GUIDELINES ON THE MANAGEMENT OF THE TRUST FUND SURPLUS OF PRE-NEED COMPANIES

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Section 1. Mandate and Objectives

Pursuant to Section 6(k)[1], Section 30 (paragraph 2)[2] and Section 47[3] of Republic Act No 9829, otherwise known as Pre-Need Code of the Philippines, the Insurance Commission issues these Guidelines on the Management of the Trust Fund Surplus of Pre-Need Companies for the following objectives:

a)

To govern the management and administration of the Trust Fund established for the payment of pre-need benefits under plan contracts; and

b)

To provide an updated and more flexible choice of investments for the Net Surplus Fund subject to rules and regulations that would ensure prudent investment management and protection of the interests of the Planholders, including the promotion of the sound, stable and sustainable growth of the pre-need industry as provided for in Section 2[4] of the Pre-Need Code.

Section 2. Definition of Terms

Whenever used in these Guidelines, the following terms shall have the respective meanings hereafter set forth or indicated, unless the context requires otherwise:

- Trust Fund refers to a fund set up from the planholders' payments to pay for the cost of benefits and services, termination values payable to planholders and other costs necessary to ensure the delivery of benefits or services to planholders as provided for in the contracts.[5]

- Pre-Need Reserve Liability (PRL) refers to the measure of the liabilities of the pre-need company for its in-force plans and lapsed plans as of valuation date[6] , computed by an accredited actuary using the prescribed applicable discount rates.

- Trust Fund Surplus refers to the excess of the net asset value in the trust fund over the pre-need reserve liability. The net asset value is the Trust Fund balance at time of valuation. The net asset value is also referred to as Trust Fund Equity.

- Pre-Need Benefits refer to the payment of a monetary consideration and/or performance of future services which the pre-need company undertakes to deliver either to the planholder or his beneficiary at the time of actual need or agreed maturity date, as specified in the pre-need plan.[7]

- Closed Accounts refer to pre-need plans where the liabilities therein have already been paid or extinguished. They shall include but not limited to the following:

- Matured Plans[8]

- Terminated Plans[9]

- Foreclosed Plans

- Early or Lump Sum Availed Plans v. Cancelled Plans[10]

- Provision for Adverse Deviation (PfAD) refers to a generally accepted accounting principle developed based on assumptions that are reasonably conservative and that include provision for the risk of adverse (unfavorable) deviation from such assumptions (mortality, interests, withdrawals, and expenses). A provision for the risk of adverse deviation implies that appropriate degrees of conservatism have been considered in determining actuarial assumptions that are reasonable and realistic.[11]

This provision is a fund equal to 10% of the preneed reserve liability that will be added in the Trust Fund Equity. The 10% PAD was derived from the Actuarial assumption of any 1% deviation from the investment earning interest rate equivalent to 10% of liability.

- Excess Liability Reserve for Closed Accounts (ELR) refers to the excess of the Pre Need Reserve Liability (PRL) over the actual benefit/cost paid for closed accounts.

- Net Surplus Fund refers to the difference between the trust fund surplus and the sum of the Provision for Adverse Deviation (PfAD) and the excess liability reserve.

Section 3. Determination of the Trust Fund Surplus

The net asset value in the trust fund shall be at least equal to the required Pre- Need Reserve Liability (PRL) as determined by an accredited actuary.

The PRL shall be computed in accordance with the prescribed applicable rate at the time of valuation.

The Trust Fund Surplus is determined as follows:

Trust Fund Equity (Net Asset Value)

xxxxx

Less: Pre Need Reserve Liability (PRL)

xxxxx

Trust Fund Surplus (TFS)

xxxxx

Section 4. Determination of the Net Surplus Fund

The Net Surplus Fund is an extended fund of the Trust Fund. Its availability shall be determined based on the trust fund income as of December 31 of the immediately preceding calendar year.

The Net Surplus Fund is determined as follows:

Trust Fund Surplus (TFS)

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xxxxx

Less: Provision for Adverse Deviation (PfAD)

xxxxx

Excess Liability Reserve (ELR)

xxxxx

xxxxx

Net Surplus Fund

xxxxx
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Section 5. Investment of the Trust Fund and Net Surplus Fund

Investment of the Trust Fund shall be limited to the allowable investments provided for under Section 34 of the Pre-Need Code and to such other investments approved by the Commission, and shall be subject to the limitations found therein.

