AMENDING MEMORANDUM CIRCULAR NO. 99-011 (PASSENGER ACCIDENT INSURANCE REQUIREMENT OF PUV OPERATORS)

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I

Prefatory Statement

In response to numerous complaints from passenger accident victims involving public utility vehicles, the Board passed Memorandum Circular No. 99-011 dated June 22, 1999 requiring all public utility vehicles to secure a “no fault” passenger accident insurance. This circular was further refined with the passage of Memorandum Circular No. 2000-010 dated March 27, 2000.

After a year of implementation, the Board now has received numerous complaints coming from various transport groups and from its regional offices. These complaints range from non-payment or underpayment of taxes, graft and corruption, and the non implementation of the computerized data bank of all public utility vehicles.

In addressing these concerns, the different transport groups proposed the creation of a two (2) group system whereby all insurance companies who would like to participate in the passenger accident insurance program of the LTFRB must join any of the two groups, and that the passenger insurance requirement of the PUV operators be divided between these two groups on the basis of the number of their respective LTO license plates. The transport groups argue that through this scheme the following objectives will be attained:

1. Fake certificates of cover will be minimized, if not eradicated, due to better monitoring of operations as there would only be two kinds of certificates that would be circulating.

2. Payment of the proper taxes can be assured.

3. Graft and corruption will be minimized, if not eliminated, since discretion as to which insurance company to patronize will be removed.

4. Payment of claims will be prompt due to better monitoring.

5. The proposed computerized data bank of all PUV nationwide will be attained without a single cost to government.

It must be noted that the passenger accident insurance program of the LTFRB was implemented after numerous dialogues with all the transport organizations nationwide, and only after all issues raised have been sufficiently addressed. More importantly, this program is without any cost to the government. The added insurance expense is shouldered by the PUV operators.

In pursuing this proposal further, the Board conducted meetings and conferences with the transport operators and with the insurance companies. It also met the Insurance Commission where the latter, in its letter dated January 30, 2001, confirmed that it has no objection to the proposal of thevarious transport groups, there being no legal impediment to the same.

IIAmendments

AMENDMENTS TO MC NO. 99-01

IN VIEW OF THE FOREGOING PREMISES, and upon the clamor of the transport operators who are the ones paying the added insurance cost, paragraph seven (7) of Memorandum Circular No. 99-011 is hereby amended to read as follows:

> "In order to make sure that future claims of PUV operators and passenger accident victims are paid within the required time, and in order to minimize, if not eliminate, fake certificates of cover and graft and corruption, as well as to ensure the payment of the proper taxes much needed by the government, as well as, to create a computerized data bank without any cost to the government which is necessary for transport planning. the Board will only accept, as proof of compliance of this program, insurance policies/certificates of cover duly approved by the Insurance Commission specifically for this project, and issued by any of the two groups as authorized by the Board."

CREATION OF THE TWO GROUP SYSTEM

Accordingly, as there is already one group duly authorized by the Board to participate in this program in the person of the Passenger Accident Managers, Inc. (PAMI for brevity), there is a need to form another group in order to fully implement the program. All other insurance companies who wish to continue participating in the program, therefore, are hereby required to either join PAMI or form a second group.

In order to maintain their good standing with the Board, each group must maintain and present to the Board proof of compliance with the following minimum requirements:

1. Membership of at least ten (10) insurance companies with valid and subsisting license issued by the Insurance Commission;

2. Aggregate paid-up capitalization of P500 Million;

3. Compliance with the computerized data as required by the Board;

4. Payment of all claims within seven (7) calendar days from submission of all documents;

5. Issuance of one (1) certificate of cover with the standard form and contents duly approved by the Insurance Commission and the Board; and

6. Submission and compliance with all other reports, orders and requirements of the Board.

ODD-EVEN SYSTEM

In order to address the issue of graft and corruption, there is a need to remove discretion on the part of government officials. Accordingly, the Board supports the proposal of the transport groups and hereby adopts the following system --

> “All PUV’s covered by this program whose LTO license plate, as per latest LTO Official Receipt, has an even middle number must have an insurance policy/certificate cover coming from the first insurance group (in this case PAMI), while those with an odd middle number must have a policy/cover coming from the second group. This odd-even system shall be interchanged on a year to year basis in order to ensure equality and fairness in distribution. Accordingly, the Board will not accept, as proof of compliance with this program, any insurance policy/cover that does not comply with this odd -- even scheme, except in the following cases where the operator may choose the insurance group of its choice provided it is one of the two authorized by the Board, to

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wit:

1. Where the operator or franchise holder has 50 or more operating units registered in its name;

2. Where the operator files a verified petition with the Board justifying his preference over the other group. In this case, the Board may allow a switch if it can be shown that there are more benefits to be attained from the insurance group of his choice, and provided further that these benefits are legal and do not result to any form of predatory pricing, such as; unjustified commissions and discounts.

Other than these reasons no switch may be allowed by any officer of the LTFRB unless otherwise duly approved by the Board en banc.

EFFECTIVITY OF THE TWO GROUP SYSTEM

The effectivity of the two group system will take place on March 1, 2001, unless otherwise extended by the Board en banc.

III
Interim Guidelines
In the meantime, in order to immediately address the concerns of the transport groups, the following should be strictly complied with:

1. No insurance company, its agents and employees shall resort to predatory pricing which means selling or offering to sell any product at a price unreasonably below the industry average costs so as to attract customers to the detriment of competitors.

2. The amount of commission/discount which a company will offer in the market should be in writing and duly approved by the LTFRB, who in turn, will coordinate the same with the Insurance Commission. Any violation of the declared commission/discount shall be subject to the penalties provided for herein.

3. Only branch offices duly identified by the company, together with the designated officer-in-charge, and submitted in writing to the LTFRB shall issue, distribute, market or release the required policy/certificate of cover.

4. Payment of all claims should be made within seven calendar (7) days from submission of all the required documents. Accordingly, the company shall provide the LTFRB with the list of required documents.

Any insurance company found to have violated any of the above prohibitions shall, after notice and hearing, be banned permanently from participating in the program either directly or indirectly, including its principal stockholders, key officers and successors-in-interest if evidence warrants. The Board, may, in the interest of the public, issue a cease and desist order enjoining a company from participating in the program for not more than thirty (30) days pending full investigation.

All insurance companies who are “blacklisted” in any government agency or instrumentality including courts and other quasi-judicial agencies are automatically disallowed to participate in this program. Accordingly, no policy or certificate of cover shall be accepted from these companies as proof of compliance with this program. The Board shall issue from time to time the list of the “blacklisted” or suspended companies.

All insurance policies/certificates of cover issued by the insurance companies in their individual capacities prior to the effectivity of the “Two Group System” shall remain in full force and effect until its expiration, and said companies shall be primarily liable for the payment of claims subject of said policies/certificates of cover.

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IV
Repealing Clause

All other issuances or parts thereof which are inconsistent herewith, are therefore modified or superseded accordingly to conform with this new directive.

V
Separability Clause

In the event that any provision of this circular is declared unconstitutional, the validity of the remainder shall not be affected.

VI
Effectivity Clause
This amendatory circular shall take effect fifteen (15) days after the filing of three (3) copies hereof with the UP Law Center, pursuant to Presidential Memorandum Circular No. 11 dated 09 October 1992.

Adopted: 01 February 2001

(SGD.) DANTE M. LANTIN
Chairman

(SGD) REMEDIOS G. BELLEZA
Board Member

(SGD.) VIGOR D. MENDOZA II
Board Member

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