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| Title : | Guidelines for Handling Assessment of Assets, Loans Overdue, Receivable on Demand and Bad Debts by Insurance Enterprises.  |
| Date : | 2004.04.05 |
| Legislative : | <p>1. Promulgated by Ministry of Finance (90-tai-tsai-pao No. 0900751370) in total of 20 articles on 2001.12.20.</p> <p>2. Revised and promulgated by Ministry of Finance (Tai-tsai-pao No. 0930750731) in total of 21 articles on 2004.4.5; the law comes into force on 2005.7.1 (Original name:Guidelines for Insurance Enterprises Handling Assessment of Assets, Reserves, Delinquent Loans, Receivable on Demand, and Bad Debts)</p> |
| Content : | <p>Article 1</p> <p>These Guidelines are drawn up pursuant to the second paragraph, Article 148-3 of the Insurance Act (the "Act").</p> <p>Article 2</p> <p>An insurance enterprise shall assess its non-loan assets by the characteristics of respective asset according to the Guidelines for Preparation Financial and operationed Reports by Insurance Enterprises specified in the first paragraph, Article 148-1 of the Act and relevant provisions, and on the basis of stability and soundness, assess the possible losses and set aside sufficient reserves accordingly.</p> <p>Article 3</p> <p>Apart from classifying the normal loan assets as class 1 in the assessment of its loan assets, an insurance enterprise shall consider the status and the overdue time of repayment of the loan and classify those, remainings being treated as overdue loan assets into Class 2 - overdue loan assets under notice, Class 3 - overdue loan assets possible to be recovered; Class 4- overdue loan assets difficult to be recovered and Class 5 - overdue loan assets with no chance of recovery.</p> <p>An insurance enterprise shall furnish the relevant evidence and materials supporting overdue loan assets of class 2, class 3 and class 4.</p> <p>Article 4</p> <p>The overdue loan assets mentioned in Article 3 above are defined below:</p> <p>1. Under notice: means that the loan asset is assessed to have sufficient security, and the overdue principal or interest has been one to twelve months over the repaying day. Or the loan asset is assessed no reserve left, the overdue principal or interest has been one to three months over the repaying day. Or the borrower's repaying day isn't expired, yet the borrower has certain imperfect credit record found already.</p> <p>2. Possible to be recovered: means that the loan asset is assessed to have sufficient security, and the overdue principal or interest has not been in performance over twelve months from the repaying day. Or the loan asset is assessed to have no security and the overdue principal or interest has not</p> |

been in performance three to six months over the repaying day already.

3. Difficult to be recovered: means that the loan asset is assessed to have no security left, and the overdue principal or interest has not been in performance for six to twelve months over the repaying day.

4. With no chance of recovery: means that the loan asset is assessed to have no security, and the overdue principal or interest has not been in performance over twelve months from the repaying day, or the loan asset is assessed unable to be recovered.

The cases that conform to the repaying the overdue loan asset by installment under agreement defined in paragraph 2 of Article 7, the insurance enterprise may assess and classify the specific imperfect borrower within six months since the contract is made in addition according to the repayment capability and security status of the right of creditor. However the loan assets in question shall not be categorized to Class 1 and the relevant evidence and materials supporting the renewed category shall be provided.

Article 5

The insurance enterprise shall actually assess the loan assets according to the provision of the preceding two Articles and set aside minimum allowance for bad debts in the sum of two percent (2%) of claim balance of Class 2 loan assets, ten percent (10%) of Class 3, fifty percent (50%) of Class 4 and entire claim balance of Class 5 loan assets.

Article 6

In case the loss reserves and allowance for bad debts set aside by the insurance enterprise according to the Article 2 and the preceding Article are deemed insufficient by the competent authority after examination, the insurance enterprise shall make up the difference according to the requirement of the competent authority.

Article 7

The term "loan overdue" defined in these guidelines means a loan where its principal or interest is not in performance for three (3) months over its repayment expiring date, or the delay repayment has not over three (3) months yet the insurance enterprise has claimed and sued against the principal and secondary debtors or taken discretionary measures upon the collateral securities already.

If the agreed installment repayment conforms to certain conditions and is performed over six (6) months according to the agreed conditions, and the interest under the settlement is not lower than the original loan interest or the interest of the loan newly made for the same risk category in the insurance industry, then the case need not be declared. However, if there is any overdue repayment made over three months within the free-of-declare period, the case then has again to be declared.

