

GUIDELINES ON ENTRY OF FOREIGN INSURANCE OR REINSURANCE COMPANIES OR INTERMEDIARIES

DOF DEPARTMENT ORDER NO. 100-94, October 24, 1994

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Pursuant to the authority vested in me by the provisions of Sections 414 of the Insurance Code in relation to those of Sections 184, 188, 203, 280, 281, and 299 thereof, and upon the recommendation of the Insurance Commissioner, the following requirements, rules and regulations are hereby promulgated:

I.

Modes of Entry

A foreign insurance or reinsurance company or intermediary is allowed entry to do business in the Philippines under any of the following modes:

- a. Ownership of the voting stock of an existing domestic insurance or reinsurance company or intermediary;
- b. Investment in a new insurance or reinsurance company or intermediary incorporated in the Philippines;
- c. Establishment of a branch.

Provided, that entry under item c above is not available to an intermediary. Provided further, that an applicant may avail itself of only one (1) mode of entry.

II.

Basis of Selection

In the approval of entry of foreign insurance or reinsurance company or intermediary, the following factors shall be taken into consideration by the Insurance Commission:

- a. Geographic representation and complementation;
- b. Strategic trade and investment relationships between the Philippines and the country of incorporation of the foreign insurance or reinsurance company or intermediary;
- c. Demonstrated capacity, global reputation in underwriting innovations and stability in a competitive environment of the applicant;
- d. Reciprocity rights are enjoyed by Philippine insurance or reinsurance companies or intermediaries in the applicant's country;
- e. Willingness to fully share its technology.

III.

Qualification of Applicant

Only those among the top two hundred (200) foreign insurance or reinsurance companies or intermediaries in their country of origin and have been doing business for the last ten (10) years as of the date of application shall

be allowed entry.

To qualify as a branch or as a new company incorporated in the Philippines, the applicant must be widely-owned and publicly listed in its country of origin, unless it is majority owned by the government.

The term "widely-owned" means that not a single stockholder of the applicant owns more than twenty percent (20%) of its voting stock; while "publicly listed" means that its shares of stock are listed in the stock exchanges.

IV.

Capital Requirements

For an insurance company, minimum paid-up capital of:

- a. P250 million and a contributed surplus fund of P50 million, where foreign equity is sixty percent (60%) or more;
- b. P150 million and contributed surplus of P50 million, where foreign equity is more than forty percent (40%) but less than sixty percent (60%);
- c. P75 million and a contributed surplus fund of P25 million, where foreign equity is forty percent (40%) or less.

For-a reinsurance company, a minimum paid-up capital of:

- a. P500 million, where foreign equity is sixty percent (60%) or more;
- b. P300 million, where foreign equity is more than forty percent (40%) but below sixty percent (60%);
- c. P150 million, where foreign equity in a new company incorporated in the Philippines is forty percent (40%) or less.

However, any foreign insurance or reinsurance company seeking entry under Section 1, c hereof shall deposit with the Insurance Commission securities satisfactory to the Commission to the actual market value of not less than P300 million for an insurance company and P500 million for a reinsurance company.

For an intermediary, a minimum paid-up capital of:

US\$1,000,000.00 or its equivalent in Philippine pesos, 50% of which to be invested in Philippine Government Securities and deposited with the Insurance Commission.

V.

Scope of Operation

No composite license shall be issued to an insurance company applicant under these guidelines.

VI.

Head Office Guaranty

The head office of a foreign insurance or reinsurance company shall guaranty prompt payment of all liabilities of its Philippine branch.

VII.

Entrants under Section I, a and b

Foreign insurance or reinsurance company to operate as a branch or where foreign equity in said company or intermediary is more than 40% shall be allowed entry within two (2) years from the effectivity of these guidelines. During this period, the number of foreign insurance or reinsurance companies or intermediaries that shall be

allowed entry is 5 each but may be increased to 10 each by approval of the President of the Philippines upon the recommendation of the Secretary of Finance.

VIII.

Board of Directors

Subject to existing laws, non-Filipino nationals may become members of the Board of Directors of an insurance or reinsurance company to the extent of the foreign participation in the equity of such company.

IX.

Staff

Expatriates will be allowed to occupy a managerial position in a company formed or entering under these guidelines, subject to existing laws, rules and regulations.

X.

Procedural Rules — Filing of Application

The existing rules of the Insurance Commission on pre-licensing requirements for new domestic insurance or reinsurance companies or intermediaries are also applicable to applicants under these guidelines.

XI.

Transitory Provision

Foreign insurance or reinsurance company or intermediary already doing business in the Philippines jointly with Philippine nationals upon the effectivity of this Order increasing their equity participation to more than forty percent (40%) shall be governed by these guidelines.

This Order shall take effect immediately.

Adopted: 24 Oct. 1994

(SGD.) ROBERTO F. DE OCAMPO

Secretary

Recommending Approval:

(SGD.) ADELITA A. VERGEL DE DIOS

Insurance Commissioner

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