

EXHIBIT "A"

REGULATION NO. 89-105

REGULATION OF CORPORATE ALLOCATIONS WITH RESPECT TO  
CREDIT INSURERS AND CERTAIN INSURANCE HOLDING  
COMPANIES AND BANK DEPOSITS

Section 1. Statutory Authority

This Regulation is promulgated by the Commissioner of Insurance pursuant to authority granted by Mississippi Code of 1972, Annotated, Title 83, Chapter 53, Section 25(4) and Mississippi Code of 1972, Annotated, Title 83, Chapter 53, Section 29 and in accordance with the Mississippi Administrative Procedures Law.

Mississippi Code of 1972, Annotated, Title 83, Chapter 53, Section 47 states that "nothing in this Chapter shall be construed to relieve any person from compliance with any other applicable law of this State.

Mississippi Code of 1972, Annotated, Title 83, Chapter 53, Section 29 grants to the Commissioner authority to "issue any regulations that he deems necessary to effectuate the purposes of this chapter (the credit insurance chapter of the Mississippi Code Annotated).

Mississippi Code of 1972, Annotated, Title 83, Chapter 53, Section 25(4) provides that: the Commissioner "is hereby vested with full authority as provided by Mississippi Code of 1972, Annotated, Title 83, Chapter 53, Section 29 to regulate, reduce and/or adjust experience refunds or corporate allocations in accordance with the provisions of paragraphs (c) and (d) of subsection (3) of this section." This Regulation is promulgated by the Commissioner pursuant to his full authority to regulate corporation allocations, and payments to agents in connection with the sale of credit insurance.

Section 2. Purposes

Mississippi Code of 1972, Annotated, Title 83, Chapter 53, Section 25(1) provides that "no one shall pay, accrue, credit or otherwise allow, either directly or indirectly, any compensation to any creditor, person, partnership, corporation, association or other entity in connection with any policy, certificate or other contract of credit life insurance or credit disability insurance which exceeds forty-five percent (45%) of the premium rates approved for such policy, certificate or contract."

Mississippi Code of 1972, Annotated, Title 83, Chapter 53, Section 25(2) defines "compensation" as including, but not limited to, all of the following:

- (a) Commission, fees, and expense allowances;
- (b) The fair market value of all equipment, calculators, goods and services;
- (c) The fair market value of benefits such as travel, vacations or other rewards of any kind; and
- (d) All other accruals, payments and other compensation or expenditures in any form whatsoever.

Mississippi Code of 1972, Annotated, Title 83, Chapter 53, Section 25(3) establishes certain limited exceptions to the definition of "compensation" set out in Mississippi Code of 1972, Annotated, Title 83, Chapter 53, Section 25(2).

The Commissioner has determined that not all payments being made under the guise of Mississippi Code of 1972, Annotated, Title 83, Chapter 53, Section 25(2) and (3) are permitted pursuant to those sections.

The Commissioner has also determined that the use of compensating balances or the deposit of monies into non-interest bearing accounts with creditors in connection with a credit life and/or credit disability insurance program, either directly or indirectly, is in violation of Mississippi Code of 1972, Annotated, Title 83, Chapter 5, Section 35(d) and Mississippi Code of 1972, Annotated, Title 83, Chapter 53, Section 25(2) and (3).

The purpose of this Regulation is to regulate certain activities and methods under which the credit insurance business within the State of Mississippi is written and to eliminate certain devices and plans designed to avoid or render ineffective the provisions of Title 83, Chapter 53, Section 1 through 47, Mississippi Code of 1972, Annotated and other pertinent statutes. The specific purposes of this Regulation are to regulate corporate allocations with respect to stock or other equity interests in credit insurers or credit insurance holding companies and their affiliates and to regulate compensating balances or other low or non-interest bearing accounts on deposit with creditors, thereby prohibiting methods and devices designed to avoid or render ineffective the provisions of Mississippi Code of 1972, Annotated, Title 83, Chapter 53, Section 25 and Mississippi Code of 1972, Annotated, Title 83, Chapter 53, Section 27 relating to the payment of compensation with respect to credit insurance.

### Section 3. Definitions

Terms used herein shall be defined as follows:

(a) "Creditor" shall mean a creditor as defined in Mississippi Code of 1972, Annotated, Title 83, Chapter 53, Section 3(2)(d), any person or entity licensed as an agent to write credit insurance and any person, partnership, corporation, association or other entity affiliated in any manner with or related to a creditor, including an affiliation arising by virtue of being designated by a creditor as a holder of stock which will benefit in any manner, directly or indirectly, from credit insurance written by the creditor.

(b) "Credit insurance" shall mean credit life insurance as defined in Mississippi Code of 1972, Annotated, Title 83, Chapter 53, Section 3(2)(b) and credit disability insurance as defined in Mississippi Code of 1972, Annotated, Title 83, Chapter 53, Section 3(2)(c).

(c) "Insurer" shall have the same meaning as defined in Mississippi Code of 1972, Annotated, Title 83, Chapter 53, Section 3(2)(g).

(d) "Credit insurance holding company" shall be defined as any corporation or other legal entity which controls an insurer engaged in the business of writing credit insurance. "Control" shall have the same meaning as defined in Mississippi Code of 1972, Annotated, Title 83, Chapter 6, Section 1(c).