The "certain conditions" mentioned in the preceded paragraph means the condition conforming to any of the following cases:

1. For the case which is originally a short-term loan, the repaying rate in principle shall be 10% of the sum of principal and interest or above per year. However the payoff period is limited to the longest of 5 years.

2. For the case which is originally medium-term loan, the payoff installment period is limited to twice of the residual repayment period and not be over 20 years. The installment-pay within the residual repayment period of original contract should not be lower than 30% of the payable principal and interest. If there is no residual repayment period or if two times of the residual repayment period is less than five years, then the installment-period can be extended to five years with 10% of repaying rate of the principal and interest minimum per year.

The so-called "repaying date" defined in paragraph 1 above for the installment-repaying loan will be the repaying date as agreed. However, if the insurance enterprise requests the borrower to pay off in advance according to the contract, then the repaying date will be the date that the insurance enterprise informs the debtor to repay.

Article 8

The term "receivable on demand" herein defined in these guidelines means loans that have been transferred to the account of receivable on demand. An overdue loan shall be transferred to the account of receivable on demand within six (6) months after its expiration date of repayment, With the exception that where an agreement has been made to repay in installments and the agreement is observed and executed accordingly.

Article 9

Overdue loans and receivables on demand shall be cleaned up positively in accordance with the following rules:

1. Where the insurance enterprise, after evaluating the debtor's financial and business status, finds that the loan deserves to be kept maintaining, it may, at its own discretion, modify the original repayment clauses, and approved by the authorized person compliant with the authorization range given by the board of directors.
2. The insurance enterprise should clear off promptly overdue loans according to the Code of Civil Procedure, compulsory execution Act and other relevant acts or regulations.
3. If the insurance enterprise reckons that the principal and secondary debtors are incapable of paying off the entire debt, it may in consideration of the actual situation elect to settle with the debtors within the authorization range by approval of the authorized person and sequentially report to the board of (managing) directors for recordation
4. For the loan extended in a foreign country that is not repaid as agreed due to change of foreign exchange regulations by the debtor's government, the insurance enterprise may handle the situation as a special case after the approval of the board of (managing) directors.

The foreign insurance enterprise may follow the procedures authorized from their headquarters.

Article 10

For overdue loans that have been transferred into receivable on demand, the accrued interest shall not be recognized. However, request for repayment shall keep functioning and accrued interest shall be noted in the interest column of individual receivable on demand account or in a memorandum.

Interest receivable not yet received before the overdue loan is transferred into the account of receivable on demand shall be transferred into the receivable on demand together with the principal.

Article 11

In case any of the following situations occurs, overdue loans and receivables on demand shall be written off as bad debt after deducting the portion assessed to be recoverable:

1. The whole or part of the right of creditor is unrecoverable because the debtor has been dissolved, gone into hiding, reached settlement agreement or declared bankruptcy, or because of other reasons.
2. The collateral and the assets of the principal and secondary debtors having been assessed to be of little value or after having deducted creditors' right with mortgage of higher priority are unable to cover the repayment of loan, or the court execution fees are close to or may exceed the payment the insurance enterprise is expected to receive that makes the action of execution meaningless.
3. The collateral and the assets of the principal and secondary debtors have not found buyers in successive auctions and the insurance enterprise does not gain any benefit from taking those assets.
2. The repayment of the overdue loan or receivable on demand is two years in arrears and the loan is still not recovered after collection efforts.

Article 12

Any write-off of overdue loan and receivable on demand shall pass the resolution of the board of directors and notice is given to the supervisor accordingly. Yet, for the one that is to be write-off under the requirement of competent authority, it shall be written -off as bad debt and reported to the latest meeting of the board of directors and informed to the supervisor for recordation. Where the board of directors is between sessions, the managing directors may make decision on behalf of the board with the supervisor being informed. The decision shall be reported to the board of directors afterwards for recordation.

Where a loan to be written off as bad debt exceeds a certain amount as specified in Article 3, Paragraph 1 of the Regulations Governing Insurance Enterprises Making Loans to Interested Parties, the loan or the write-off of a overdue loan shall have the consent of directors made in a meeting attended by more than two thirds of all directors in which more than three fourths of the attended directors agreed.

The branch of a foreign insurance enterprise in Taiwan may follow the procedure as authorized by its headquarters.

