



ESTADO LIBRE ASOCIADO DE  
**P U E R T O R I C O**  
Fomento Económico

Alberto Bacó Bagüé  
Secretario

November 26, 2014

**CIRCULAR LETTER NO. 2014 -002**

**RE: Insurance Intermediation and Captive Management as Eligible Services under Act No. 20-2012**

The Department of Economic Development and Commerce ("DDEC", for its Spanish acronym) is currently promoting the proliferation of international insurance and reinsurance underwriters to manage offshore risk in the island in an effort to position Puerto Rico as a competitive International Insurance Center, a concept first introduced with Act No. 399-2004, the "International Insurers and Reinsurers Act of Puerto Rico" ("Act 399").

Pursuant to Reorganization Plan No. 4 of June 22, 1994, as amended, the DDEC is responsible for implementing and supervising the execution of Puerto Rico's public policy on economic development in the various entrepreneurial sectors of manufacture, commerce, tourism, and services, including services related to the insurance industry. It is also responsible for coordinating, supervising and administering the promotion of the programs and incentives offered by the International Insurance Center. As such, the DDEC has received numerous consultations regarding the tax incentives offered to insurance intermediation, captive management and other export services related to the insurance industry.

The purpose of this circular letter is to clarify the application of Act No. 20-2012, as amended, also known as the "Act to Promote the Export of Services" ("Act 20"), to the services provided by businesses related to "insurance intermediation" and "captive management".

**I. BACKGROUND**

**a. International Insurance Center**

The creation of the International Insurance Center through Act 399 is one of the various initiatives of our local government to foster Puerto Rico's economic development and to position our island as a thriving insurance center. The adoption of Act 399 has been of vital



importance to Puerto Rico's economic agenda for the 21st century, since it has provided the legal framework towards creating a bustling insurance and reinsurance center by providing a secure and flexible regulatory system, with attractive tax incentives. The international insurance sector has proved to be a strong growth driver for the island's insurance industry. Following an average growth of 38% in five years, with over 100 regulated entities doing business in a myriad of operating plans, Puerto Rico's international insurance sector is positioned to be the center of attention for external investment and a spark of innovation to our domestic human capital.

Notwithstanding, the success of positioning our island as a major industry bridge between insurance centers in the United States, Europe and Latin America ultimately depends of our capacity to provide insurers a complete service infrastructure.

**b. Captives, Captive Management, Insurance Intermediation, and other services**

International insurance entities have various alternative ways to organize and operate within the International Insurance Center. These options include operating as an international holding company, as an international insurer or a branch of an international insurer, or in protected cell arrangements.

Many organizations wishing to avoid the difficulties and deficiencies of the traditional insurance industry create their own captive and set their subsidiaries on offshore markets. However, if Puerto Rico wants to position itself as an important member of the international insurance arena it should promote the management of captives, as an ancillary service to captive insurance and to the service sector in general. Given the insurmountable advantages that our island already offers to the international insurance industry – beginning with its geographical position, continuing with its fully bilingual corporate culture and finalizing with its fiscal autonomy – incorporating “captive management” as an export service to our legal framework should redound in the success of the International Insurance Center initiative. The same can be concluded with respect to “insurance intermediation” and other services related to the insurance industry.

Currently, there are over 11,000 intermediaries or brokers that serve both domestic and foreign insurers and reinsurers regulated by the Office of the Commissioner of Insurance of Puerto Rico. Therefore, Puerto Rico should leverage the benefits of Act 20 in order to provide international insurers the complete service infrastructure by promoting services such as “insurance intermediation”, as well as “captive management”.

The services above mentioned should be read under the scope of Act 20 and, consequently, as eligible export services.

**c. Export Services**

Act 20 was adopted in order to include the export of services as a cornerstone to the economic growth and sustainable development of the island. Since the passage of Act 20, the public policy of the Commonwealth of Puerto Rico has been to foster a more diversified and knowledge-driven economy.

The International Insurance Center initiative can benefit from the incentives granted by Act 20. In fact, Act 20's benefits can be further amplified if we leverage them in combination with Act 399's incentives; thus, contributing to the creation of jobs and the social and economic development of Puerto Rico.

Given the international insurance sector has proved to be a strong growth driver for the island's insurance industry, services such as "captive management" and "insurance intermediation" shall be included within the scope of Act 20.

## II. SCOPE OF ELIGIBLE EXPORT INSURANCE SERVICES

For purposes of this Circular Letter, "insurance intermediation" shall be read as including, but not limited to, the following: (a) services provided by producers or agents; (b) insurance brokerage; (c) policy issuance services; (d) actuarial services; (e) claim management; (f) investment management; (g) insurance advice; and (h) other services rendered in order to assist foreign customers with the management of their insurance policies.

On the other hand, "captive management" shall mean the management of the various structures of insurance captives, including, but not limited to, the establishment, operation and management of its services and functions.

 In order to qualify as eligible export services, all services above mentioned shall comply with the provisions contained in paragraphs (f) and (m) of Article 3 of Act 20, among others.

## III. LEGAL AND REGULATORY BASIS

Article 3(k) (xviii) of Act 20 authorizes the Secretary of the DDEC to determine, in consultation with the Secretary of the Department of the Treasury, that any other service not otherwise specified in the Act must be treated as an eligible service for understanding that it is in the best interest and for the social and economic wellbeing of Puerto Rico. In order to make such determination, the Secretary shall take into account the demand that there may be for such services outside Puerto Rico, the total number of jobs to be created, its payroll, the investment that the proponent would make in Puerto Rico, or any other factor that warrants special consideration.

Regulation No. 8313 issued under the Act, also known as the "Regulation to Implement the Provisions of the Act for Promoting Export Services" (the "Regulation"), provides that in determining what constitutes the best interest and social and economic wellbeing of Puerto Rico, the Secretary shall take into account the intent of the Act and other factors such as the special nature of the business receiving or seeking to receive the benefits under the Act, the technology and intellectual property generated or used, the planned employment level in

Puerto Rico of the business receiving or seeking to receive the benefits under the Act and the nature of the jobs it provides.

#### IV. DETERMINATION

Therefore, in accordance with the provisions of Act 20 and the public policy of the Commonwealth of Puerto Rico, the Secretary of the DDEC, in consultation with the Secretary of the Department of the Treasury, determines that it is in the best interest and for the social and economic wellbeing of Puerto Rico that "insurance intermediation", "captive management", and other services related to the insurance industry are eligible export services under Act 20.

#### V. EFFECTIVENESS

The provisions of this Circular Letter shall take effect immediately.

For more information regarding the provisions of this Circular Letter, please contact the Department of Economic Development and Commerce at (787) 765-2900.

Cordially,



Alberto Bacó Bagué  
Secretary  
Department of Economic  
Development and Commerce