(e) "Corporate allocation" shall mean the apportionment of any part of the assets, income, earnings, profits or losses of any corporation, insurer or other legal entity with respect to any class or series of stock, or other equity interest, in an insurer or credit insurance holding company.

(f) "Compensating balances" and/or "special deposit accounts" shall mean the deposit of premiums or money to the account of the insurer with a creditor through which the insurer writes credit insurance, when such account is either non-interest bearing or at a rate less than that which is usually paid on similar accounts or is controlled by the creditor.

#### Section 4. Applicability

This Regulation shall apply to all insurers engaged in the business of writing credit insurance and the shareholders thereof, all credit insurance holding companies and the shareholders thereof, and all creditors.

#### Section 5. Regulation of Corporate Allocations, Dividends and Distributions

(a) Insurers engaged in credit insurance operations and credit insurance holding companies affiliated in any way with any such insurer, may make corporate allocations for or to the benefit of any class or series of stock or other equity interest in such insurer or credit insurance holding company which is issued to a creditor writing credit insurance business with the insurer. Permitted corporate allocations are only those with respect to (i) common stock or other equivalent equity interests of surplus which remains after all corporate allocations to preferred stockholders; (ii) preferred stock if such corporate allocations provide a fixed or variable rate of return which is reasonably related to the investment by the creditor and the risk associated with the investment; or (iii) common or preferred stock which represents the actual consideration paid by a creditor for such interest or surplus arising from credit insurance business written by the creditor.

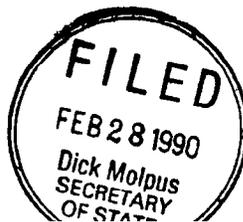
(b) Insurers and credit insurance holding companies with more than one class or series of stock may make corporate allocations or dividends only in accordance with specific and express provisions set forth in the articles of association, articles of incorporation, bylaws or resolutions of the insurer or credit insurance holding company. Each insurer and credit insurance holding company must file copies of its articles, bylaws and resolutions in the office of the Commissioner of Insurance of the State of Mississippi.

(c) Insurers and credit insurance holding companies may pay dividends on or make distributions with respect to its shares of stock or other equity interests, including payments to redeem or purchase shares of stock or other equity interests, to any creditor only from corporate allocations made in accordance with this regulation to the benefit of the class or series of stock or other equity interest with respect to which the payment or distribution is made.

(d) No insurer or credit insurance holding company shall make a distribution of capital and/or paid-in surplus with respect to any class or series of stock or other equity interest to any creditor, whether as a partial or complete distribution of the capital and/or paid-in surplus attributable to such stock or other equity interest, without notification to the creditor that the payment source of such distribution is the capital and/or paid-in surplus attributable to such stock or other equity interest along with an explanation of the effect of the distribution on the capital and/or paid-in surplus attributable to such stock or other equity interest.

(e) No insurer or credit insurance holding company may recapitalize or reorganize its capital structure for the purpose of making available for dividends or distributions to creditors with respect to any class or series of its stock or other equity interest any of the capital and/or surplus which has been previously allocated to another class or series of its stock or other equity interest without prior approval of the Commissioner of Insurance.

(f) No insurer shall make a dividend, either in cash or stock certificates, except from its actual net surplus computed as required by law in its annual statements. No such dividend may be paid unless and until the insurer has filed with the Commissioner the annual statement of the insurer for the year(s) in which such surplus was earned.



Dividends or distributions to be paid to stockholders, once declared by the board of directors of an insurer or credit insurance holding company, are charged directly to unassigned surplus and must be carried as a liability of such insurer or credit insurance holding company until paid. An approval or ratification of corporate allocations by the board of directors of an insurer or credit insurance holding company shall not constitute a dividend or distribution.

(g) The Commissioner of Insurance hereby reserves the right, after notice and hearing, to declare corporate allocation or dividend methods or other equity interest programs, other than those which conform to the requirements of this Regulation and statutes of the State of Mississippi, to be in violation of Mississippi Code of 1972, Annotated, Title 83, Chapter 53, Section 25, and to order and require appropriate remedial action, including, but not limited to, rescission of the sale of such stock or other equity interest and penalties and fines provided in the statutes of the State of Mississippi.

**Section 6. Prohibition on Compensating Balances or Other Special Deposit Accounts**

Compensating balances and special deposit accounts by an insurer with a creditor through which the insurer issues credit insurance are to be considered in violation of Title 83, Chapter 53, Section 25(1) of the Mississippi Code of 1972, Annotated. This prohibition applies regardless of whether premiums are due the insurer on the single premium basis or on the monthly premium outstanding balance basis. Nothing herein shall prevent an insurer from making deposits in financial institutions in the normal course of business.

**Section 7. Severability**

If any provision of any section of this Regulation or the application thereof to any circumstance or person or entity is held invalid by any court, such invalidity shall not affect any other provision of that section or application of the Regulation which can be given effect without the invalid provision or application, and to this end the provisions of this Regulation are declared to be severable.

**Section 8. Effective Date**

This Regulation shall be come effective April 1, 1990.

  
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GEORGE DALE  
COMMISSIONER OF INSURANCE