



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

Circular Letter (CL) No:	2015-10
Date:	18 March 2015
Supersedes:	"None"

CIRCULAR LETTER

TO : All Deputy Commissioners, Division Chiefs, other officials and employees of the Insurance Commission

SUBJECT : Implementing Guidelines on Indemnification under Section 437 of Republic Act No. 10607

The following are the Implementing Guidelines on Indemnification under the fifth (5th), sixth (6th) and last paragraph of Section 437 of the Amended Insurance Code, which provides:

"x x x.

The Commission shall indemnify the Commissioner, Deputy Commissioner, and other officials of the Commission, including personnel performing supervision and examination functions, for all costs and expenses reasonably incurred by such persons in connection with any civil or criminal actions, suits or proceedings to which they may be made a party to by the reason of the performance of their duties and functions, unless they are finally adjudged in such actions, suits or proceedings to be liable for negligence or misconduct.

In the event of settlement or compromise, indemnification shall be provided only in connection with such matters covered by the settlement as to which the Commission is advised by external counsel that the persons to be indemnified did not commit any negligence or misconduct:

The costs and expenses incurred in defending the aforementioned action, suit or proceeding may be paid by the Commission in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of the Commissioner, Deputy Commissioner, officer or employee to repay the amount advanced should it ultimately be determined by the Commission that the person is not entitled to be indemnified."

Accordingly, all concerned should be guided by the following:

I. Coverage

A. Covered Persons

The following persons are covered by these guidelines, to wit:

1. The Insurance Commissioner;
2. All Deputy Insurance Commissioners;
3. All Directors;
4. All Division Chiefs; and
5. Other officials and employees of the Commission, including personnel performing supervision and examination functions

B. Covered Cases

Any criminal, civil, or administrative actions, suits or proceedings filed against any covered person by reason of the performance of duties and function before any courts of law, or any other tribunal or agency exercising judicial, quasi-judicial, administrative or investigative functions, such as, but not limited to, Sandiganbayan, Ombudsman, Integrated Bar of the Philippines (for disbarment cases) and Professional Regulation Commission.

C. Amount Covered; Exception; Limitation

Indemnification under Section 437 of the Amended Insurance Code shall cover all the costs and expenses reasonably incurred by such covered persons in connection with any actions, suits or proceedings to which they may be made a party to by reason of the performance of their duties and functions, unless they are finally adjudged in such actions, suits or proceedings to be liable for negligence or misconduct.

Costs and expenses shall include attorney's fees, filing fees, litigation expenses and all other reasonable miscellaneous and out-of-pocket expenses such as travelling expenses, photocopying expenses, printing expenses and other expenses of similar nature provided they are covered by receipts.

D. Attorney's Fees

Attorney's fees are limited as follows:

1. For the Insurance Commissioner and all Deputy Insurance Commissioners
 - a. Lawyer's fee – amount not exceeding PhP350,000.00.
 - b. Appearance fee – amount not exceeding PhP5,000.00 for cases filed within Metro Manila and the amount not exceeding PhP7,000.00 for cases filed outside Metro Manila.

2. For all the Division Chiefs and all other officials, employees and personnel of the Insurance Commission
 - a. Lawyer's fee – amount not exceeding PhP250,000.00.
 - b. Appearance fee – amount not exceeding PhP5,000.00 for cases filed within Metro Manila and the amount not exceeding PhP7,000.00 for cases filed outside Metro Manila.

The foregoing amounts are EXCLUSIVE of Value-Added Tax (VAT) and similar taxes. In the event that payment of VAT and similar taxes is required, such amounts shall be added to the amounts stated herein.

In the event of settlement or compromise, indemnification shall be provided only in connection with such matters covered by the settlement as to which the Commission is advised by external counsel that the persons to be indemnified did not commit any negligence or misconduct.

The Commission has the option to avail of an indemnity insurance to cover the costs and expenses reasonably incurred by covered persons in connection with any actions, suits or proceedings to which they may be made a party to by reason of the performance of their duties and functions. The premium for the indemnity insurance shall be borne by the Commission.

II. How to avail

A covered person has the option to avail indemnification for the expenses he/she may incur in connection with any actions, suits or proceedings to which he/she may be made a party to by reason of the performance of their duties and functions through **advance payment or reimbursement** from the Commission.

A. For Advance Payment

To receive advance payment, the covered person must submit to the Commission the following:

- a. Request letter for advance payment addressed to the Commissioner;
- b. A copy of engagement contract with the lawyer;
- c. Undertaking, under oath, to repay the amount advanced should it ultimately be determined by the Commission that the person is not entitled to be indemnified.

The receipt of the foregoing shall be without prejudice to the right of covered persons to request for reimbursement of other expenses he/she may incur thereafter.

B. For Reimbursement

To be entitled to reimbursement, the covered person must present to the Commission the following:

- a. Request letter for reimbursement addressed to the Commissioner;
- b. A copy of engagement contract with the lawyer;
- c. Receipt of appearance fee;
- d. Receipts of filing fee and other litigation expenses;
- e. Receipts of miscellaneous and out-of-pocket expenses; and
- f. Undertaking, under oath, to repay the amount reimbursed should it ultimately be determined by the Commission that the person is not entitled to be indemnified.


III. Applicability

These guidelines shall apply to all covered cases filed against covered persons after the effectivity of these guidelines and those covered cases already pending at the time of the effectivity of these guidelines.

Pending cases are those cases which have not been terminated by final judgment upon the effectivity of these guidelines.

IV. Effectivity

These guidelines shall take effect immediately upon approval by the Insurance Commissioner.



EMMANUEL F. DOOC
Insurance Commissioner

Copy furnished:

MS. REBECCA P. MANUEL
State Auditor IV/ Audit Team Leader
Insurance Commission