

July 2, 2002

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Makati City

Sir:

We are sending herewith a copy of the Guidelines on Variable Life Insurance Contracts. Please disseminate the same to your member companies for their guidance.

Moreover, we wish to inform you that our Office will be conducting licensing examination on variable contracts on July 31, 2002 and every Wednesday thereafter.

Very truly yours,

(SGD.)EDUARDO T. MALINIS  
Insurance Commissioner

# Guidelines on Variable Life Insurance Contracts

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## Section 1. Definitions

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The definitions set forth hereunder shall govern the construction of the following terms used in these Guidelines.

- (a) “Commission” refers to the Insurance Commission.
- (b) “General Account” means all assets of the insurer other than assets in separate variable account(s) established pursuant to [Section 232 of the Insurance Code](#).
- (c) “Incidental Insurance Benefit” means all insurance benefits in a variable life insurance contract, other than the variable death benefit and the minimum death benefit, including but not limited to, accidental death and dismemberment benefits, disability benefits, guaranteed insurability options, family income or term riders.
- (d) “Minimum Death Benefit” means the amount of the guaranteed death benefit, other than incidental insurance benefits, payable under a variable life insurance contract regardless of the investment performance of the separate account(s).
- (e) “Net Amount at Risk” is defined as any excess of minimum death benefit over the value of the policyholder’s separate variable account.
- (f) “Net Investment Return” means the rate of investment return in a separate account(s).
- (g) “Separate Variable Account” means a separate account(s) established pursuant to [Section 237 of the Insurance Code](#).
- (h) “Variable Life Insurance Contract” refers to variable contract as defined in [Section 232\(2\) of the Insurance Code](#).
- (i) “Unit Pricing” is the process whereby the unit price of units is set. The unit price of units is basically the value of the underlying assets of the separate account(s) divided by the number of units issued.

- (j) “Offer Price” or “Selling Price” means the price which the insurer uses to allocate units to a policy when premiums are paid.
- (k) “Bid Price” or “Buying Price” is the price which the insurer will give for the units if the policyholder wishes to cash in or claim under the policy.
- (l) “Top-Ups” are single premium injections which can be used to buy additional units.
- (m) “Premium Holiday” refers to the cessation of premium payments on a variable life insurance contract for a period, with a view to continue it later on.
- (n) “Withdrawal Value” is the total amount available to the policyholder in cash upon redemption of all units.
- (o) “Partial Withdrawal” refers to the redemption of some units owned by the policyholder.
- (p) “Forward Pricing” is a pricing structure wherein the buying and selling prices of units are determined at the next valuation date.
- (q) “Allocation of Premiums” means the periodic distribution of premiums to insurance and units.
- (r) “Over-The-Counter Market” shall be defined to mean a market which trades all kinds of stocks and bonds which are not listed in the local securities exchanges and where there is no centralized place for trading, there are no listing requirements for issues traded and all registered brokers and dealers are entitled to participate.
- (s) “Actively Engaged” shall be taken to mean that the license holder shall have earned, during the year following the issuance of the license, commission or other compensation for services renders as an agent amounting to at least PhP 3,600.
- (t) “Variable Contract Agent” shall mean any person who sells or offers for sale variable contracts, as defined in [Section 232\(2\) of the Insurance](#)

[Code](#), or does or performs any act or thing in the sale, negotiation, making or consummating of any such contract other than for himself or herself.

- (u) “Insurance Broker” shall mean any person who, for any compensation, commission, or other thing of value acts or aids in any manner in soliciting, negotiating or procuring the making of any insurance contract or in placing risks or taking out insurance on behalf of an insured other than himself or herself.

