

Government of Puerto Rico

**OFFICE OF THE COMMISSIONER OF INSURANCE**

San Juan, Puerto Rico

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Approved :



Raúl Márquez Hernández

Secretary of State

DEPARTMENT OF STATE

**AMENDMENT TO RULE. 80 OF THE REGULATIONS OF THE PUERTO  
RICO, INSURANCE CODE TITLED**

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

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**SECTION 1. - AUTHORITY**

The Commissioner of Insurance of Puerto Rico (hereinafter, the Commissioner) adopts this amendment to Rule Number 80 of the Regulations of the Puerto Rico Insurance Code, Regulation No. 8708 of the Department of State of Puerto Rico, titled "Standards for the Regulation of Operations of International Insurers and Reinsurers," under the powers conferred in Sections 2.030 and 61.260 of Act No. 77, June 19, 1957, as amended, the Puerto Rico Insurance Code, as well as Act No. 38, enacted on June 30, 2017, as amended, the Uniform Administrative Procedure Act of the Government of Puerto Rico.

**SECTION 2.- PURPOSE AND SCOPE**

This Rule is amended to correct and leave without effect several provisions established in the amendment to Rule 80 dated January 29, 2020, which created a special category of authority of multistate international insurers and reinsurers of Class 3 M, 4 M or 5 M. Such special category is eliminated in the present amendment. In lieu thereof, it is specifically clarified herein that the authorization granted to an international insurer, reinsurer or surplus line insurer under any of the insurance classes of authority currently recognized in Chapter 61 of the Insurance Code of Puerto Rico must not be understood as enabling such entity to seek reciprocity treatment from the insurance regulators of any NAIC accredited

jurisdiction in the United States, (for licensing or any other insurance regulatory purposes), based on Puerto Rico's NAIC accredited status. In order for an international insurer, reinsurer or surplus line insurer to become admitted, accredited or certified in any state or territory of the United States, it will have to meet the applicable legal or regulatory requirements of such state or territory without being deemed to be domiciled in a jurisdiction with "substantially similar" statutes."

### **SECTION 3. - STATEMENT OF NEED AND OBJECTIVE**

Chapter 61 of the Insurance Code created the legal framework to establish Puerto Rico as an International Insurance Center directed at exporting insurance and related services in international markets. Said Chapter provides the legal authority for authorizing international insurers to assume insurance or reinsurance risks located outside of Puerto Rico, and under certain circumstances to reinsure risks located within Puerto Rico or to underwrite surplus lines insurance for such Puerto Rico risks. As part of the legal framework established in the Chapter 61, a number of incentives were provided, including a favorable tax structure that applies to international insurers and their holding companies.

The statutory framework adopted in the Chapter 61 of the Insurance Code does not impose on international insurers several regulatory requirements (relating to accounting, investments, risk-based capital, and other regulatory categories) that are part of the NAIC's accreditation program standards governing multi-state insurers. International insurers are also not covered by the guaranty association provisions of the Insurance Code. Indeed, as provided in Section 61.030 of the Insurance Code, the legal framework of the International Insurance Center that is set forth under the Chapter 61 operates, with limited exceptions, independently from the general provisions of the Insurance Code to which domestic insurers are subject.

Accordingly, this amendment is intended to clarify that the type of reciprocity treatment that other state or territory jurisdictions of the United States may grant

to Puerto Rico domestic insurers for licensing or other insurance regulatory purposes, on account of Puerto Rico's accredited status with the NAIC, must not be understood as also being applicable to international insurers, which are differently regulated under the Chapter 61 of the Insurance Code.

#### **SECTION 4. - AMENDMENT TO SECTION 6 OF RULE 80**

Section 6 of Rule 80 is amended to read as follows:

##### **"SECTION 6.- REQUIREMENTS FOR THE AUTHORIZATION OF INTERNATIONAL INSURERS AND REINSURERS**

1. International insurers and reinsurers that apply for authorization for transacting insurance policies under the provisions of the Chapter 61 of the Code must also comply with the authorization requirements provided in Section 61.050 of the Code.
2. No international insurer, reinsurer or surplus line insurer with Class 3, 4, or 5 authority may demand reciprocity treatment from any NAIC accredited state or territory based on Puerto Rico's accredited status with the NAIC. The type of reciprocity treatment that other state or territory jurisdictions of United States may grant to Puerto Rico domestic insurers, reinsurers or surplus lines insurer for licensing or other insurance regulatory purposes, on account of Puerto Rico's accredited status with the NAIC, must not be understood as also being applicable to international insurers, reinsurers or surplus lines insurers which are differently regulated under the Chapter 61 of the Insurance Code.

