

Government of Puerto Rico
OFFICE OF THE COMMISSIONER OF INSURANCE
San Juan, Puerto Rico

**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 curtail several provisions established in the amendment to Rule 80 dated on January 29, 2020. Specifically, it is herein clarified that an international insurer, reinsurers or surplus line insurer authorized under any of the recognized insurance classes of authorities in the Chapter 61 of the Insurance Code of Puerto Rico, is precluded from doing business in any other NAIC accredited state or territory within United States jurisdiction. The amendments herein incorporated reflect this limited scope of operations. This amendment will not be applicable to an international insurer, surplus lines insurer or reinsurer that only does insurance business outside of United States jurisdiction (foreign countries) or is being organized as a pure or association captive.

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. This Chapter provides the legal authority for authorizing international insurers and international insurance holding companies to assume risk only outside of Puerto Rico, as well as for international reinsurers to be authorized to assume resident risk, located or to be executed within Puerto Rico and abroad. As part of the legal framework established in Chapter 61, several incentives were provided, including a favorable tax structure that would apply to international insurers and organized holding companies that are authorized to transact insurance business under the International Insurance Center.

The public policy pursued in the Chapter 61 of the Insurance Code does not fit with the NAIC's overall regulatory parameters of the NAIC accreditation program to the extent that it impairs insurers, reinsurers or insurers of surplus lines from operating on a multi-state basis. The legal framework of the International Insurance Center under Chapter 61 operates in an independent basis of the general provision of the Insurance Code, with limited exceptions, as set forth in Section 61.030 of the Insurance Code.

This amendment helps maintain Puerto Rico's accreditation status with the NAIC, which promotes the development of Puerto Rico as an ideal destination for the export of products and services related to insurance through the International Insurance Center and fulfills the expectations of international markets in a reliable legal framework. The Office of the Commissioner of Insurance must create a balance as well, stimulating the insurance industry with the recognized rights and protections of consumers within our jurisdiction and in other states and territories that follow the NAIC's accreditation legal framework.

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. Notwithstanding...]

[3. In order to ...]

[4.] 2. No person shall file, or cause to be filed, an application subject to the Section 61.050 of the Code to authorize an international insurer, reinsurer or surplus line insurer of Class 3, 4 or 5 authority, or any combination thereof, to operate on a ~~[basis of]~~ multistate basis [insurer] in at least one [other] state or territory within [of] United States jurisdiction other than its domicile."

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. ...
2. ...
3. ...
4. ~~[In the case of multistate...]~~"

SECTION 6. - AMENDMENT TO SECTION 12 OF RULE 80

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

"SECTION 12.- INVESTMENTS

- I. ...
- II. ~~[In the case of multistate ...]~~"

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. ~~[In the case of a multistate international reinsurer or surplus lines insurer that holds a Class 3-M, 4-M, or 5-M certificate of authority, the financial examination of its operations will be carried out subject to compliance with~~

~~all the provisions of the Insurance Code and the Regulations of the Insurance Code applicable to domestic multistate reinsurers and according to the guidelines established in the "Financial Condition Examiners Handbook" promulgated by the NAIC]."~~

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.

~~[It is hereby clarified that any international reinsurer or surplus line insurer that holds a Class 3-M, 4-M, or 5-M certificate of authority will be considered as a domestic multistate reinsurer or a domestic multistate surplus line insurer, respectively, and, therefore would be subject to the compliance with all of the provisions of the Insurance Code and of the Regulations of the Code applicable to a domestic multistate reinsurers or a domestic multistate surplus line insurer, as from time to time may be required under the Part A: Laws and Regulations accreditation program of the NAIC.]"~~

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.

Rafael Cestero Lopategui, Esq., CIC
Chief Deputy Commissioner of Insurance

Date of Approval:

Date of Filing
At the Department of State:

Date of Filing
At the Library of the Legislature:

DRAFT