, the insured shall have the right to reinstate the policy within two (2) days of the notice of suspension. The conditions for reinstating a suspended policy shall be stated in the microinsurance policy. In cases in which the subscription market is closed due to an imminent passage of a hurricane, the two (2) day term for reinstating the policy will be tolled and then continue to run once the subscription market reopens.
- x. When the two (2) day term following the notification of the suspension has elapsed, the insurer may proceed to cancel the microinsurance policy, without the need for further notification to the insured. The cancellation will be effective as of the date of notification of the suspension. Any automatic cancellation clause that prohibits or impairs the right of reinstatement established in the previous subparagraph of this Section will be null and void.

- xi. Payments made to authorized representatives, general agents, or microinsurance administrators will be deemed as having been made to the insurer on the same date.
- xii. The insured shall have the responsibility of keeping up to date, the street address information or any information used to determine the georeference with the insurer.

c) Explanatory Guide for the Insured

- i. The purpose of the Explanatory Guide is to provide the necessary information on coverage, the basic concepts about how catastrophic microinsurance works, and the processes to be completed to subscribe the policy, renew it, and submit claims, if applicable.
- ii. The Explanatory Guide shall employ simple language that is easily understood by the insured, and use visual guides or flowcharts. The guide shall be no longer than two (2) pages.
- iii. The Explanatory Guide for the Insured will also serve as the material to carry out the training program as required in Section 15.042 of the Insurance Code, *Training Program for Microinsurance Solicitor Compliance Monitoring Plan*. In addition to the guide, the documentation for the training program shall be included.

d) Microinsurance Solicitor Training Program; Compliance Monitoring Plan:

the documentation that has been prepared to carry out the training program shall be submitted, which must include the following topics:

- i. Coverage, benefits, and exclusions of microinsurance products;
- ii. Procedure for contracting microinsurance;
- iii. Payment of the premium and effects of failure to pay;
- iv. Procedure and requirements for submitting claims, if applicable;
- v. Term and procedure for the payment of the compensation; and
- vi. Complaint resolution procedure available to the insured.

- e) **Certification of Compliance with Restrictions on Payment of Commissions to Microinsurance Solicitors:** If commissions are to be paid, a certification must be submitted to the effect that any commission related to microinsurance, paid in addition to the salary, wages, or compensation of the microinsurance solicitor, shall be calculated based on the income of such microinsurance administrator or general agent generated by the written microinsurance premium, and may not be taken into consideration for setting the rates or premium. The payment of any contingent commission shall comply with the provisions of Rule No. 84 of the Regulations of the Puerto Rico Insurance Code.
- f) **Certification of Compliance with the Inclusion of the Contractual Clauses between the insurer and authorized representative; general agents; and/or microinsurance administrators:** the mandatory clauses shall contain language to the following effect:
- i. Microinsurance distributors, including the microinsurance solicitors contracted by microinsurance administrators or general agents shall offer microinsurance in strict compliance with the instructions given by the insurer.
 - ii. The communications between the insured and the authorized representatives, general agents, or administrators, on matters related to microinsurance subscribed through that distributor, shall have the same effect as if they had been sent directly to the insurer and it shall be deemed that such communications were received on the same date by the insurer. The microinsurance authorized representatives, general agents, and administrators shall immediately acknowledge receipt of all communication from the insured or within twenty-four (24) hours when notified by electrotonic means.

SECTION 7. - CONTENT REQUIREMENTS FOR RATES AND SUPPORTING DOCUMENTATION

- 7.1.** Reasonability of the Premium. The OCI shall ensure that the rates are not excessive, inappropriate, unfairly unequal, or that in any other manner defeat the purpose of microinsurance. To that effect, each insurer shall file with the OCI for prior approval the rates to be used for microinsurance products, which are subject to a premium limit that shall not be greater than two percent (2%) of the annual income based on the minimum wage as provided in Act No. 180 of July 27, 1998, as amended, intitled the "Minimum Wage, Vacation Leave, and Sick Leave Act of Puerto Rico." The current minimum wage will be used for the calendar year in which the microinsurance product is approved. For the year 2020, the minimum wage used is \$7.25 an hour, which yields an annual gross income of \$13,050, assuming a full-time work schedule of 37.5 hours a week. Therefore, the maximum premium to consider a policy under the terms of microinsurance will be \$261 a year or \$21.75 a month. The limit for the maximum premium may be set for an annual or monthly term, so that a microinsurance product could be offered in consideration of a specific period of time or season. The limit on the maximum premium set forth herein applies in consideration to the coverage for a single catastrophic risk in the policy. Nothing prevents an insurer from offering policies with coverage for more than one kind of catastrophic risk (multiperil), subject to the provisions of Section 7.2.
- 7.2.** Insurers may request from the Commissioner a deviation in the premium that is greater than is the maximum established in Section 7.1, stating the specific grounds that justify such deviation using the Technical Note form. The Commissioner, at his discretion, may authorize the deviation requested by the insurer, unless it is determined that the resulting premium would be excessive, inadequate, or unfairly unequal, or that it defeats the purpose of microinsurance. The evaluation of the premium deviation under the provisions herein shall be on a case by case basis.
- 7.3.** In order to provide uniformity for the details needed to evaluate the rates for catastrophic microinsurance, the presentation of a Technical Note will be required, which will include the following information:
- a) General description of the product

