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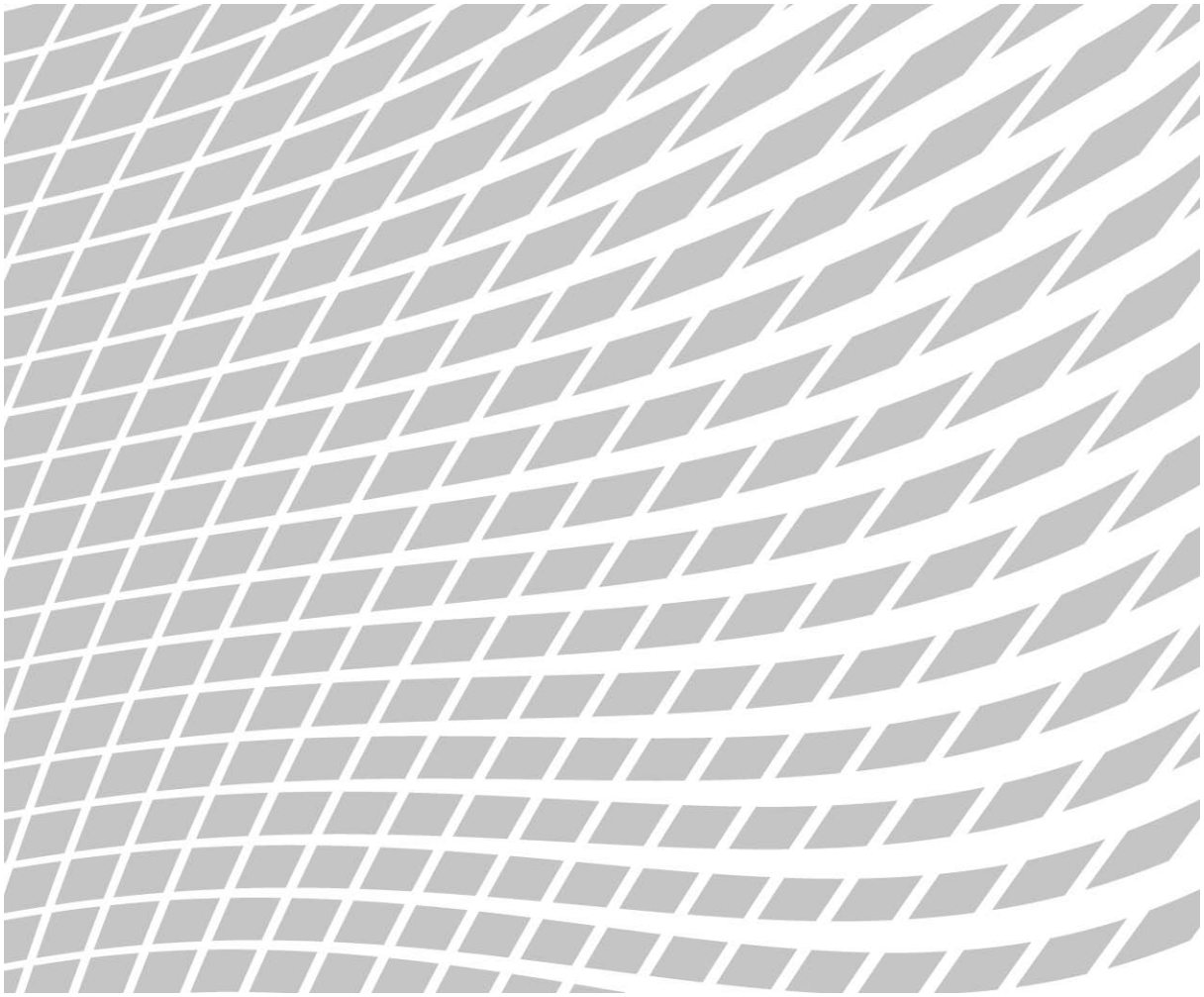
Swiss Financial Market Supervisory Authority FINMA

27 April 2010

# Key points of the Circular on health insurance under ISA



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## Key points

The Circular on health insurance under ISA confirms the legal mandate according to which FINMA must, in a preventative control procedure on the approval of insurance tariffs, safeguard that premiums for supplementary health insurance pursuant to the Insurance Contract Act (ICA) are neither so low as to pose a risk to solvency nor so high as to constitute an abusive practice. To draft the Circular, FINMA opened the consultation period on 1 September 2009 and received comments from 27 parties. On 18 March 2010 the revised circular was passed by FINMA's Board of Directors and will come into force on 1 May 2010.

## Aim and desired impact of this circular

The Circular is directed at supervised insurers who conduct business in insurance classes: health and health insurance. It focuses in detail on technical questions relating to tariffs and technical reserves. In addition, it furthers the use of common technical terminology that largely correspond to the practice applied by FINMA. The Circular addresses the following points:

- Clarifying questions on products requiring approval: As part of the revision of supervisory law, prior review and approval of premiums and terms and conditions of insurance in supplementary social health insurance were retained. As a supplement to the law, the Circular defines those products which are subject to approval, excluding those for which the health insurance risk is deemed negligible.
- Fixing the tariff structure permitted: Tariffs that require approval must comply with the requirements of Art. 38 of the Insurance Supervision Act (ISA). They may neither be so low as to pose a risk to solvency nor so high as to constitute an abusive practice. The Circular specifies this framework and requires both that the tariffs provide sufficient cover for the obligations entered into and that no abusively high profit is factored. Abuse is deemed to exist if the anticipated profit is out of proportion to the technical risk assumed. Pursuant to supervisory law, significantly unequal treatment of policyholders that is not actuarially justifiable is also deemed to constitute abusive practice.
- Responding to questions on the financing approach and on establishing technical reserves: In principle, the revised supervisory law permits a free choice as to the financing approach provided that the approach chosen complies with the framework of Art. 38 ISA and does not create any risk of insolvency. The financing approach must be such that, over the longer term, obligations entered into can be fulfilled. Thus, in accordance with the Circular, it must be adequate to cover all foreseeable risks, particularly the risk of a change to the portfolio structure. The technical reserves required must be evaluated and taken into account in the premiums, and be transparent in the accounting.

## Results from the consultation period

In the consultation period, industrial representatives criticised the scope, legal principles and interference in economic freedom. Instead of the current solvency criteria being based on products, it was proposed that it should be on the level of the whole company. This argument is not supported by the current legal basis, which still provides for preventative controls of products. The Circular has, however, been revised appropriately to allow, under certain circumstances, a pooling of products for the submission of a basic technical structure.

Another core point addressed by the participants was the request to exclude individual daily benefits insurance from the preventative controls of products because they do not belong to social health insurance. This request has not been granted since it is of major importance to protect the interests of those policyholders who would be affected.

Concerning the regulations on technical reserves, imprecise definitions and lack of clarity with regard to accounting and calculating the debit amount for tied assets were in part pointed out. The chapter in question was revised appropriately, particularly regarding securities and equalisation reserves, which must no longer be calculated separately. Insurers must, however, demonstrate to FINMA which part of these reserves are technical.