For the transfer or write-off of overdue loan and receivable on demand defined in Paragraph 2 above, the insurance enterprise shall disclose the information to the public as the important message relevant to consumers interest according to the Regulations Governing Insurance Enterprises Making Information Disclosure.

Article 13

Overdue loans and receivables on demand written off shall first be offset

by the allowance for bad debts; any portion not covered by the allowance for bad debt may be recognized as loss of the year.

Article 14

An insurance enterprise shall establish an internal clean-up system and procedure for assessment of assets quality, provision of loss reserve and clear-off and write-off of overdue loans and receivables on demand, which shall be approved by the board of directors and filed with the competent authority for recordation. Such system and procedure shall contain at least the following particulars:

1. Assessment and classification of assets.
2. Policy for setting aside allowance for bad debts and reserves for losses.
3. Measures for handling overdue loans.
4. Collection procedure.
5. The procedure of changing the original agreed conditions for loan making and repayment and of reaching a settlement for overdue loans and receivables on demand, and the provisions of authorization criteria.
6. Accounting treatment for overdue loans and bad debt write-off.
7. Accounting treatment for recourse and recovery of loan and the supporting documents acceptable as accounting evidence.
8. Audit focuses.
9. Method of attributing internal accountability and reward/discipline.

As regards the preceding provision, the branch of a foreign insurance enterprise in Taiwan may follow the procedure as authorized by its headquarters and file such procedure with the competent authority for recordation.

Article 15

In the process of writing off overdue loans and receivables on demand, the insurance enterprise shall find out whether the loan was granted according to prevailing regulations and rules for the insurance industry. If such loan is found to have followed the established procedure and no violation or negligence has been found in the examination of its approval process, personnel involved may be relieved of administrative responsibility. If any misconduct or negligence is found, the insurance enterprise should take disciplinary actions against personnel involved in accordance with the delegation of responsibility and level of authority. And if the misconduct or negligence has involved to crime issue, it shall be shifted to the procuratorial organ.

Article 16

The overdue loans and receivables on demand that have been written off as bad debt according to stipulated procedure shall still be stated in the book and noted in detail in a register for future reference. The relevant business units shall follow up the movement of the principal and secondary debtors of the loans and take recourse as provided by law if they are found to possess executable assets.

Where the aforesaid loan is deemed to have no recourse value after evaluation, the insurance enterprise may remove it from the book and stop

its follow-up action after the approval of the board of (managing) directors. However the loan shall still be recorded in a register for future reference. Yet, the foreign insurance enterprise may follow the procedures authorized from their headquarters.

Article 17

The insurance enterprise shall report to the competent authority monthly as required in the prescribed format and content for overdue loans, receivables on demand and delinquent assets.

Article 18

The provisions in Articles 9, 11 to 17 herein shall apply mutatis mutandis to overdue receivables and other receivables on demand.

Article 19

The term "overdue receivables" depicted in the preceding Article means receivables other than loans that are past their payment period.

The aforesaid payment period shall be defined as follows:

1. For receivable payable in installment, the payment date shall be its due date or the date specified by the insurance enterprise when the insurance enterprise requests early payment according to the contract.
2. The payment date for claims and payments recoverable from reinsurance shall be the date for payment of the insurance claims, unless otherwise stipulated in the reinsurance treaty.
3. The payment date for intercompany reinsurance receivable and other receivables shall be its book entry date.
4. The payment date for bill receivable shall be its maturity date.
5. The payment date for insurance premium shall be the policy effective date or the deferred payment date as specified in the insurance contract.
6. The payment date of income receivable shall be the collection date specified in the contract.

Article 20

The "other receivables on demand" defined in Article 18 means all of the receivables being transferred to the receivables on demand item except the loan. The claims and the payments recoverable from reinsurance and the intercompany reinsurance receivables shall be transferred to the receivables on demand item after nine (9) months since the due date of payment. And if the bills receivable cannot be paid as is normal after the expiring date of repayment, it shall be transferred immediately to the receivables on demand item as well

The premiums receivable shall be transferred to the receivables on demand three (3) months after the due date of payment; the income receivable and other receivables shall be transferred to the receivables on demand three (3) months after the due date of payment. However, the interest receivable from the loan on pledge of life insurance policy or the premium advanced is exceptional.

Article 21

The Guidelines herein are in force on the date of promulgation.



Data Source : Financial Supervisory Commission Laws and Regulations Retrieving System