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AMNESTY ON PENALTIES FOR NON-SUBMISSION/ LATE SUBMISSION OF REPORTS; LATE DEPOSIT OF REQUIRED TOTAL MONTHLY TRUST FUND CONTRIBUTION; AND ISSUANCE OF PRE-NEED PLANS WITHOUT PRIOR...

SEC-BED MEMORANDUM CIRCULAR NO. 05, November 19, 1998

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I
Amnesty

To ensure protection of the interest of the pre-need planholders in the face of the disturbing effects of the on-going financial crisis, it is imperative that compliance with reportorial requirements on sales of pre-need plans and contributions to the trust fund be strictly enforced. It is likewise essential to build-up the data on the issuance and sales of pre-need securities as well as contributions to the trust fund for effective regulation of the industry. Accordingly, in order to encourage pre-need plans, reportorial requirements and contributions to the trust fund. The amnesty program may be availed of until March 31, 1999. The reduced penalties are as follows:

Non submission/late submission of reportorial requirements P200.00 per report

Late funding of trust fund deposit requirement

P200.00 basic plus P1,000.00 per day of delay or P1,000.00 per month whichever is lower but in no case to exceed the maximum aggregate penalty of P50,000.00

Issuance of pre-need plans without prior registration 1/10 of 1% of the amount issued but not to exceed P50,000.00

II
Advertisement
Effective immediately, the Commission shall no longer process/ approve any advertisement instead the following is required to be printed in all advertisements of pre-need products and the pre-need company:

> "The Securities and Exchange Commission has not approved this advertisement or determined if this is accurate or complete. Any representation to the contrary constitutes a violation of the Revised Securities Act and is criminally punishable. The public is encouraged to report immediately to the Securities and Exchange Commission any misrepresentation or false or inaccurate statement."

Advertisement in broadcast medium shall likewise clearly emphasize that the Securities and Exchange Commission has not approved or passed upon the accuracy and completeness of such advertisement.

This provision of the Circular amends Sec. 13 of the New Rules on Registration and Sale of Pre-need Plans and Similar Contracts and Investments relating to print advertisement or publication or broadcast medium.

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III
Trust Fund
To ensure the adequacy of the trust fund, all pre-need companies are required to increase their total required monthly contribution to the trust fund by at least 10% of such total contribution effectively immediately.

IV
Closure Of Branch Office/S
In connection with the closure of branch office/offices, the following are required prior to effective date of closure:

- A resident agent/contact person shall be designated in the respective areas where the branches for closure are located who will receive payments of the planholders to be deposited in the company's designated bank account and attend to the planholders benefit claims queries and complaints against the company.

- The following shall be submitted together with the application for closure:

- Copy of the affidavit of conformity of the resident agent/ contact person or an agreement executed by and between the company and the resident agent/contact person.

- Notice to Planholders duly published informing them of the closure of the branch and the name and address of the resident agent/contact person who will attend to their installment payment, benefit claim, queries and complaint against the corporation. Publication shall be made in newspaper of local circulation twice at least two weeks before effective date of closure, and subsequent publication within five (S) days from closure date.

- An affidavit duly executed by a responsible officer of the company to the effect that said notice has been sent by registered mail to all planholders being served by the branch office at the last address shown in the records of the branch and posted in the said office and in two conspicuous places in the municipality where the branch office is located.

No branch office shall be closed until approved by the 1 Commission.

V
Insurance Riders
To clearly differentiate a pre-need plan from an insurance contract, and to help speed up the review of pre-need plans, all the terms and conditions applicable to the insurance contract shall be segregated from the terms and conditions applicable to the pre-need plan. In accordance with the requirements of the Insurance Commission, and also in conformity with the full disclosure policy of the SEC, the terms and conditions of the insurance benefits to be provided by the insurance company to the planholder shall be contained in an individual certificate accompanying the pre-need plan between the pre-need company and the planholder.

The principal insurance benefits permitted to be obtained by a pre-need company from a life insurance company are:

- Group Credit Life Insurance, for the unpaid installments of the planholder.

- Insurance for the waiver of unpaid pre-need installments, due to Total and Permanent Disability of the planholder.

In view of the requests of pre-need companies to also insure the planholder and or/his immediate family, especially his beneficiaries, the Group Yearly Renewable Term Insurance and the Accidental Death and Disability Insurance shall be allowed, provided the following guidelines of the Insurance Commission are followed:

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- The planholder shall bear the entire cost of his insurance.

- The proceeds shall be payable to the designated beneficiary of the planholder in the event of his death.

- The life insurance company shall issue to the pre-need company for delivery to each planholder an individual certificate setting forth a statement as to the insurance protection to which he is entitled, to whom the insurance benefits are payable, and the rights set forth in paragraphs (h), (i) and (j) of Section 228 of the Insurance Code.

- The term "Policyholder" whenever used in the group policy shall mean the pre-need company as custodian of the said policy.

Henceforth, any application for registration/licensing and price increase of pre-need plans shall be accompanied by a copy of the group insurance master contracts duly approved by the Insurance Commission covering the insurance taken with the pre-need plans. A copy of the specimen individual insurance certificates approved by the Insurance Commission corresponding to the said master contracts, shall likewise be submitted.

This provision amends SEC-IRD Circular No. 1 series of 1997, dated January 14, 1997.

This Circular shall take effect on December 1, 1998.

Adopted: 19 Nov. 1998

(SGD.) FE ELOISA C. GLORIA
Associate Commissioner
Officer-in-Charge

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