

**COMMONWEALTH OF PUERTO RICO
OFFICE OF THE COMMISSIONER OF INSURANCE**

Fermín Contreras-Gomez
Commissioner of Insurance

December 2, 2003

RULING LETTER NO. N-L-12-38-2003

TO ALL DOMESTIC INSURERS, HEALTH SERVICES ORGANIZATIONS, NON-PROFIT INSURANCE ASSOCIATIONS, ALL GENERAL AGENTS OR MANAGERS OF FOREIGN INSURERS AUTHORIZED TO TRANSACT INSURANCE BUSINESS IN PUERTO RICO, AND ALL AGENTS AND INSURANCE BROKERS.

RE: Payment of Premiums on Insurance Contracts Using Generally Accepted Credit and Debit Cards

Dear Sirs and Madams:

In Ruling Letter No. N-C-2-84-97 dated February 26, 1997, the Office of the Commissioner of Insurance (OCI) held that the use of credit cards was considered a method of payment that was allowable under the provisions of the Puerto Rico Insurance Code. This decision was made within the framework of compliance of several requirements by the respective parties involved. However, some sectors of the insurance industry have expressed that in practice it has been a burden to comply with all of the conditions established by the OCI, which has prevented this method of payment from being an accessible alternative for the insured.

To address this concern, and recognizing that the use of credit and debit cards has become a widely accepted form of payment in the business world, the OCI has decided to make requirements more flexible for the insurers to receive payment from the insured

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for premiums on their insurance policies or annuity contracts through their credit cards and include the use of debit cards for the same purpose.

Therefore, we are proceeding to modify the conditions imposed in Ruling Letter No. N-C-2-84-97 dated February 26, 1997 and establish the conditions that should be complied with so that an insured may be able to pay the premium on an insurance policy or annuity contract using a credit or debit card.

In order to facilitate the application of this Ruling Letter, the following terms shall have the following meanings:

- 1) Insurer: Any insurer or health services organization authorized to transact insurance business in Puerto Rico, including non-profit associations.
- 2) Acquiring bank: The bank, financial institution or other entity that promises to pay the Insurer the premium on an insurance policy or annuity contract when the Insurer submits a *Payment Card* payment receipt, all of which is in exchange for an *Acquisition Fee* for the transaction.
- 3) Issuing bank. The bank, financial institution or other entity that issues the Payment Card and promises on behalf of the insured to reimburse the Acquiring Bank for the money paid by said bank because the insured acquired an insurance policy or annuity contract using a *Payment Card*.
- 4) Acquisition Fee: The mutually agreed-on amount of money that the Acquiring Bank may establish with the Insurer for the acquisition by the bank of the transaction accepted by the insurer through the use of a Payment Card. As applicable, this shall include the Issuer Interchange Fee.
- 5) Payment Card: Any credit or debit card issued by a bank, financial institution, or other entity for use and accepted in general by businesses.

Insurers that wish to accept a Payment Card to collect premiums for an insurance contract or annuity shall comply with the following conditions:

- 1) Insurers shall notify the OCI that they have executed an agreement with an Acquiring Bank to process and submit for collection payments made by the insured with Payment Cards. These payment transactions shall be processed by the Acquiring Bank, subject to the terms and conditions that are generally applicable to this kind of transaction, according to the agreement between the Acquiring Bank and the Insurer.
- 2) Insurers shall disclose to the insured or potential subscribers by signage or other written notice the brands of Payment Cards that are accepted for payment of premiums.
- 3) The premium charged to the Payment Card must be the premium previously approved by the OCI and may not reflect any surcharge or discount for the insured. The Insurer shall receive from the Acquiring Bank the premium as approved by the OCI, less the Acquisition Fee that the Acquiring Bank and the Insurer may establish for transactions carried out with a Payment Card, subject to the terms and conditions that are generally applicable to this kind of transaction.
- 4) The Acquisition Fee that may be agreed on by the Acquiring Bank and the Insurer shall be based on the same factors, calculated in the same manner, and subject to the same criteria as have been established for accepting and acquiring Payment Cards with other commercial establishments for which the Acquiring Bank accepts and from which the Bank acquires Payment Card transactions.

The Acquisition Fee that may be agreed on between the Acquiring Bank and the Insurer may not be debited from the account in which the Insurer holds the premiums that have been received, but rather must be paid directly by the Insurer to the Acquiring Bank or be debited from another account that the Insurer has with the Acquiring Bank, separately from the account for the collection and receipt of premiums.

- 5) The solicitation, offering, marketing or sale of an insurance policy or an annuity contract may not be subject to or conditioned on having the insured use a specific Payment Card or a Payment Card issued by a particular Issuing Bank.
- 6) In the process of accepting and processing the payment of any premium made with a Payment Card, the Issuing Bank, the Acquiring Bank, their representatives or any other person may not perform the functions included in the definition of writing insurance set forth in Section 1.050 of the Puerto Rico Insurance Code, 26 L.P.R.A. sec. 105.

- 7) Neither the Acquiring Bank nor the Issuing Bank may received from the Insurer or the Insurer's representative or from any other person, any money or any other kind of incentive based on the insurance or annuity transaction, except for the Acquisition Fee that may be agreed on.
- 8) The Insurer, the Acquiring Bank, the Issuing Bank, their representatives and any other person may not charge the insured for the Acquisition Fee in any manner.
- 9) Insurers shall keep accurate and detailed records of the premiums received for insurance policies and annuity contracts through Payment Cards, as well as the amounts paid for the Acquisition Fees.

The provisions of this Ruling Letter repeal and replace Ruling Letter No. N-C-2-84-97, issued on February 26, 1997.

Failure to comply with any of the above conditions on accepting this form of payment will constitute a violation, among others, of Sections 9.061, 9.390, 12.130, and 27.100 of the Puerto Rico Insurance Code, 26 L.P.R.A. Secs. 906a, 939, 1213, and 2710, as applicable.

All insurers that allow payment of premiums using debit cards, shall strictly comply with the provisions of this Ruling Letter.

Very truly yours,

Fermin Contreras-Gomez
Commissioner of Insurance