RECOGNITION OF PRE-NEED PLANS AS AN ADMITTED ASSET OF MUTUAL BENEFIT ASSOCIATIONS

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WHEREAS, under Sec. 408 of the Insurance Code of the Philippines, as amended by Republic Act No. 10607, a mutual benefit association (MBA) shall only maintain free and unassigned surplus of not more than twenty percent (20%) of its total liabilities and any amount in excess shall be returned to its members by way of dividends, enhancing the equity value or providing benefits in kind and other relevant services;

WHEREAS, IC Circular Letter No. 2015-46 defines free and unassigned surplus of MBAs and provides for the return of any excess amount to the members of an MBA by way of dividends, enhancement of equity value, providing additional member benefits or other services;

WHEREAS, Sec. 411 of the Insurance Code of the Philippines, as amended by Republic Act No. 10607, provides that an MBA may invest such portion of its funds that are not required to meet pending claims and other obligations in any of the classes of investments in which life insurance companies doing business in the Philippines may invest;

WHEREAS, under Section 202(k) of the Insurance Code of the Philippines, as amended by Republic Act No. 10607, the Insurance Commissioner has the discretion to admit other assets not inconsistent with the provisions of the law that are readily realizable and available for the payment of losses and claims;

WHEREAS, the fundamental premise of a pre-need plan is that it is a guarantee of future payment of money, goods or services at a specified date or at the occurrence of an event which can be transferred and assigned by the policy owner to another and can be immediately liquidated if necessary. It represents value that can be made ready and available for payment of losses and claims;

NOW, THEREFORE, by the powers vested in me, the following rules are hereby issued and promulgated:

1. Pre-Need Plans as Benefits and Service to MBA Members. - Pursuant to IC Circular Letter No. 2015-46, an MBA whose free and unassigned surplus is more than the twenty percent (20%) ceiling provided under Section 408 must distribute the same to its members by any of the following ways, to wit:

a. Dividend declaration;
b. Enhancement of Equity Value;
c. Providing benefits in kind and other relevant services;
d. Capacity building, research and development, upgrading and improving of systems and equipment, and continuing member education.

An MBA that chooses to distribute its surplus by “providing benefits in kind and other relevant services” in accordance with Section 408 may opt to procure any type of pre-need plans from any licensed pre-need company.

2. Pre-Need Plans as Admitted Asset. - Pre-need plans may be considered as admitted asset of the MBA subject to

the following conditions:

a. Only MBAs with free and unassigned surplus that is more than the twenty percent (20%) ceiling provided under Section 408 can procure pre-need plans as a member benefit;

b. Pre-need plans can only be procured using the excess free and unassigned surplus;

c. Pre-need plans must be issued in the name of the MBA.

3. Requirements for Approval of Acquisition. - An MBA, before procuring pre-need plans, must submit the following:

a. Letter addressed to the Commissioner manifesting its intention to procure pre-need plans as a way to distribute its surplus by providing benefits in kind and other relevant services to its members with the following details:
i. Pre-need company selling the pre-need plan;
ii. Type of pre-need plan it is intending to procure;
iii. Number of pre-need plan it is intending to procure;
iv. Amount of transaction involved; and,
v. Written undertaking certifying that MBA has a Free and Unassigned Surplus in excess of the twenty percent (20%) ceiling under Section 408 of the Insurance Code.

b. Certified true copy of the duly notarized Board Resolution of the MBA authorizing the distribution of the free and unassigned surplus by providing benefits in kind and other relevant services in the form of pre- need plans;

c. Copy of the latest IC-approved financial statement showing that the MBA
is compliant with the following:

i. Solvency;
ii. Risk-based capital ratio;
iii. Guaranty fund; and,
iv. Reserves for basic and operational benefits.

4. Approval by Commission. - Upon receipt of the requirements stated in item (3) of this Circular, this Commission shall approve or disapprove the proposal within fifteen (15) days from receipt of this Commission, after which, the proposal for acquisition of Pre-Need Plans as admitted asset shall be deemed approved. If the proposal is disapproved, the reason for such denial shall be stated.

5. Reportorial Requirements. - An MBA with an approved proposal shall proceed with the transaction upon receipt of this Commission’s approval. Afterwards, the MBA is directed to submit an annual report with the following details:

a. Type and Number of pre-need plans procured upon approval by this Commission;

b. Type and number of pre-need plans surrendered/disposed/transferred/ assigned during the year covered by the report with the following details:
i. Name and contact details of the transferee/s who received the pre- need plans by way of transfer or assignment, if any; or,

ii. Number of pre-need plans and termination value of surrendered pre-need plans and the reason for such surrender, if any; and,

c. Type and number of pre-need plans unused as of the date of reporting.

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6. Surrender and Pre-Termination of Pre-Need Plans by MBAs. - MBAs may surrender and pre-terminate procured pre-need plans subject to the readjustment of the amount of pre-need plans considered as admitted asset. Such readjustment shall use the pre-termination value received by the MBA upon surrender of a pre-need plan as basis in determining the amount of pre-need plans considered as admitted asset during the annual examination/verification conducted by this Commission.

This Circular Letter shall take effect immediately. All concerned should be guided accordingly.

(SGD) DENNIS B. FUNA
Insurance Commissioner

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