



Circular Letter (CL) No.:	2021-52
Date:	10 September 2021
Supersedes:	CL No. 79-1973, d. 8 March 1973; CL No. 2015-11, d. 18 March 2015; CL No. 2019-34, d. 18 July 2019

CIRCULAR LETTER

TO : ALL DOMESTIC INSURANCE COMPANIES DOING BUSINESS IN THE PHILIPPINES

SUBJECT : OMNIBUS GUIDELINES ON THE CONSOLIDATION AND MERGER OF INSURANCE COMPANIES

WHEREAS, on 8 March 1973, this Commission issued Circular Letter ("CL") No. 79-1973, providing for the rules and regulations on the consolidation and merger of insurance companies in accordance with the provisions of the old Insurance Code of the Philippines, or Presidential Decree No. 612;

WHEREAS, following the effectivity of Republic Act No. 10607, amending the Insurance Code of the Philippines, this Commission issued CL No. 2015-11 on 18 March 2015 with the subject, "*Rules and Regulations on Consolidation and Merger of Insurance Companies*";

WHEREAS, following the effectivity of Republic Act No. 11232, otherwise known as the Revised Corporation Code of the Philippines, the documentary requirements under CL No. 2015-11 dated 18 March 2015 were updated through amendments introduced by CL No. 2019-34 issued by this Commission on 18 July 2019;

WHEREAS, after a judicious review of its existing Circular Letters on the merger and consolidation of domestic insurance companies, this Commission finds the need to further harmonize said Circular Letters with the amendments introduced by the Revised Corporation Code of the Philippines;

NOW, THEREFORE, in accordance with the statutory powers of the undersigned under Section 437 of the Insurance Code of the Philippines, as amended by Republic Act No. 10607, the following *Omnibus Guidelines on the Consolidation and Merger of Insurance Companies* are hereby adopted and promulgated, to wit:

1. **Notice to the Insurance Commissioner.** – Two (2) or more domestic insurance companies intending to merge into a single insurance company, which shall be one

1. **Notice to the Insurance Commissioner.** – Two (2) or more domestic insurance companies intending to merge into a single insurance company, which shall be one of the constituent companies, or consolidate into a new single insurance company, which shall be the consolidated company, shall notify the Insurance Commissioner in writing of such intention at least thirty (30) days prior to any board action to approve any *Plan of Merger* or *Plan of Consolidation*.
2. **Plan of Merger or Consolidation.** – The respective board of directors of each company party to the merger or consolidation shall approve a *Plan of Merger* or *Plan of Consolidation*, which shall include the following information in addition to those required by the Securities and Exchange Commission (“SEC”), to wit:
 - a. The manner of transfer of assets to, and assumption of liabilities by, the absorbing or acquiring company from the constituent companies;
 - b. The proposed *Articles of Merger* or *Articles of Consolidation* and bylaws of the surviving or acquiring company;
 - c. The corporate name to be adopted: (i) in the case of consolidation; or (ii) in the case of merger where the corporate name to be adopted shall be different from the corporate name of any one of the constituent companies. Such corporate name shall not be that of any other existing company transacting similar business, or one so similar as to be considered as misleading the public; except in the case of a merged company that shall adopt the corporate name of one of the constituent companies;
 - d. The rights of the stockholders or members of the constituent companies;
 - e. Date of effectivity of the merger or consolidation; and
 - f. Such particulars as may be necessary to explain and make manifest the objectives and purposes of the absorbing or acquiring insurance company.
3. **Stockholder’s Approval.** – Upon approval by a majority vote of each of the board of directors of the constituent companies of the *Plan of Merger* or *Plan of Consolidation*, the same shall be submitted for approval by the stockholders of each of such companies at separate corporate meetings duly called for the purpose. Notice of such meetings shall be respectively given to all stockholders of the constituent companies at least two (2) weeks prior to the date of the meeting, either personally or by registered mail. Said notice shall state the purpose of the meeting and shall include a copy or a summary of the *Plan of Merger* or *Plan of Consolidation*.

The affirmative vote of stockholders representing at least two-thirds (2/3) of the outstanding capital stock of each of the constituent companies, respectively, shall be necessary for the approval of such *Plan*. Any dissenting stockholder may exercise the right of appraisal in accordance with the provisions of the Revised Corporation Code of the Philippines; *Provided*, That if after the approval by the stockholders of such *Plan*, the board of directors decides to abandon the *Plan*, the right of appraisal shall be extinguished.

Any amendment to the *Plan of Merger* or *Plan of Consolidation* may be made: *Provided*, That such amendment is approved by a majority vote of the respective board of directors of the constituent companies and ratified by the affirmative vote of stockholders representing at least two-thirds (2/3) of the outstanding capital stock of each of the constituent companies. Such *Plan*, together with any amendment, shall be considered as the agreement of merger or consolidation.

4. **Articles of Merger or Consolidation.** – After the approval and ratification of the *Plan of Merger* or *Plan of Consolidation* in accordance with Section 3 of this Circular Letter and the pertinent provisions of the Revised Corporation Code of the Philippines, the *Articles of Merger* or *Articles of Consolidation* shall be executed by each of the constituent companies, to be signed by the President or Vice President and certified by the Secretary or Assistant Secretary of each constituent company setting forth:
 - a. The *Plan of Merger* or the *Plan of Consolidation*;
 - b. The number of outstanding shares;
 - c. The number of shares voting for or against such *Plan*, respectively; and
 - d. Such other information as may be required by the SEC in accordance with the Revised Corporation Code of the Philippines and pertinent issuances.

5. **Discharge of Liabilities.** – The *Articles of Merger* or *Articles of Consolidation* of the constituent companies shall respectively contain an undertaking to discharge all said companies' respective accrued liabilities. Otherwise, such liabilities shall be transferred to and assumed by the absorbing or acquiring company in accordance with Section 79 (c) of the Revised Corporation Code of the Philippines.

In the case of insurance policies subject to cancellation by the constituent companies, the same must be cancelled pursuant to the terms and conditions of said policies in lieu of such transfer, assumption, or reinsurance, and submission of proof/s of endorsement notifying the insured of such cancellation.

In any case, written proof as to the discharge of accrued liabilities by the constituent companies shall be submitted to the Insurance Commissioner as part of the requirements for the latter's *Endorsement*, as provided for under Section 7 (f) of this Circular Letter.

6. **Notice to Policyholders and Creditors.** – Within twenty (20) days after the execution of the *Articles of Merger* or *Articles of Consolidation*, notice thereof shall be immediately sent to all policyholders and creditors of the constituent companies through registered mail. The constituent companies may, at their option, supplement the mandatory registered mailing of such notices by sending the same through electronic mail and/or any other means of communication that will ensure receipt by the policyholders and creditors. The twenty (20)-day period may be extended by the Insurance Commissioner upon justifiable cause shown in a written request by the constituent companies.
7. **Documentary Requirements for Commissioner's *Endorsement*.** – Pursuant to Section 78 of the Revised Corporation Code of the Philippines, insurance companies must secure the favorable recommendation of the Insurance Commissioner before submitting the *Articles of Merger* or *Articles of Consolidation*

to the SEC. To secure the Insurance Commissioner's *Endorsement*, the following documents shall be submitted:

- a. Certified true copy of the approved and ratified *Plan of Merger* or *Plan of Consolidation*; and the minutes of the meeting of the board of directors approving, and minutes of stockholders' meeting of the constituent companies;
 - b. Certified true copy of the *Articles of Merger* or *Articles of Consolidation*; and the minutes of the meeting of the respective board of directors of the constituent companies approving and adopting the *Articles of Merger* or *Articles of Consolidation*;
 - c. Unless indicated already in the *Plan of Merger* or *Plan of Consolidation* or *Articles of Merger* or *Articles of Consolidation*, the applicable deed/s of assignment or transfer of all the assets by the constituent companies in favor of the absorbing or acquiring company in exchange for shares of the latter;
 - d. Audited Financial Statements (Balance Sheet and Relative Profit and Loss Statement) of the constituent companies;
 - e. Certification on the increase of capital stock of the acquiring or absorbing company issued in accordance with the Revised Corporation Code of the Philippines, whenever necessary, to create shares of stock for issuance to stockholders of the constituent companies pursuant to the *Plan of Merger* or *Plan of Consolidation*;
 - f. Written proof as to the discharge of accrued liabilities of the constituent companies; and
 - g. Such other documents that the Insurance Commissioner may require to aid him in the decision whether to issue the *Endorsement*. The list of the policyholders of the constituent companies shall be made available when required.
8. **Financial Examination.** – Before the Insurance Commissioner endorses the *Articles of Merger* or *Articles of Consolidation* to the SEC in accordance with Section 9 of this Circular Letter, the current year's examination or verification shall be utilized for the purpose of determining the financial condition of the constituent companies. The Insurance Commissioner shall notify the constituent companies as regards the conduct of financial examination at least thirty (30) days prior to the date of such examination or verification.
9. **Review of Submissions and Issuance of *Endorsement*.** – The Insurance Commissioner shall then review the submissions enumerated in the immediately preceding section and shall issue either the *Endorsement* or a denial letter stating the reason/s for such denial. Prior to the issuance of such *Endorsement*, the Insurance Commissioner may also order the amendment of the *Articles* and/or *Plans* of merger or of consolidation or any of the other submissions identified in the immediately preceding section.

10. **Filing with SEC.** – The signed and certified *Articles of Merger* or *Articles of Consolidation* and the Insurance Commissioner's *Endorsement* shall thereafter be filed with the SEC for the latter's approval pursuant to Section 78 of the Revised Corporation Code of the Philippines.
11. **Surrender of Old Certificates of Authority.** – Upon receipt from the SEC of the certificate of approving the *Articles of Merger* or *Articles of Consolidation* and the *Plan of Merger* or *Plan of Consolidation*, the constituent companies shall immediately surrender their respective certificates of authority to transact insurance business. In the case of merger, the absorbing or surviving company shall be required to surrender its old certificate of authority and apply for a new certificate of authority in accordance with the immediately succeeding section.
12. **Application for New Certificate of Authority.** – The absorbing or surviving company in the case of merger, or the newly formed company in the case of consolidation, shall immediately file with the Insurance Commissioner the corresponding application for the issuance of a new certificate of authority to transact insurance business, together with a certified copy of the certificate of approval of the *Articles of Merger* or *Articles of Consolidation* together with the *Plan of Merger* or *Plan of Consolidation*, and of the certificate of increase of stocks, if any, issued by the SEC.
13. **Time Period.** – All mergers and consolidations done pursuant to this Circular Letter shall be completed within twelve (12) months from the time the Insurance Commissioner was first notified of the proposed merger or consolidation in accordance with Section 1 of this Circular Letter. Requests for the extension of the deadline of completion shall be made in writing, explaining the reason for the delay, and received and approved by the Insurance Commissioner before the expiration of the twelve (12)-month period.
14. **Separability Clause.** – If any provision of this Circular Letter is declared invalid or unconstitutional, other provisions hereof which are not affected thereby shall continue to be in full force and effect.
15. **Effectivity.** – This Circular Letter shall take effect immediately.

DENNIS B. FUNA
Insurance Commissioner