In case there is a Net Surplus, investment of the same shall be limited to the items enumerated under Section 34 of the Pre-Need Code and other allowable investments approved by the Commission, without the percentage limits set forth. Any investment outlet not enumerated therein may be allowed subject to the prior approval of the Insurance Commission.

To facilitate management, handling and monitoring of the trust fund, the Net Surplus shall be placed in a Net Surplus Fund for each of the following plan type:

- Education Plan

- Pension Plan

- Life or Memorial Plan

Section 6. Withdrawal of the Excess Liability Reserves of Closed Accounts Withdrawal of the Excess Liability Reserve (ELR) of closed accounts[12] from the trust fund may be allowed subject to the prior approval of the Commission and payment of processing fee of Fifty Thousand Pesos (P50,000.00) per application.

Since what is contemplated herein pertains to closed accounts, the withdrawal mentioned herein would not be in conflict with Section 30 (2) of the Pre-Need Code.

Request for the withdrawal of the ELR of closed accounts shall be submitted within thirty (30) days from receipt by the Commission of the Actuarial Valuation Report.

In case the Commission acts favorably on the request, withdrawal shall be made within sixty (60) days from receipt of approval. No withdrawal after the sixty (60) day-period shall be allowed by the Trustee Bank.

The total plan deposit and ELR information per plan contract shall be included in the monthly Trust Fund Withdrawal Report submitted to the Insurance Commission.

Section 7. Repealing Clause

All circulars, rules and regulations or parts thereof that are inconsistent with the provisions of these Guidelines are

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deemed repealed, superseded or modified accordingly.

(SGD) EMMANUEL F. DOOC
Insurance Commissioner

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[1] Section 6 (k). Prepare, approve, amend or repeal rules, regulations and orders, and issue opinions and provide guidance on and supervise compliance with such rules, regulations and orders;

[2] Section 30 (2). Except for the payment of the cost of benefits or services, the termination values payable to the planholders, the insurance premium payments for insurance - funded benefits of memorial life plans and other costs necessary to ensure the delivery of benefits or services to planholders, no withdrawal shall be made from the trust fund unless approved by the Commission.

[3] Section 47. The Commission shall have the authority to make, amend and rescind such accounting rules and regulations applicable for pre-need companies. The Commission may prescribe, among other things, the form or forms in which required information shall be set forth, the items or details to be shown in the components of the financial statements, and the recognition and measurement basis to be adopted for each account, after considering the nature of the operation of the pre-need industry. Pre-need companies shall strictly comply with such accounting rules and regulations as prescribed by the Commission.

[4] The State shall hereby regulate, through an empowered agency, pre-need companies based on prudential principles to promote soundness, stability and sustainable growth of the pre-need industry.

[5] Section 4 (j) of the Pre-need Code of the Philippines (Republic Act No 9829)

[6] Section 4 (k) of the Pre-need Code of the Philippines (Republic Act No 9829)

[7] Section 4(g) of the Pre-need Code of the Philippines (Republic Act No 9829)

[8] Matured plans are those plans the proceeds of which are already paid upon maturity of the plan or contract. (Section 26 of RA 9829)

[9] Terminated plans are those plans terminated by the Pre-need company after receipt of written notice of termination from the planholder. (Sec 24 of RA 9829)

[10] “Cancelled plan” refers to a plan that can no longer be reinstated by reason of delinquency in the payment of installments for more than two (2) years or a longer period as provided in the contract, counted from the expiry of the grace period provided for in the plan or contract. (Section 4 (p) of RA No. 9829)

[11] http://www.oregonlaws.org/glossary/definition/adverse_deviation

[12] Cf. a) Section 30 paragraph (2) of RA No. 9829 provides: “Except for the payment of the cost of benefits or services, the termination values payable to the planholders, the insurance premium payments for insurance-funded benefits of memorial life plans and other costs necessary to ensure the delivery of benefits or services to planholders, no withdrawal shall be made from the trust fund unless approved by the Commission”;

b) Section 35 of R.A. No. 9829 provides: “In case of an excess of the fund over the reserve liability, the excess shall be credited for future deposit requirements”; and,

c) Section 36 of R.A. No. 9829 provides: “Any excess of the trust fund over the actuarial reserve liabilities may be credited to future deposit requirements”.

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