

IMC No.	:	<u>10 - 2006</u>
Date	:	<u>November 29, 2006</u>

INSURANCE MEMORANDUM CIRCULAR

TO : ALL INSURANCE COMPANIES DOING BUSINESS IN THE PHILIPPINES

SUBJECT: INTEGRATING COMPLIANCE STANDARDS FOR FIXED CAPITALIZATION UNDER DEPARTMENT ORDER NO. 27-06 AND RISK-BASED CAPITAL FRAMEWORK UNDER INSURANCE MEMORANDUM CIRCULAR NOS. 6-2006 AND 7-2006, AND APPLICABLE FINES

WHEREAS, recognizing the need to secure the solvency position of insurers and to adequately protect the insuring public, the Department of Finance issued Department Order (D.O.) No. 27-06, establishing fixed annual capitalization increases through the years 2006 to 2010/2011;

WHEREAS, to establish a more efficient capitalization structure attuned to the risks carried by individual insurers and in step with the government's prudential regulatory measures, the Insurance Commission issued Insurance Memorandum Circular (IMC) No. 6-2006 and Insurance Memorandum Circular (IMC) No. 7-2006 prescribing the Risk-Based Capital (RBC) framework for insurers;

WHEREAS, under Section IX of D.O. No. 27-06, the fixed capitalization increases were mandated without prejudice to other requirements to be imposed under the RBC framework to be adopted by the Insurance Commission;

WHEREAS, to synchronize the application of D.O. No. 27-06 and IMC Nos. 6-2006 and 7-2006 to insurers, there is a need to integrate the compliance standards under D.O. No. 27-06 and IMC Nos. 6-2006 and 7-2006 and issue implementing rules therefor.

NOW, THEREFORE, , pursuant to the authority vested in me by the Insurance Code, as amended, and after the series of consultations, dialogues, and discussions conducted and held with insurance industry associations, the following rules and regulations are hereby promulgated:

A. *Consolidated Compliance Framework* - Compliance with RBC and Fixed Capitalization requirements both aimed at assuring a secure level of stability for the life insurance and non-life insurance industries shall be integrated and governed by a consolidated framework of compliance prescribed hereunder:

1. *Fixed Capitalization (Statutory Net Worth and Paid-up Capital) Requirements* – All insurers must possess the capitalization required for the year 2006 as set out in D.O. No. 27-06.

Insurers with foreign equity but required to have paid-up capital equal to that of a wholly Filipino-owned domestic insurer shall be considered a wholly Filipino-owned domestic insurer for purposes of determining their required capital under D.O. No. 27-06.

2. *RBC Requirements* - All insurers shall annually comply with the RBC ratio requirements set forth under IMC Nos. 6-2006 and 7-2006. Failure to meet the said requirements shall result in the corresponding Action/Control Event(s) prescribed in the said IMC's.
3. The Fixed Capitalization requirement for a given year may be suspended for insurers that comply with the required RBC Hurdle Rate, provided that the industry (either life or non-life) to which they belong, complies with the required Industry RBC Ratio Compliance Rate. The *Industry RBC Ratio Compliance Rate* is the ratio of the number of insurers which are able to meet the corresponding *RBC Hurdle Rate* requirement for a given year to the total number of insurers in the industry.

The *Industry RBC Ratio Compliance Rates* and the *RBC Hurdle Rates* are based on the annual schedule of progressive rates shown below:

Basis of RBC Ratio	Review Year	Industry RBC Ratio Compliance Rate	RBC Hurdle Rate
2006 Synopsis	2007	80%	150%
2007 Synopsis	2008	85%	175%
2008 Synopsis	2009	85%	200%
2009 Synopsis	2010	90%	200%
2010 Synopsis	2011	90%	250%

4. An insurer shall be required to meet the level of Fixed Capitalization requirements under D.O. No. 27-06:
 - a. If the *Industry RBC Ratio Compliance Rate* is not achieved by the industry, irrespective of whether or not the insurer complies with the *RBC Hurdle Rate* requirement; or
 - b. If the *Industry RBC Ratio Compliance Rate* is attained by the industry, but the insurer fails to satisfy the *RBC Hurdle Rate* requirement.
5. Suspension of the Fixed Capitalization requirement is on a year to year basis. If the criteria for suspension are complied with, the qualified insurer is not required to have the paid-up capital and net worth under D.O. No. 27-06 for the relevant year. If the criteria are not complied with in the succeeding year/s, the insurer must have the required paid-up capital and net worth equivalent to the suspended or the lowest suspended level of Fixed Capitalization applicable to that insurer.

Attached as Annex A is an illustration of the application of the compliance requirements under this IMC.

- B. *Assessment of Industry Performance* - Beginning year 2009 and every year thereafter, the Insurance Commission shall assess the performance of the industry to verify if, on the basis of the *Industry RBC Ratio Compliance Rate*, as may be determined from time to time by the Insurance Commissioner, the industry is stable enough to stop the implementation of Fixed Capitalization requirement under D.O. No. 27-06.
- C. *Applicable Fines* - Without prejudice to other administrative sanctions provided in the Insurance Code, the fines payable for non-compliance with this IMC shall be those provided for under Section 415 of the Code.

Provisions on fines under previous issuances or circulars inconsistent with Section 415 of the Code shall be deemed inapplicable.

This Insurance Memorandum Circular No. 10-2006 shall take effect immediately.

Signed this 29th Day of November 2006.

(SGD.) EVANGELINE CRISOSTOMO-ESCOBILLO
Insurance Commissioner

Approved:

(SGD.) MARGARITO B. TEVES
Secretary
Department of Finance

ILLUSTRATION OF COMPLIANCE REQUIREMENTS UNDER IMC 10-2006

1. *In year 2007, the industry attained a 90% RBC Compliance Rate.*
 - a. Insurer A – A wholly Filipino-owned domestic insurer complied with the RBC Hurdle Rate of 150%. The fixed capitalization requirement of ₱150 M in 2007 shall not be applied to Insurer A. Insurer A may continue to operate with ₱100M capitalization in 2007.
 - b. Insurer B – A wholly Filipino-owned domestic insurer failed to comply with the RBC Hurdle Rate of 150%. Insurer B shall be required to comply with the fixed capitalization requirement of ₱150M in 2007. This is in addition to any Action/Control Events applicable depending on the insurer's RBC ratio.
2. *In year 2008, the industry attained only 80% RBC Compliance Rate (Required Compliance Rate is 85%).*
 - a. The same Insurer A – One of the insurers that complied with the RBC Hurdle Rate of 150% in 2007. The fixed capitalization requirement should be complied with since the Industry Compliance Rate (85%) was not achieved. The level of fixed capitalization requirement to be complied with, however, is not the 2008 fixed capitalization requirement of P200M but the 2007 capitalization requirement of P150M since the latter is the suspended fixed capitalization requirement for Insurer A.
 - b. The same Insurer B – One of the insurers that did not comply with the RBC Hurdle Rate of 150% in 2007. The fixed capitalization requirement should be met by Insurer B since the Industry Compliance Rate was not achieved. Even if the insurer complies with the RBC Hurdle Rate this time, the fixed capitalization requirement shall be imposed because the industry failed to comply with the required Industry Compliance Rate. The level of fixed capitalization requirement to be applied to Insurer B is the 2008 fixed capitalization requirement of P200M since the 2007 fixed capitalization requirement of P150M has already been imposed on Insurer B the previous year.