

# Puerto Rico International Insurance Center Latest Developments and Amendments to the Law

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# Agenda

- Review of International Insurance Legislation
- Development of International Insurance Center
- Recent legislative changes
- Challenges ahead



# Puerto Rico International Insurance Legislation

- Acts 399 and 400 of 2004, amended 2009 and 2011
- Creates legal structure for the organization and regulation of international insurers and reinsurers
- Permits favorable tax treatment for offshore insurance operations



# Objective

- An alternative to other jurisdictions
  - Offshore: Bermuda, Barbados, Cayman Islands, BVI, Panama
  - On-Shore: Vermont, Colorado, Hawaii
- Become jurisdiction of choice for
  - Specialty insurers and reinsurers of US and non-US risks
  - Latin American offshore operations



# A Primer on the Puerto Rico International Insurers and Reinsurers Act (PRIIRA)

- Puerto Rico Act No. 399 of September 22, 2004
- Puerto Rico Act No. 400 of September 22, 2004
  - “Sets forth tax treatment and regulations for International Insurers authorized through the International Insurance Center of Puerto Rico”.



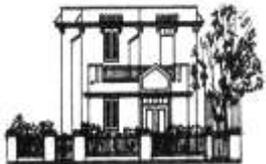
# Principal Provisions & Structure of the Law

TYPE OF LICENSE	DESCRIPTION	MINIMUM CAPITAL AND SURPLUS	APPLICATION FEE (General/Fee \$350 USD)
<b>CLASS 1 PURE CAPTIVE (L+H / P&amp;C)</b>	A company that may not insure any risk other than those of its parent, affiliated companies and/or controlled unaffiliated businesses.	\$500,000.00 USD	\$750.00 USD
<b>CLASS 2 ASSOCIATION CAPTIVE (L+H / P&amp;C)</b>	A company that can insure the risks of the parent and/or affiliated companies or its members, as well as those arising from its business transactions.	\$750,000.00 USD MIN.CAPITAL: \$500,000.00 USD	\$1,000.00 USD
<b>CLASS 3 PROPERTY- CASUALTY</b>	A company that can transact business for traditional insurance or reinsurance foreign risks in property & casualty except life and disability; excluding high limit casualty and property catastrophe reinsurance	\$1,500,000.00 USD MIN.CAPITAL: \$500,000.00 USD	\$2,500.00 USD
<b>CLASS 4 UNRESTRICTED PROPERTY-CASUALTY</b>	A company that can transact business for traditional insurance and reinsurance foreign risks in property & casualty, including high limit property and casualty reinsurance. Can not transact life and disability reinsurance.	\$100,000,000.00 USD MIN.CAPITAL: \$2,000,000.00 USD	\$25,000.00 USD
<b>CLASS 5 UNRESTRICTED L+H</b>	A company that can transact business for traditional insurance and reinsurance foreign risks in life and disability.	\$750,000.00 USD	\$750.00 USD



# Structure of Legislation

- Exempts International Insurers from laws and regulations applicable to insurers doing business in PR
- Financial Flexibility, Assets & Liabilities
  - LOCs permissible
  - Assets may be kept in non-US currencies



# Structure of Legislation

## Segregated Asset Plans/Protected Cells

- Protected Cells Permitted
  - Separate from general account and other separate accounts
  - Accounting and insolvency separation





# Structure of Legislation

## Regulatory

- Assets in PR, required Capital and Surplus
- Audited Statement-US GAAP with SAP reconciliation as per Rule 80, Actuarial Certification
- Appointment of CPA, Actuary, Principal Representative
- Compliance with Solvency, Liquidity Ratios
- Annual Renewal of Certificate of Authority



# Structure of Legislation

## Local Risks

- Certain insurance of Puerto Rico risks possible
  - Reinsurance and surplus lines coverage



# Structure of Legislation

## Regulations

- Operations (Rule 80)
- Protected Cells (Rule 81)
- Holding Companies (Rule 82)



# Rule No. 80

## Rules Governing The Operations Of International Insurers and Reinsurers

- Article 1 – General Provisions
- Article 2 – Purpose and
- Article 3 – Definitions
- Article 4 – International Insurer Holding Company
- Article 5 – Authorizations Requirements For International Insurers
- Article 6 – Basis For Non renewal, Revocation Or Suspension Of The Certificate Of Authority
- Article 7 – Commercial Name



# Rule No. 80

## Rules Governing The Operations Of International Insurers and Reinsurers

- Article 8 – Minimum Capital And Surplus: Deposits
- Article 9 – Premium Ratio; Liquidity Ratio
- Article 10 – Annual Report
- Article 11 – Investments
- Article 12 – Intermediaries
- Article 13 – Contributions And Fees
- Article 14 – Privacy Of Information Compiled



# Rule No. 80

## Rules Governing The Operations Of International Insurers and Reinsurers

- Article 15 – Powers Of The Commissioner
- Article 16 – Use Of Spanish Or English
- Article 17 – Applicability Of Other Rules And Regulations
- Article 18 – Severability
- Article 19 – Effectiveness



# Rule No. 81

## Rules Governing The Operations of International Insurers Authorized To Operate Protected Cells

- Article 1 – General Provisions .....1
- Article 2 – Definitions .....1
- Article 3 – Establishment of Protected Cells .....4
- Article 4 – Assets And Liabilities .....6
- Article 5 – Protected Cell Company Insurance Securitization...7
- Article 6 – Participant Contracts .....9
- Article 7 – Creditors Obligations .....9



