



Republic of the Philippines
Department of Finance
INSURANCE COMMISSION
1071 United Nations Avenue
Manila

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Supersedes:	CL No. 09-2009; CL No. 2021-23; CL No. 2021-33

CIRCULAR LETTER

**TO : ALL INSURANCE AND REINSURANCE BROKERS
AUTHORIZED TO DO BUSINESS IN THE PHILIPPINES AND
IC-ACCREDITED EXTERNAL AUDITORS**

**SUBJECT : REVISED ON-SITE EXAMINATION/OFF-SITE VERIFICATION
RULES AND PROCEDURES**

WHEREAS, the Insurance Commission (IC) issued Circular Letter (CL) No. 2018-52 dated 19 October 2018 on the Guidelines on the Licensing Requirements of Insurance and/or Reinsurance Brokers, which superseded previous issuances such as Insurance Memorandum Circular (IMC) No. 2-85, IMC 1-2006, and CL No. 2006-12;

WHEREAS, Section 3 of CL No. 2018-52 requires license insurance and/or reinsurance brokers to maintain capitalization and net worth requirements without prejudice to the adoption of the risk-based capital approach and other internationally accepted forms of capital framework;

WHEREAS, Section 314 of the Amended Insurance Code provides *“that an application for the issuance or renewal of a license to act as an insurance agent or insurance broker may be refused, or such license, if already issued or renewed, shall be suspended or revoked if the Commissioner finds that the applicant for, or holder of, such license: ...has been guilty of fraudulent or dishonest practices; or has misappropriated or converted to his own use or illegally withheld moneys required to be held in a fiduciary capacity”*;

WHEREAS, the insurance/reinsurance broking business is an integral and important part of the insurance business cycle;

WHEREAS, insurance/reinsurance brokers handle funds and collect and remit premiums on behalf of the customers/insured and insurance companies;

WHEREAS, one of the findings noted in the 2019 Financial Sector Assessment Program (FSAP) conducted by the World Bank is that the current regulations of insurance and/or reinsurance brokers need to be reviewed and revised in compliance with globally accepted regulatory standards;

WHEREAS, Insurance Core Principle (ICP) 18 on Intermediaries states that where appropriate, the insurance supervisor shall apply and observe supervisory measures on licensed insurance intermediaries;

WHEREAS, ICP 18 on Intermediaries further states that the supervisor shall require an insurance intermediary who handles client monies to have safeguards in place to protect these funds;

WHEREAS, under Section 437(d) of the Amended Insurance Code, the Insurance Commissioner shall have the powers and authority to prepare, approve, amend or repeal rules, regulations and orders, and issue opinions and provide guidance and supervise compliance with such rules, regulations and orders;

NOW, THEREFORE, pursuant to the authority vested to the Insurance Commissioner under Section 437(d) of the Amended Insurance Code, the On-site Examination/Off-site Verification Rules and Procedures for Insurance and/or Reinsurance Brokers and IC-accredited External Auditors is hereby revised:

SECTION 1: COVERAGE

This CL covers the revised rules and procedures on the determination of net worth, fiduciary ratio, on-site and off-site examination of insurance and/or reinsurance brokers with valid Certificate of Authority from the IC.

This CL also covers the schedules required to be filed by the insurance and/or reinsurance brokers with the IC, and additional disclosures required to be made in the AFS, as specified in Annex A.

SECTION 2: OBJECTIVES

The objectives of this CL are:

- 2.1. To complement the enforcement of Section 3 of CL No. 2018-52, "Guidelines on the Licensing Requirements of the Insurance and/or Reinsurance Brokers";
- 2.2. To exercise the authority and power of the IC to refuse renewal, suspend or revoke the license of any insurance and/or reinsurance brokers in accordance with the Section 314 of the Amended Insurance Code; and
- 2.3. To provide guidance on the preparer and IC-accredited external auditor on the assets or liabilities to be recognized for the purpose of prudential reporting to the IC.