- b) Features of the product:
 - i *Commercial name of the product*
 - ii *Special characteristics of the product*
- c) Description of the coverage:
 - i. *Covered risk*
 - Type
 - Period: indicate the period of policy coverage and the relationship between such periods and the covered risk.
 - ii. *Limits of coverage (“Maximum liability”):* Indicate the sum of the insured amount (or options) and its justification.
 - iii. *Conditions*
- d) Definitions: Include the definition of all terms that are relevant for the coverage of the policy and of importance to the insured.
- e) Database: Indicate all sources of information for determining the microinsurance catastrophic model, making reference to the database used to calculate the magnitude of the event (the payment curve), and the Government Verifying Agency or Entity to be used as a reference to determine the occurrence of the catastrophic triggering event.
 - i Technical description: Include the name of the database, the organization that generates it, the format in which data is obtained, where it may be accessed, the spatial and temporal resolution of the information, and the amount of history it has.
- f) Parameters of the model:
 - i *Coverage Periods*
 - ii *Magnitude of the Catalyst Event (“trigger level(s)”*
 - iii *Georeference Variable:* Indicate the geographical area that will be used to determine the compensation payment in the model and the method to determine the location. For example, if the catastrophic microinsurance is designed by zones, by municipalities, or by georeference point that is specific to the beneficiary. Show how the parameters of the model vary based on the georeference variable.
 - iv *Other parameters:* Indicate other parameters that are considered for defining the compensation formula. For example, the use of a threshold, exit or stop loss, etc.

- g) Compensation Formula: A compensation model shall be submitted indicating how payments are calculated and the relationship between the magnitude of the event and the compensation. The model shall include the payout curve which defines, and graphically shows, how the model is used to determine the percentage of the payment to be made based on the parameters.
- h) Basis of the premium:
- i. *Risk premium and hypothetical historical payouts*: Indicate the pure risk premium and show an analysis of hypothetical historical payouts on which it was based.
 - ii. *Technical premium rate*: Provide a summary of the actuarial analysis used to define the premium rate, and how such is distributed among the different classifications (e.g. administrative expenses, profit margin, cost of reinsurance, commissions, etc.)
 - iii. *Correlation between the hypothetical historical payouts and the observed losses*: It should be demonstrated how the hypothetical historical payouts and the observed losses are correlated to show the performance of the model. If the data of observed losses is limited, an analysis at a more refined scale (individual losses) will not be required, but rather an analysis that provides sufficient evidence to allow the OCI to evaluate the model and the potential value of coverage for the target population.
- i) Contracting process: Describe the distribution channels to be used for the sale of the catastrophic microinsurance, the microinsurance administrator, and the microinsurance solicitors.
- j) Compensation Process: Describe the procedure used to process payments to the insured after the occurrence of an event, including how notification of payment is made, if required, and how payment will be processed. It is further provided that payment to the insured must be made within 10 calendar days from the triggering event or the notice of the occurrence of the event, if so required. In the event of an interruption in the insurer's operations, the term will begin to run from the time the insurer's operations resume.

- k) Calculation process of the model: Indicate the steps that are required for processing the model and defining the compensation, including the entities involved in the process and the timeframe from the gathering of raw data after the occurrence of the catastrophic event until payment is issued to the insured.
- l) Comparative summary of the global state of the art and experience: Provide a summary of international experience and the state of the art for products that are similar to this filing. It is acknowledged that the industry undergoes constant technological development that can lead to more precise products and models. Therefore, it is urged that the products be submitted in consideration to the state of the art of catastrophic microinsurance modeling and their technological advances at the time of filing.

SECTION 8. - SEVERABILITY

If any word, sentence, paragraph, clause, section, or part of this Rule were found to be null and void or invalid by a court of competent jurisdiction, the judgment or order entered by such court will not affect or invalidate the remaining provisions of the Rule; that is to say that the effect thereof shall be limited to the word, sentence, paragraph, clause, section, or part that has been found to be null and void or invalid.

SECTION 9. - EFFECT

The provisions of this Rule will enter into effect thirty (30) days after filing at the Department of State of Puerto Rico, in compliance with the provisions of Act No. 38-2017, supra.

/s/

Rafael Cestero-Lopategui, CIC
SUBCOMMISSIONER OF INSURANCE

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Date of Filing

at the Legislature Library: