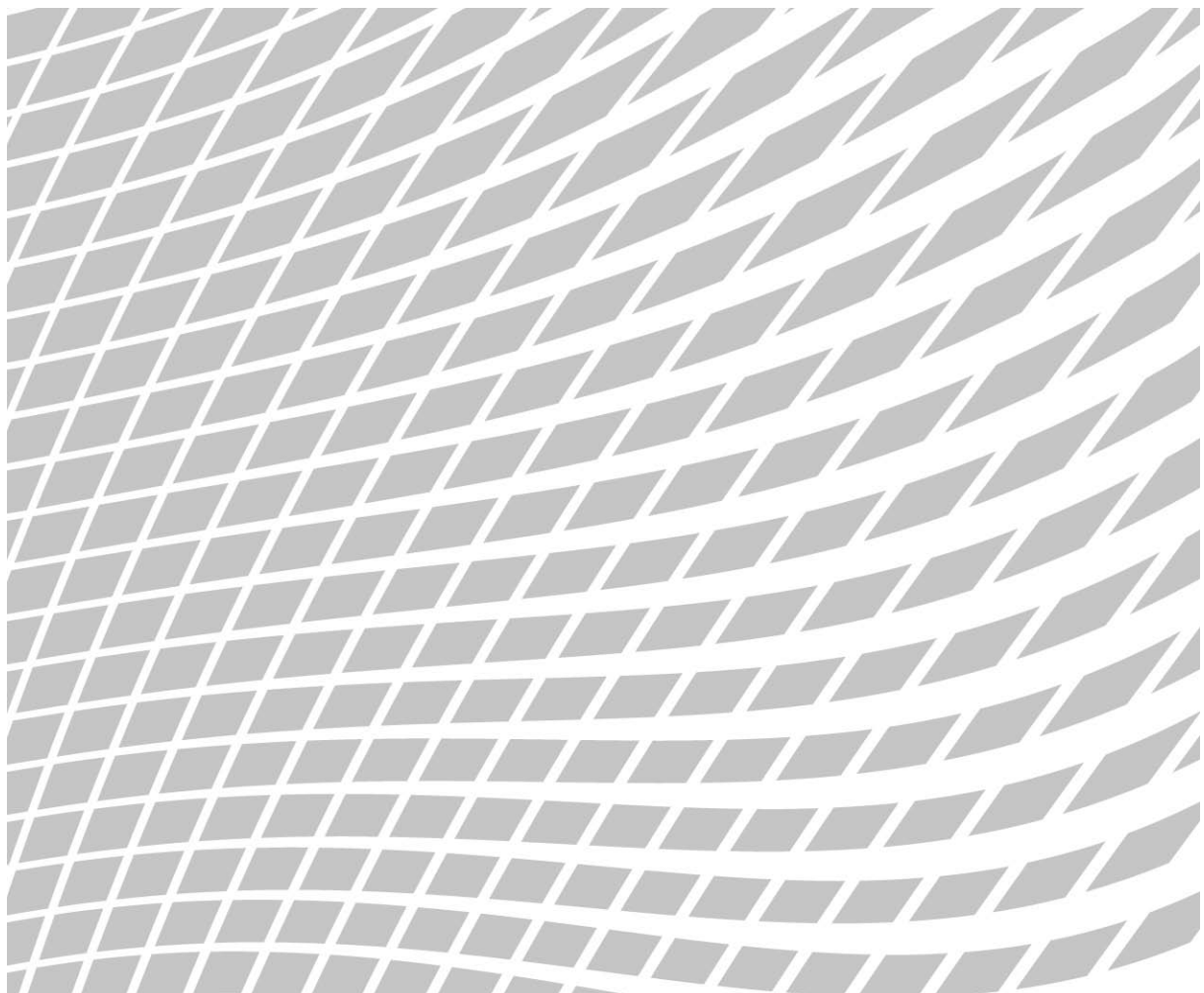


31 August 2009

Key points of Circular 2009/x

Supplementary social health insurance and special issues in relation to private health insurance



Addressees and aim of the Circular

The present Circular applies to insurers and health insurance schemes which carry out the insurance business B2 “Illness” or A5 “Health Insurance”. This Circular addresses certain technical insurance issues pursuant to VVG. These are set forth as norms, which already find application in the practice of the supervisory authorities. Setting these forth in a circular increases the legal clarity for the supervised companies and contributes to a more consistent application. In addition, the Circular contributes to accounting transparency in permitting a view of the differences between the tariffs and the corresponding insurance technical reserves. Lastly the Circular furthers the use of common technical terminology which will help in the communication as between the supervisors and the supervised companies, increasing thereby also the efficiency for both sides in handling tariff issues.

Products that require 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 merely accessory.

Rate structures

Rates that require approval must comply with the requirements of Art. 38 of the Insurance Supervision Act (ISA). They may neither be abusive nor pose a risk to solvency. The Circular specifies this framework and requires both that the rates provide sufficient cover for the obligations entered into and that no abusively high profit is factored in. 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 insured persons that is not actuarially justifiable is also deemed to constitute abusive practice. The Circular implements this provision with a requirement regarding rates, whereby these must be sufficiently differentiated and must correspond to the respective risk profile in order to avert the risk of antiselection. This counteracts any risk to solvency and any potential for unequal treatment.

Financing procedure and technical reserves

In principle, the revised supervisory law permits a free choice as to the financing approach provided that the chosen approach 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. For this reason the pay-as-you-go system is not permitted. Nor is the redistribution of the higher age-related claims burden without ensuring that this is spread over time.

Inflation is excluded from these foreseeable risks, as it may neither be quantified nor financed in advance. Rather, it should be dealt with by means of ongoing adjustments.

The Circular requires a consistent link between premiums and technical reserves. The risks must be evaluated and taken into account in the premiums. The premium elements derived from this must, in accordance with the financing procedure, serve to establish the respective technical reserves, enabling a functional allocation of reserves to be achieved.

Rate adjustments

The Circular makes a distinction between ordinary and extraordinary adjustments. An ordinary rate adjustment occurs when the current exogenous rate of inflation as defined in the attached glossary is passed on in the premiums. An extraordinary adjustment occurs when the basic technical principles of a product are revised, i.e. the rate and the financing procedure. This type of revision requires approval and must be applied for by the private insurance company or health insurance scheme if the rate no longer complies with the framework of Art. 38 ISA.

Transitional provisions

The Circular applies to newly submitted products. For products which have been previously approved, this Circular shall apply in the event of a revision of the basic technical principles.