SECTION 3: PRUDENTIAL FINANCIAL REQUIREMENTS

3.1. All insurance and/or reinsurance brokers with valid Certificate of Authority from the IC shall, at all times, comply with the following:

- a. Net Worth Requirement;
- b. Surety Bond and Errors and Omissions policy;
- c. Keeping separate Clients' Money Account;
- d. Fiduciary Ratio Requirement; and
- e. Keeping proper books of accounts.

a. Net Worth Requirement

As provided under Section 3 of CL No. 2018-52, licensed insurance and/or reinsurance brokers are required to maintain the following net worth requirements¹:

Type of License		Existing Broker <i>(license issued before CL No. 2018-52 dated 19 October 2018)</i>	New Entrant <i>(license issued after CL No. 2018-52 dated 19 October 2018)</i>
Insurance	OR	Php 10 million	Php 20 million
Reinsurance			
Insurance	AND	Php 25 million	Php 50 million
Reinsurance			

The balances as reported in the Audited Financial Statements (AFS), as audited by an IC-accredited external auditor, shall be the basis for the net worth computation, provided that, the other prudential requirements and disclosures are complied with (i.e. clients' money/fiduciary accounts).

b. Surety Bond and Errors and Omissions Policy

The requirements on the submission of surety bond and errors and omission policy shall be in accordance with the provisions of Sections 6 and 7 of IC CL No. 2018-52 *and/or equivalent future issuances*.

c. Keeping separate Clients' Money Account

Section 315 of the Amended Insurance Code requires every license insurance and/or reinsurance broker to ensure faithful performance of its fiduciary responsibilities on behalf of its clients and partner insurance and/or reinsurance companies. Thus, an insurance and/or reinsurance broker is required to keep client monies in a client account separate from its own monies. It is not allowed to use client monies for any purpose other than for the purposes of the client. The "clients' money account" shall be designated as such, as held by the insurance and/or reinsurance broker for its clients:

¹ Based on the IC Legal Services Group's Legal Opinion dated 21 May 2021.

- i. A "clients' money account" means a current or deposit account maintained with a financial institution duly authorized under the Bangko Sentral ng Pilipinas in the name of the insurance and/or reinsurance broker in the title of which the word "client" appears;
- ii. An insurance and/or reinsurance broker shall keep at least one client account and may keep as many such accounts as it deems necessary; and
- iii. An insurance and/or reinsurance broker who receives or holds monies on behalf of its clients in relation to insurance broking business shall, without delay, deposit such monies into the client account.

It should be noted that the IC only requires the insurance and/or reinsurance broker to keep client monies in a bank separate from its own monies/fund and not to use client monies for any other purposes than for the benefit of the clients. Although the IC does not require an insurance and/or reinsurance broker to keep separate accounts for each individual client, it is of utmost importance that the broker maintains records of the balances due from/to individual clients and reconciles these balances (on a client-by-client basis) regularly to ensure that client monies are properly kept in client accounts.

For the avoidance of doubt, clients' monies include at a minimum:

- i. Premiums, renewal premiums, additional premiums and return premiums of all kinds;
- ii. Claims and other monies due under contracts of insurance;
- iii. Refunds to clients;
- iv. Fees, discounts, charges, levies relating to contracts of insurance; and
- v. Any other transactions determined by the IC as clients' money.

Commission and brokerage fees earned by the Company may be transferred to the Company's operating or general fund accounts.

d. Fiduciary Ratio Requirement

In addition to the net worth requirement above, an insurance and/or reinsurance broker **with a credit agreement** with an insurance/reinsurance company or broker shall comply with the Fiduciary Ratio Requirement set by the IC.

A credit agreement is a type of transaction wherein an insurance and/or reinsurance broker (1) collects premiums receivable from clients/insurers and remits to insurance/reinsurance companies, (2) remits claim payments to claimants/cedants on behalf of the insurance/reinsurance company or (3) other credit agreement.

Fiduciary ratio is computed by dividing the total fiduciary assets, either cash or receivables being held by an insurance and/or reinsurance broker, over the total fiduciary liabilities. The formula is as follows:

$$\text{Fiduciary Ratio} = \frac{\text{Fiduciary Assets}}{\text{Fiduciary Liabilities}}$$

The fiduciary ratio to be maintained shall be 1:1². Amounts to be used is gross of the commissions, allowances for impairment, taxes, fees and other charges.

Fiduciary assets and liabilities of an insurance and/or reinsurance broker include the following:

Fiduciary Asset Accounts	Fiduciary Liability Accounts
1. Cash Restricted – Clients' Money Account <ul style="list-style-type: none"> i. Client's Money on Hand ii. Client's Money in Bank 	1. Payable to Insurance Companies
2. Receivable from Insurance Companies Clients	2. Payable to the Insured
3. Receivable from Ceding Company (if applicable)	3. Payable to the Ceding Company (if applicable)
4. Receivable from HMOs' Members (if applicable)	4. Payable to HMO provider (if applicable)
	5. Payable to Reinsurer (if applicable)

Recognition and measurement of the fiduciary assets and liabilities shall be in accordance with the latest Standard Chart of Accounts for Insurance and/or Reinsurance Brokers as issued by the Commission, and the applicable accounting standards in the Philippines.

Insurance and/or reinsurance brokers with **direct remittance agreement** (a type of transaction wherein a client/insurer/cedants remits the premium payments directly to the insurance/reinsurance company) shall not be required to comply with the fiduciary ratio and will be required to submit a written "Certification" (see Annex A-III) signed by the appropriate and authorized personnel of the company. However, the said insurance and/or reinsurance broker shall still comply with the net worth requirements as provided in Section 3.1.a. of this CL.

Insurance and/or reinsurance brokers with **both credit and direct remittance agreement** will only need to comply with the fiduciary ratio requirements with respect to its accounts with credit agreement. The Company is required to maintain a schedule that will monitor the accounts with credit agreement and with direct payment arrangements.

- e. Keeping proper books of accounts.** All licensed insurance and/or insurance brokers should strictly adhere to the requirements of CL No. 2018-17 or any equivalent future issuance in preparation of their statutory and prudential submission to the IC.

² An instance where the ratio will not result to 1:1 is when the Company mixes the clients' money with its general fund, which is in violation of this Section.

In cases where the account titles being used by the licensed insurance and/or reinsurance broker are different compared to those listed in the latest Standard Chart of Accounts, the insurance and/or reinsurance broker shall prepare and submit a reconciliation statement together with the requirements in Section 4 of this CL.

SECTION 4. SUBMISSION OF ANNUAL AFS AND REPORTS BY THE AUDITOR IN COMPLIANCE WITH THE REQUIREMENTS ABOVE

- 4.4. At a minimum, all licensed insurance and/or reinsurance brokers shall submit the following on or before 31 May after the close of the calendar year:
- i. AFS;
 - ii. Schedule of Clients' Money Accounts;
 - iii. Schedule of Premium-related Accounts and its reconciliation;
 - iv. Schedule of Fiduciary Computation; and
 - v. Other requirements deemed necessary by the Insurance Commission.

Guidelines in the preparation of the schedule and complete set of requirements are found in Annex "A".

SECTION 5: ON-SITE EXAMINATION/OFF-SITE VERIFICATION

- 5.1. The IC shall conduct regular off-site verification or monitoring. On-site examination, on the other hand, shall be conducted at least once every five (5) years and as deemed necessary, based on the previous risk ranking of the company. On-site examination and off-site verification include supervisory reporting, review, and analysis of conduct of business (such as but not limited to complaints, arrangements with (re)insurance companies and brokers and disclosure of information). The IC may specify information to be provided for on-site examination and off-site verification purposes, including information to be reported routinely or on an ad hoc basis. Supervisory reporting requirements may include but are not limited to the abovementioned reports and those enumerated in Annex "A."
- 5.2. The IC examiners may coordinate with other IC divisions whether information provided is sufficient to cover all areas of the supervisory reporting and review.
- 5.3. The insurance and/or reinsurance broker shall supply any document or information that is requested by the IC.
- 5.4. The IC may provide an exception to certain requirements upon the Insurance Commissioner's approval of the insurance and/or reinsurance broker's formal written request.

SECTION 6: BROKERS CLASSIFICATION

The IC will use a system of ranking or classification codes to identify the status and perceived riskiness of all insurance and/or reinsurance brokers. The ranking/classification are listed below followed by an explanation.

The rankings/classification are determined after an in-depth financial analysis and reflect the overall assessment and judgment of the examiner conducting the review. Individual characteristics, including certain ratios and statistics, may be deemed to have greater or lesser importance than the norm based on the types and volumes of business written, the company's historic profitability, and the potential for financial support from affiliated companies, as well as many other potential mitigating factors.

Ranking/ Classification Code	Description
1	Minimal/No Concerns
2	Some Concerns
3	Significant Concerns
4	Highest Priority (Non-compliance with requirements)

Code 1 indicates companies that currently have no significant problems or risk factors and where possibility of solvency problems within the next five (5) years is negligible.

Code 2 indicates companies that currently have some noted concerns, but where the possibility of solvency problems within the next two (2) to five (5) years is not likely, given the trends exhibited by the company at the time of the review. However, companies ranked as "2" typically exhibit only one or two of the above characteristics and the noted finding(s) are such that the combination of risk factors does not significantly increase the overall financial risk of the company.

Code 3 indicates companies that currently have significant concerns and where the possibility of solvency problems within the next two (2) to five (5) years is reasonable, if not likely, given the trends exhibited by the company at the time of the review. Companies ranked as "3" typically exhibit two or more of the following characteristics, where the combination of the noted findings tend to increase the overall financial risk of the company:

- i. Failure to comply with Net worth or Fiduciary requirements;
- ii. Poor ratio analysis results;
- iii. Qualified audit opinion;
- iv. Unusual changes in amounts from the prior years;
- v. History of capital deficiencies, or insufficient disclosure of outstanding court cases;
- vi. Unprofitable trend from operations especially in the company's core lines of business;
- vii. Large risk exposure in investments in, or receivables due from affiliates;
- viii. Investments beyond the Company's risk appetite, poor asset quality, inadequate diversification, or large risk of asset-liability mismatch;
- ix. Material contingent liabilities; and
- x. Significant unresolved claims/claim reports to this Commission.

Code 4 indicates companies that are the highest priority. These companies have a high probability of insolvency and were issued an adverse audit opinion in their AFS. Due to its significance, this ranking is only assigned after consultation with a Supervisor and the Division Manager.

This system is an internal classification or ranking of the IC and any identified and potential findings will be communicated before the close of the verification/examination and the specific company ranking/classification may be disclosed if the public interest so requires or demands.

SECTION 7: REGULATORY AND SUPERVISORY ENFORCEMENT

- 7.1. If upon examination or verification into the financial condition of the licensed insurance and/or reinsurance broker, it is found that the net worth and fiduciary ratio (if applicable) are less than the required values under Sections 3.1.a. and 3.1.d., the insurance and/or reinsurance broker shall:
 - i. address the **net worth** deficiency by infusing cash or other liquid assets as approved by this Commission; and
 - ii. address the **fiduciary ratio** deficiency by infusing cash only. Alternatively, the Company may remit associated fiduciary liabilities to comply with the required ratio.
- 7.2. The Company shall submit a formal reply that shall include the sources of funds and the effect of such infusion or remittance of liability to the net worth deficiency/fiduciary ratio.
- 7.3. Any cash infusion shall also be subject to examination and/or verification and shall comply with applicable provisions of the Anti-Money Laundering Act.
- 7.4. In case of non-compliance with the cash infusion within the period allowed by the IC, the Brokers and Insurance Pools Division shall submit its recommendation to the appropriate IC Division for action.
- 7.5. If the supplemental disclosure submitted fails to comply or fails to appropriately disclose the requirements of the IC, as provided in **Annex A** of this CL, the IC reserves the right to deploy its range of supervisory and regulatory tools, and issue directives, orders, or impose sanctions on the regulated entity and/or its directors and management who approved the supplemental report and the appointment of the external auditor and/or audit firm for non-compliance with the requirements in this CL and CL No. 2020-61 and Section 4 of CL No. 2019-39.

SECTION 8. REVIEW PROVISION

This CL shall be subject to a review by the Commission at least once every five (5) years or upon discovery of necessary updates and adjustments.

SECTION 9. TRANSITORY PROVISION

All Insurance and/or Reinsurance Brokers with valid Certificate of Authority are required to adopt the requirements of this CL in the preparation of their 2022 financial statements and submissions to the IC on **31 May 2023**.

SECTION 10. EFFECTIVITY

The issuance of this CL, upon effectivity, supersedes all previously issued CLs regarding the examination and/or verification of insurance and/or reinsurance brokers.


DENNIS B. FUNA
Insurance Commissioner

