RULES ON INFUSION OF REAL PROPERTY TO COVER NET WORTH DEFICIENCIES AND CAPITAL IMPAIRMENT

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WHEREAS, all domestic life or non-life insurance companies are required to comply with the minimum statutory paid-up capital or net worth requirements under Section 194 of Republic Act No. 10607, otherwise known as the Amended Insurance Code of the Philippines, before the same can engage in insurance business;

WHEREAS, the Insurance Commissioner is authorized under Section 437 (m) and (k), respectively, of the same Code to "[inquire] into the solvency and liquidity of the institutions under its supervision and enforce prompt corrective action," and "[conduct] an examination to determine compliance with laws and regulations if the circumstances so warrant as determined by appropriate rules and regulations;"

WHEREAS, relative to the determination of the financial condition of insurance companies, Section 202 of the same Code provides that:

> "Section 202. In any determination of the financial condition of any insurance company doing business in the Philippines, there shall be allowed and admitted as assets only such assets legally or beneficially owned by the insurance company concerned as determined by the Commissioner which consist of:
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> x x x
>
> (b) Investments in securities, including money market instruments, and in real property acquired or held in accordance with and subject to the applicable provisions of this Code and the income realized therefrom or accrued thereon.
>
> x x x
>
> (k) Other assets, not inconsistent with the provisions of paragraphs (a) to (j) hereof, which are deemed by the Commissioner to be readily realizable and available for the payment of losses and claims at values to be determined by him in a circular, rule or regulation." [Emphasis supplied.]

NOW, THEREFORE, pursuant to the power of the Insurance Commissioner under Section 437 (d) of the same Code to "x x x issue such rulings, instructions, circulars, orders and decisions as may be deemed necessary to secure the enforcement of the provisions of this Code, to ensure the efficient regulation of the insurance industry in accordance with global best practices and to protect the insuring public," the following rules and regulations in the infusion of real estate assets to cover capital impairment and net worth deficiencies of insurance companies doing business in the Philippines are hereby promulgated:

1. Priority of Cash Infusion. - Whenever the paid-up capital or net worth of an insurance company doing business in the Philippines is found to be less than required by the Amended Insurance Code to be maintained, and before said company shall exercise its option to cover its deficiency/ies in the form of non-cash contributions, said company's President must first certify under oath that all efforts to infuse cash, or cause the infusion of cash, by

the stockholders in accordance with the provisions of Section 200 of the same Code have been exhausted and consequently failed; and that non-cash infusion was only resorted to as a result of such exhaustion and failure.

2. Guidelines for Infusion of Real Property. - Real property shall only be allowed for the purpose of purchasing equity of an insurance company if:

a. The real property infused by the life or non-life insurance company in exchange for equity shall be utilized in accordance with Section 206 (b) (1) of the Amended Insurance Code; or

b. lf the infused real property is or shall be used for housing projects and/or as an investment for the production of income:
i. For life insurance companies: The infusion shall be governed by the provisions of Section 208 (a) and (b) of the same Code, whereby the aggregate book value of said class of investment shall not exceed twenty-five percent (25%) of the total admitted assets of the concerned life insurance company as shown in the latest financial statement approved by the Insurance Commissioner; or

ii. For non-life insurance companies: The infusion shall be governed by this Commission's Circular Letter No. 2017-43 dated 22 August 2017, except that the concerned company shall not be required to comply with the condition under Section 1 thereof. The aggregate book value of said class of investment shall not exceed twenty percent (20%) of the net worth of the concerned non-life insurance company as shown in the latest financial statement approved by the Insurance Commissioner.

However, in the event that said infusion shall adversely affect the liquidity of the company, the real property infused shall be disposed of in accordance with Section 5 of this Circular Letter.

3. Required Documentation. - Together with documents evidencing the infusion, the company shall also submit the following documents to this Commission:

a. Appraisal Report/s by an appraisal company that is duly accredited by the Securities and Exchange Commission (SEC);
b. Photocopy/ies of the Transfer Certificate/s of Title and/or Condominium
Certificate/s of Title covering the subject property;
c. A copy of the duly notarized Deed of Assignment executed between the concerned shareholder and the insurance company, if the title of the subject property is not in the name of the insurance company; and
d. Copies of the Board Resolution and Secretary's Certificate allowing the infusion of the subject real property.

4. Quarterly Reports. - In cases where real property is invested for the production of income, the concerned insurance company shall submit quarterly reports to the Investment Services Division (ISD) of this Commission as regards the income generated by said real property, which reports shall be duly certified by the company's internal auditor

5. Disposal of Infused Income-Generating Real Property. - Real property infused within the purview of the guidelines under Section 2 (b) of this Circular Letter may be provisionally admitted; Provided, that: The concerned company infusing said real property shall liquidate the property within one (1) year from the time the same was provisionally admitted as an asset.

The president of the insurance company, who shall be authorized by the company's board of directors, shall execute an Affidavit of Undertaking to this effect.

This Circular Letter shall take effect immediately.

For the guidance and strict compliance of concerned parties.

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(SGD) DENNIS B. FUNA
Insurance Commissioner

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