

ORGANIZATION AND MONITORING OF ACTIVITIES OF INSURANCE AND REINSURANCE BROKERS

IC INSURANCE MEMORANDUM CIRCULAR NO. 2-85, August 08, 1985

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By virtue of the powers vested in me by the provisions of Section 414 in relation to Chapter IV, Titles 1 and 2, of Presidential Decree No. 1460, as amended, otherwise known as the Insurance Code, and in view of the reported difficulties encountered in compliance with provision No. 3.2 of Insurance Memorandum Circular No. 2-34, dated April 2, 1984, the following rules and regulations are hereby promulgated:

1

Definitions

The following definitions shall govern the construction of the terms as used hereinafter:

- a. The term person shall, unless the context otherwise requires, include any individual, partnership, association or corporation.
- b. The term insurance broker shall mean a person who, for any compensation, commission or other thing of value acts or aids in any manner in soliciting, negotiating or procuring the making of any insurance contract or in placing risks or taking out insurance on behalf of an insured other than himself.
- c. The term reinsurance broker shall mean a person who, for compensation, not being a duly authorized agent, employee, or officer of an insurer in which any reinsurance is effected, acts or aids in any manner in negotiating contracts of reinsurance, or placing risks or effecting reinsurance, for any insurance company authorized to do business in the Philippines.
- d. The term broker shall mean either an insurance or reinsurance broker unless so specified.

2

Licensing

2.1 In addition to other requirements provided for in this Memorandum Circular, an applicant for a broker's license must have the following qualifications:

- He must be a Filipino citizen. However, an alien who has been licensed and is doing business as such broker at the time of the effectivity of this Memorandum Circular may be allowed to continue as such broker, provided that he has a permanent resident status.

- He must have at least ten (10) years experience as:

b.1 A sales and/or underwriting executive (at least department manager level) in an insurance brokerage firm or insurance company, or

b.2 A general agent

- The above requirement may be reduced to five (5) years if the applicant holds at least an associateship from the

Insurance Institute for Asia and the Pacific (IIAP), the Chartered Insurance Institute (CII) or a similar educational institution acceptable to the Commissioner.

- He must have had no history of unprofessional conduct known to the Insurance Commissioner, other brokers and insurance companies.

2.2 The chief operating officer of a broker must be a Filipino citizen and must possess the above qualifications. However, an alien who has been appointed to and is occupying such position at the time of the effectivity of this Memorandum Circular may be allowed to continue holding such position, provided that he has a permanent resident status.

2.3 A broker which is a stock corporation may be issued separate licenses as an insurance and reinsurance broker, provided, however, that the corporation shall have separate soliciting officials, separate errors and omissions policies, and separate books of accounts for its insurance and reinsurance broking operations.

2.4 No official or employee of an insurance broker shall be licensed to act as an insurance agent variable contract agent, or general agent.

2.5 A license issued to any person, partnership, association or corporation to act as an insurance broker or reinsurance broker shall authorize only the individual or individuals named in the license. Exercise or attempted exercise of such authority by an individual not so named in the license, with the knowledge or consent of the licensee shall constitute cause for the revocation or suspension of the license.

3

Surety Bond and Errors and Omissions Policy

3.1 The applicant for an insurance broker's license must file with the application a bond in the amount of five hundred thousand pesos (P500,000.00) in favor of the people of the Republic of the Philippines and conditioned upon full accounting and due payment to the person entitled thereto of funds coming into the broker's possession through insurance transactions under license. Said bond shall be executed by a company authorized to become surety upon official recognizances, stipulations, bonds or undertakings under Act No. 536, as amended by Act No. 2206, and shall be maintained in force while the broker is so licensed.

3.2 Upon approval of the application but before the issuance or renewal of an insurance or reinsurance broker's license, the applicant must file two errors and omissions insurance policies (professional liability or professional indemnity) issued separately by two insurance companies authorized to do business in the Philippines. The total limit of liability of the said two policies shall be equivalent to 100% of the broker's insurance related income (commissions and/or fees) for the preceding fiscal year, BUT NOT EXCEEDING A MAXIMUM OF P10 MILLION (SUBJECT TO PERIODIC REVIEW SHOULD THERE BE CHANGES IN THE MARKET CONDITIONS), or in the event that no insurance company could issue such policy by such limit of liability, the deficiency in amount shall be satisfied by the applicant by depositing such kinds of government securities specified in Section 203 of the Insurance Code, with, and satisfactory to, the Insurance Commissioner, free from any lien or encumbrance, equivalent to said deficiency, likewise to answer subsidiarily for the applicant's liability arising from its broking business, provided, however, that with respect to the errors and omissions policies, in no case shall the limit of liability of each policy be less than five hundred thousand pesos (P500,000.00).

3.3 A statement of the broker's insurance related income (commissions and/or fees) shall be filed with the Commission duly attested to by a certified public accountant (CPA) who is a member of good standing of the recognized association of CPA's and who is neither an employee nor a relative of the broker, or of any officer or

director of a broker which is a corporation, partnership or association.

4

Prohibition on Cross-Ownership

No broker or its stockholders and officers shall have controlling interest in any insurance or reinsurance company, or Insurance adjustment company, or vice versa.

5

Monitoring and Reporting

5.1 A broker already licensed to do business as such shall file with the Insurance Commission a Report of Business Done, covering the period from the date it started to operate up to December 31, 1981, showing the following data:

- Total volume of business placement
- Total premium received
- Total premium remitted
- Total losses incurred
- Total losses paid, and
- Total commissions received

5.2 Thereafter, beginning January 1, 1983, a broker shall submit to the Insurance Commissioner periodically a report, on semiannual basis, of Business Done showing similar data for the period covered, using the reportorial forms required under Insurance Commission Circular Letter, dated 26 July 1983.

5.3 Similarly, a broker henceforth licensed to do business on either the insurance or reinsurance broking line shall submit to the Insurance Commissioner said periodic report of Business Done showing the same data.

6

Penal and/or Administrative Sanctions

The corresponding penal and/or administrative sanctions as prescribed by the Insurance Code shall be applied to any violation of the provisions of this Memorandum Circular.

7

Fees

7.1 For the issuance or renewal of:

- Each license issued to an insurance broker P200.00
- Each license issued to a reinsurance broker P200.00

7.2 In case the licensee is a partnership, association or corporation, the licensee shall pay a full additional license fee for each prospective individual named in the license in excess of one.

8

Effectivity

This Memorandum Circular shall amend the provisions of Insurance Memorandum Circular No. 2-81 dated December 17, 1981 regarding insurance and reinsurance brokers who are inconsistent therewith and supersedes Insurance Memorandum Circular No. 2-84 dated April 2, 1984, and shall take effect immediately upon its approval.

Adopted: 8 Aug. 1985

(SGD.) GREGORIA CRUZ ARNALDO

Insurance Commissioner

Re-issued: 23 May 1991

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