# Rule No. 81

## Rules Governing The Operations of International Insurers Authorized To Operate Protected Cells

- Article 8 – Investments .....11
- Article 9 – Rehabilitation And Liquidation .....11
- Article 10 – Transactions of Insurance Business .....12
- Article 11 – Applicability of Other Rules And Regulations .....12
- Article 12 – Powers of The Commissioner .....13
- Article 13 – Severability .....13
- Article 13 – Effectiveness .....13





# Rule No. 82

## Rules Governing The Operations of International Insurer's Holding Companies

- Article 1 – General Provisions .....1
- Article 2 – Definitions .....1
- Article 3 – Financial Statements Used for Computation .....4
- Article 4 – Assets .....5
- Article 5 – Control .....6
- Article 6 – Interests .....9
- Article 7 – Corporate Transactions .....10



# Rule No. 82

## Rules Governing The Operations of International Insurer's Holding Companies

- Article 8 – Domestic Insurer Control .....10
- Article 9 – Applicability of Other Rules .....11
- Article 10 – Powers of The Commissioner .....11
- Article 11 – Severability .....11
- Article 12 – Effectiveness .....11



# Structure of Legislation

## Taxation

- Favorable tax treatment for insurer and insurance holding company
  - Insurer and Holding Company
    - Originally full income tax exemption, and dividends paid out also fully exempt
    - Act No. 7 of 2009: 5% income tax for 3 years



# Development of International Insurance Center

- 2005
  - legislation becomes effective
  - first application filed
- 2006
  - first insurers authorized
- 2009
  - 12 insurers authorized
  - broad spectrum represented in this group



# Development of International Insurance Center

## ■ Government Role

- legal platform (legislation)
- regulatory framework
  - legal and administrative
- promotion

## ■ Private Role

- service providers
- Banking and finance



# Changes to Legislation

## Taxation

### ■ Insurer

- Act No. 98 of June 20, 2011
- 4% tax on Net Income greater than \$1.2 million
- Income below that amount is fully exempt
- Protected cells also taxed at 4% on their individual Net Income greater than \$1.2 million
- Dividends paid remain fully exempt



# Changes to Legislation

## Taxation

- Holding Company
  - Holder of any insurer, with ownership in international insurer
  - Primarily for insurance-related activities
  - No tax on its income
  - No changes from original legislation



# Changes to Legislation

## Taxation

- Act No. 98 of 2011: Tax Treatment for international insurer (including protected cells) and for holding company is guaranteed for 15 years through tax exemption decree
  - Possibility of extensions to tax decree



# Changes to Legislation

## Regulatory

- Other Act No. 98 changes:
  - Estate and gift tax exemption for non-resident owners of stock shares or debt of international insurer or Chapter 61 holding company, and for holders of insurance policy or annuity issued by international insurer
  - Tax exemption for proceeds of life insurance policy or annuity contract issued by international insurer



# Changes to Legislation

## Regulatory

- Other Act No. 98 changes:
  - Set-off / foreclosure of collateral by financial institution against international insurer not stayed in the event of liquidation proceeding
  - Protection of life insurance and annuity benefits against creditors of policyholder, insured or beneficiary
  - Insurance Commissioner may create voluntary qualification categories for international insurers



# Experience to Date

- Tested Application and Authorization Process at Office of Commissioner of Insurance
- Support by The Department of Economic Development of Puerto Rico
- Timing
  - Art. 61.050 (5) Insurance Code sets out 60 Days for a Decision
    - from experience can be done in as little as 9 days



# IIC-Status

- Spencer, I.I.; Class 3 with a Protected Cell Plan
- Chartis Latin America II; Class 3, 5
- Syndicate Re, A.I.; Class 3
- Consero, A.I.; Class 1
- U.S. Commonwealth Life, A.I.; Class 5, with a Segregated Assets Plan
- Sound Commercial Insurance Corporation, I.I.; Class 1
- Ashley Cooper Life International Insurer SPC; Class 5 with a Segregated Assets Plan
- Whitestar International Insurer; Class 3 with a Protected Cell Plan
- Americas Indemnity Services, I.I.; Class 1



# Other Developments

- Puerto Rico Insurance Commissioner's Office is now accredited by the National Association of Insurance Commissioners (NAIC)
- It is also a member of ASSAL (Asociación de Supervisores de Seguros de América Latina)



# Challenges

- FATCA (Foreign Account Tax Compliance Act)
  - Enacted in 2010 as part of the Hiring Incentives to Restore Employment (HIRE) Act
    - Reporting by US taxpayers holding foreign financial assets and by foreign financial institutions
    - Hefty penalties including 30% withholding
    - Puerto Rico financial institutions exempted



# Challenges

- Federal Excise Tax (on foreign insurance)
  - US Internal Revenue Code, Section 4371
    - 1% on reinsurance
    - 4% on casualty reinsurance or indemnity bonds
    - 1% on life insurance, sickness and accident policies or annuity contracts
  - Inapplicable to countries that have tax treaties with the United States



# Summary

- Legal
- Promotion



# Puerto Rico International Insurance Center

## Questions & Answers

