

[CIRCULAR LETTER NO. 2018-42, August 15, 2018]

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

Adopted: 10 August 2018

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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;