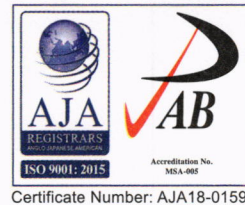




Republic of the Philippines
Department of Finance
INSURANCE COMMISSION
1071 United Nations Avenue
Manila



CIRCULAR LETTER (CL) No.	:	2019-53
DATE	:	20 September 2019
SUPPLEMENTS	:	CL No. 2014-15

CIRCULAR LETTER

TO : ALL NON-LIFE INSURANCE COMPANIES AND PROFESSIONAL REINSURERS AUTHORIZED TO DO BUSINESS IN THE PHILIPPINES

MEMBERS OF ASSOCIATION OF PHILIPPINE ADJUSTMENT COMPANIES (APAC)/ PHILIPPINE INSTITUTE OF LOSS ADJUSTERS (PILA)

SUBJECT : GUIDELINES ON PAYMENT OF ADJUSTMENT FEES

WHEREAS, Section 437 of the Insurance Code, as amended by Republic Act (R.A) 10607, authorizes the Insurance Commissioner “to issue such rulings, instructions, circulars, orders and decisions as may be deemed necessary to secure the enforcement of the provisions of the Code, to ensure the efficient regulation of the insurance industry.”;

WHEREAS, the role of adjusters in the insurance industry is vital as they investigate, manage, quantify, validate and deal with losses arising from any contingency, and report thereon, and carry out the work with competence, objectivity and professional integrity;

WHEREAS, there is a need to ensure that the services rendered by adjusters are compensated correspondingly and timely in order to maintain their professional standing;

WHEREAS, the APAC rates on Motor Car Claims, Fire and Allied Risks Claims, Engineering Claims, Miscellaneous Casualty Claims and Marine Claims have been in existence dating back to October 2011 and the same have been applied/observed by adjustment companies/entities and insurance companies as basis for the adjustment fees.

NOW, THEREFORE, pursuant to the authority of the Insurance Commissioner under Section 437 of the Insurance Code as amended by R.A. 10607, the following **Guidelines on Payment of Adjustment Fees** is hereby promulgated:

Section 1. Definition of Terms

- a. **Independent Adjuster-** means any person, partnership, association or corporation which, for money, commission or any other thing of value, acts for or on behalf of an insurer in the adjusting of claims arising under insurance contracts or policies issued by such insurer.
- b. **Adjustment of Claims-** means to investigate, evaluate, negotiate, with prior authority from principal, and report on the results of the investigation, evaluation and negotiation and carry out the work with competence, objectivity and professional integrity.
- c. **Final and/ or Closing Adjustment Report-** refers to the reports made by the independent adjuster on the results of the adjustment carried out under paragraph (b) section 1 of this Circular.
- d. **Adjustment Fees-** refers to the fee for the services rendered by an independent adjuster who rendered adjustment services to insurance companies which the latter used as basis not only to determine compensability of the claim but also the amount payable in the settlement of the claim.
- e. **Service/Billing Invoice-** refers to the invoice issued by the independent adjuster to insurance companies for the adjustment services they have rendered.

Section 2. Payment of Adjustment Fees

All insurance companies are bound to pay the Service/Billing Invoice issued by the independent adjuster based on Section 3 hereof.

Adjustment fees must be settled by the insurance company **within** forty-five (45) days from receipt of the Service/Billing Invoice or upon settlement of the insurance claim, whichever comes first **without any demand**.

If the adjustment fee is contested by an insurance company, such fee must be reconciled and settled **within** forty-five (45) days from receipt. Provided however, that the uncontested items of the adjustment fees must still be settled **within** forty-five (45) days upon receipt of the Service Invoice and for which Independent Adjuster should issue either Provisional Receipt or Official Receipt acknowledging the partial payment.

Section 3. Basis of Adjustment Fees

The amount of adjustment fee shall be based on the standard rate **as approved by the Insurance Commission**.

This standard rate must be strictly observed by all parties.

The adjustment rates as provided in the schedule of fees are herein attached in this Circular, to wit:

- ANNEX A – Motor Car Claims
- ANNEX B – Fire and Allied Risks Claims
- ANNEX C – Engineering Claims
- ANNEX D – Miscellaneous Casualty Claims
- ANNEX E – Marine Claims

Further, any subsequent amendment/s to said schedule of fees to be observed as basis of adjustment fee/s will require the prior approval of Insurance Commission.

Section 4. Mediation Conference

As a condition precedent prior to the filing of an administrative case, the claim of an adjuster against the insurance company must be filed before the Public Assistance and Mediation Division (PAMD) for the purpose of mediating a possible amicable settlement.

Upon failure to settle the case amicably, The PAMD shall issue a certification that such case has been terminated and that an administrative case may be filed by the adjuster.

Section 5. Filing of Action

An administrative case filed before the Regulation, Enforcement & Prosecution Division (REPD), pursuant to these Guidelines shall be governed by Insurance Memorandum Circular No. 1-93 entitled "Rules of Procedure Governing Administrative Cases Before the Insurance Commission" or any amendment thereto.

Section 6. Penalties

In case of failure of the insurance company to pay the service invoice as submitted, within the given period, or in case the insurance company fails to pay the standard rate referred to on Section 3 above for adjusting services, the Insurance Commission shall impose, after proper notice and hearing, a penalty for violation of this Guidelines as provided hereunder:

- | | | |
|----------------|---|---|
| First offense | : | 2% of the aggregate amount of adjustment fees or Php5,000 whichever is higher. |
| Second Offense | : | 3% of the aggregate amount of adjustment fees or Php10,000 whichever is higher. |
| Third offense | : | 4% of the aggregate amount of adjustment fees or Php20,000 whichever is higher. |

Fourth and subsequent offenses : 5% of the aggregate amount of adjustment fees or in no case shall exceed Php50,000.

As an additional ground for unsound business practice.

Notwithstanding the fines herein prescribed, the Commissioner may, at his discretion, modify the application of the foregoing prescribed penalties depending upon the severity of the offense, the frequency of its commission, the gravity of the damage caused, the history of the offender, or other circumstances which warrant imposition of a lower or a more severe amount of fines and penalties than that prescribed in this Circular.

In addition to the foregoing, suspension or removal from office may also be imposed upon directors and/or officers and/or employees of insurance companies found to have violated this Circular as the circumstances would warrant.

Provided further, that the penalty for every offense shall not exceed the amount of Two Hundred Thousand Pesos (PhP200,000)

Section 7. Transition Period

All non-life insurance companies are hereby directed to settle/pay, in good faith, their Service/Billing Invoice/s with Adjustment Companies/Entities within one (1) year or within an earlier period from the effectivity of this Circular.

Section 8. Separability Clause

If any provision or part of this Circular Letter is held invalid or unconstitutional, the remainder of the same or the provision/s not otherwise affected shall remain valid and subsisting.

Section 9. Effectivity Clause

This Circular Letter shall take effect immediately.

DENNIS B. FUNA
Insurance Commissioner