#### **SECTION 5. - AMENDMENT TO SECTION 11 OF RULE 80**

Section 11 of Rule 80 is amended to read as follows:

##### **"SECTION 11.- ANNUAL REPORT**

All international insurers shall submit an annual report to the Commissioner on their financial condition, subject to the following requirements:

1. Submit an annual report before the last day of the fourth month, as provided in Section 61.100 of the Code. The report may be drafted using the Generally Accepted Accounting Principles in the United States (USGAAP), provided the notes of the report include a reconciliation of the difference between the net earnings and capital, and surplus, as set for in the annual report that is drafted using the Statutory Accounting Principles (SAP) adopted by the NAIC. The notes of the annual report of an international insurer that contain the reconciliation required hereby shall be submitted in the manner established by the Commissioner.
  - (a) The assets set forth below are considered non-admitted assets for the purposes of determining the financial situation of an international insurer:
    - i. Accounts and premiums receivable over 180 days past due;
    - ii. Deferred cost of acquisition;
    - iii. Deferred Tax Assets;
    - iv. Goodwill;
    - v. Personal property and furnishings that are not used at the headquarters of the international insurer in Puerto Rico; and
    - vi. Computer software, other than operating systems, although it is further provided that the Commissioner may accept as admitted assets the investment in a computer program or part of such program, through an admitted practice at the request of the international insurer.
2. The annual report of an international insurer that operates insurance business only in a foreign country or foreign countries may be drafted using the International Financial Reporting Standards (IFRS), provided the notes of the report include a reconciliation of the difference between net earnings and capital and surplus, as set forth in the annual report that is drafted using the Statutory Account Principles(SAP) adopted by the NAIC. The notes of the annual report of the international insurer that contain the reconciliation required herein shall be submitted in the manner established by the

Commissioner.

- (a) The assets set forth below are considered non-admitted assets for the purposes of determining the financial situation of an international insurer:
- i. Accounts and premiums receivable 180 days past due;
  - ii. Deferred costs of acquisition;
  - iii. Deferred Tax Assets;
  - iv. Goodwill;
  - v. Intangibles developed internally;
  - vi. Personal property and furnishings that are not used at the headquarters of the international insurer in Puerto Rico; and
  - vii. Computer software, other than operating systems, although it is further provided that the Commissioner may accept as admitted assets the investment in a computer program or part of such program, through an admitted practice at the request of the international insurer.
3. The certificates of surplus or any other similar instrument issued to the owner of an international insurer, that comply with the applicable requirements of Sections 29.300 and 29.310 of the Code will not be considered to be liabilities of the international insurer for the purposes of determining the financial situation of the insurer."

#### **SECTION 6. - AMENDMENT TO SECTION 12 OF RULE 80**

Section 12 of Rule 80 is amended to read as follows:

##### **"SECTION 12.- INVESTMENTS**

- I. International insurers that operate insurance business only in a foreign country or foreign countries shall submit their Investment Plan along with the application for of authorization and maintain the submission up to date with regard to any change in such plan, which shall comply with the provisions of Section 61.110 of the Code, as well as with the following:
- a. The minimum capital and surplus of an international insurer as provided in Section 61.080 of the Code shall be maintained in cash, cash

equivalents, investments, or irrevocable letters of credit issued by a bank authorized in Puerto Rico or by a bank belonging to the Federal Reserve System and that has been approved by the Commissioner.

- b. An International Insurer shall submit with its application for authorization, the Investment Plan it proposes to implement or in lieu of such, shall comply with the investment requirements of Chapter 6 of the Code, except Sections 6.050(6) and (7), 6.070, and 6.110(4) of that Chapter. Notwithstanding the provisions of Chapter 61 of the Code, the Commissioner may approve the use of reliable alternative methods of evaluation and appraisal.
- c. The Commissioner may prohibit, limit, or require the divestment of any investment that threatens the solvency or liquidity of an international insurer.
- d. The letters of credit may be retained by an international insurer and may be included as an admitted investment, subject to approval by the Commissioner, provided the letter of credit complies with the requirements established in Section 9 of this Rule.
- e. The Commissioner may allow an international insurer to include as an admitted investment any other non-admitted asset as established herein."

#### **SECTION 7. - AMENDMENT TO SECTION 16 OF RULE 80**

Section 16 of Rule 80 is amended to read as follows:

#### **SECTION 16.- POWERS OF THE COMMISSIONER**

The Commissioner shall have the authority as provided in Section 2.030 and Section 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 provisions thereof and the provisions of the Code that are applicable thereto. "

#### **SECTION 8. - AMENDMENT TO SECTION 18 OF RULE 80**



Section 18 of Rule 80 is amended to read as follows:

**"SECTION 18.- APPLICABILITY OF OTHER RULES AND LAWS**

In addition to the provisions of this Rule and Rules 81, 82, and 100 of the Regulations of the Code, international insurers will be subject to the provisions of Rules 1-A, 2, 12, 19, and 20, without prejudice to any other Rule that from time to time may be approved by the Commissioner and may be determined as applicable to an international insurer. "

**SECTION 9.- 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 10. - EFFECT**

The provisions of this Rule enter into effect thirty (30) days from the filing at the Department of State of Puerto Rico, as provided in Act No. 38-2017, supra. Furthermore, all insurance contracts and certificates of authority executed prior to the effectiveness of this amendment will remain valid until its termination date respectively.



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Rafael Cestero Lopategui, Esq., CIC  
**Commissioner of Insurance**

Date of Approval: November 10, 2020

Date of Filing  
At the Department of State:

Date of Filing  
At the Library of the Legislature: