CIRCULAR LETTER

TO : ALL INSURANCE COMPANIES UNDER A HOLDING COMPANY SYSTEM

SUBJECT : APPLICABILITY OF THE LIMITATION UNDER SECTION 211 OF THE INSURANCE CODE, AS AMENDED, TO BUSINESS COMBINATIONS FOR THE PURPOSE OF CORPORATE GROUP RESTRUCTURING

WHEREAS, Sec. 290 of the Insurance Code of the Philippines, as amended by Republic Act No. 10607, defines a Holding Company System as a holding company together with its controlled insurers and controlled persons;

WHEREAS, under Sec. 299 of the Insurance Code of the Philippines, as amended by Republic Act No. 10607, prior written approval of the Commissioner shall be required for the following transactions between a controlled insurer and any person in its holding company system: sales, purchases, exchanges, loans or extensions of credit, or investments, involving five percent (5%) or more of the insurer’s admitted assets as of the thirty-first day of December next preceding;

WHEREAS, in reviewing transactions pursuant to Sec. 299, the Insurance Commission is mandated to evaluate whether the transactions comply with the standard set forth in Sec. 298 which provides that the terms shall be fair and equitable, charges or fees for services performed shall be reasonable, expenses incurred and payments received shall be allocated to the insurer on an equitable basis in conformity with customary insurance accounting practices consistently applied and whether they may adversely affect the interests of policyholders;

WHEREAS, Sections 207 and 211 of the Insurance Code of the Philippines, as amended by Republic Act No. 10607, allows non-life insurance companies to invest any portion of its funds representing earned surplus in any financial institution: Provided, that no investment in stocks or bonds of any single entity shall in the aggregate, exceed twenty percent (20%) of the net worth of the insurance company as shown in its latest financial statement approved by the Commissioner or twenty percent (20%) of the paid-up capital of the issuing company, whichever is lesser, unless otherwise approved by the Commissioner;
WHEREAS, in order to comply with the Capital Build-up Requirement of the Insurance Code of the Philippines, as amended by Republic Act No. 10607, and in order to maximize synergy and promote the efficient use of capital, controlled insurance companies within a common holding company has resorted to business combinations such as merger, consolidation, acquisition of shares and acquisition of portfolio;

WHEREAS, such business combination entered into by controlled insurance companies within a common holding company should not be limited by the provisions of Sections 207 and 211 of the Insurance Code of the Philippines, as amended by Republic Act No.10607;

WHEREAS, under Sec. 437 of the Insurance Code of the Philippines, as amended by Republic Act No. 10607, the Insurance Commissioner is empowered to issue such rulings, instructions, circulars, orders and decisions as may be deemed necessary to secure the enforcement of the provisions of the Code, to ensure the efficient regulation of the insurance industry in accordance with global best practices and to protect the insuring public.

NOW, THEREFORE, by the powers vested in me, the following rules are hereby issued and promulgated:

1. APPLICABILITY OF LIMITATION ON INVESTMENT FOR NON-LIFE INSURANCE COMPANIES. – The limitation on investment for non-life insurance companies provided under Sec. 211 of the of the Insurance Code of the Philippines, as amended by Republic Act No. 10607, shall not be applicable for a business combination, which is hereto defined as a transaction in which the acquirer obtains control of another business of the acquiree (e.g. merger, consolidation, acquisition, etc).1

2. APPLICABILITY. – This Circular shall only apply to any business combination undertaken or entered into by two or more controlled insurance companies within a common holding company system strictly for the purpose of corporate group restructuring.

3. REQUIREMENTS. – If the business combination is a merger or consolidation, the requirements under IC Circular Letter No. 2015-11 dated 18 March 2015 shall also be complied with. Also, if the business combination will result into the acquisition of control of one of the controlled insurance companies, the requirements under IC Circular Letter No. 2014-37 dated 05 September 2014 shall also be complied with. Also, transactions within a holding company system must be approved or reported, depending on the threshold, as provided under IC Circular Letter No. 2015-15 dated 25 March 2015.

4. PERIOD. – The parties should complete the business combination within six (6) months from receipt of this Commission’s written approval.

This Circular Letter shall take effect immediately.

1 https://www.accountingtools.com/articles/2017/5/10/business-combination; IFRS 3
All concerned should be guided accordingly.

DENNIS B. FUNA
Insurance Commissioner