## Section [2](#). Qualifications of Insurer to Issue Variable Life Insurance Contracts

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Any insurer authorized to transact business in the Philippines requesting authority to issue, deliver, sell or use variable life insurance contracts must show to the satisfaction of the Commission that it has satisfied, in addition to the requirements of the Code relative to variable life insurance contracts, the following qualifications:

- (a) The insurer, during the fiscal year preceding the date of authorization, shall have maintained surplus accounts in excess of the minimum margin of solvency required of not less than PhP 1,000,000.
- (b) The insurer shall initially transfer and allocate to the designated separate variable account(s) in cash or other acceptable investment or a combination of both, an amount equal to at least PhP 1,000,000 from the unassigned surplus of the insurer; and
- (c) The insurer shall at all times maintain in the designated separate variable account(s) a surplus which shall be an excess of the value of the admitted assets of such account over its liabilities and reserves of at least two per mille of the total net amount of the risk in force of its variable life insurance contracts as of the preceding year, provided, that the surplus shall in no event be less than PhP 1,000,000; and provided, further, that in the determination of the margin of solvency requirements of the company, the total amount of its insurance in force stated under [Section 194 of the Insurance Code](#) shall be deemed to exclude the insurance in force on the variable life insurance contracts.

## Section 3. Filing for Approval to do Business

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Pursuant to [Section 232 of the Insurance Code](#), the Commission shall require that an insurer, before it delivers or issues for delivery any variable life insurance contract in the Philippines, file with the Insurance Commission a business plan that contains, at least, the following information.

- (a) A general description of the variable life insurance contracts it intends to issue;
- (b) A general description of the methods of operation of the variable life insurance business of the insurer, including methods of distribution of policies;
- (c) With respect to any separate account(s) maintained by an insurer for a variable life insurance contract, a statement of the investment policy the issuer intends to follow for the investment of the assets held in the separate account(s) and a statement of procedures for changing the investment policy. The statement of investment policy shall include a description of the investment objectives intended for the separate account(s);
- (d) A description of the basis of allocation of charges and expenses in the separate account(s);
- (e) A description of the education and training intended for agents; and
- (f) The sources of any actuarial, investment and advisory services contemplated.

## Section 4. Insurance Policy Requirements

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### A. Approval of Variable Life Insurance Contract Form

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Every variable life insurance contract form delivered or issued for delivery in the Philippines, every certificate form evidencing variable benefits issued pursuant to any such contract on a group basis, and the application, rider and endorsement forms applicable thereto and used in connection therewith, shall be subject to the prior approval of the Commission. No such form shall be approved unless it conforms to the requirements of these Guidelines.

### B. Mandatory Policy Benefit and Design Requirements

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Variable life insurance contracts delivered or issued for delivery in the Philippines shall comply with the following minimum requirements.

- (1) The policyholder of a variable life insurance contract must be at least 18 years old.
- (2) The minimum death benefit shall be prescribed as follows:
  - (a) in the case of a single premium variable life insurance contract,
    - (i) 125% of the initial single premium paid; plus
    - (ii) 125% of each subsequent top-up premium; minus
    - (iii) 125% of each partial withdrawal.
  - (b) in the case of an annual premium variable life insurance contract,
    - (i) 500% of the current annual premium paid; plus
    - (ii) 125% of each subsequent top-up premium; minus
    - (iii) 125% of each partial withdrawal; and
    - (iv) minimum death benefit should not be affected by a premium holiday.

- (3) The withdrawal value of each variable life insurance contract shall be determined at least monthly. The withdrawal value of a variable life insurance contract must not be less than the value of units that have been allocated in the separate account(s), less any charges for insurance, administration and surrender, if applicable.

### C. Mandatory Policy Provisions

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Every variable life insurance contract filed for approval in the Philippines shall contain at least the following:

- (1) The policyholder shall have a **cooling-off period** whereby the variable life insurance contract may be returned within fifteen (15) days of receipt of the policy by the policyholder and receive a refund equal to the market value of the units including initial charges thereof.
- (2) A provision of **grace period** of not less than thirty-one (31) days from the premium due date for any subsequent premium after the first. Any unpaid premium may be deductible from the benefits that may arise during the 31-day grace period.
- (3) A provision that the policy shall be **incontestable** after it shall have been in force during the lifetime of the insured for a period of two (2) years from its date of issue as shown in the policy, or date of approval of last reinstatement, except for non-payment of premium and except for violation of the conditions of the policy relating to military or naval service in time of war.
- (4) A provision specifying what documents constitute the **entire insurance contract**.
- (5) A **designation of the officers** who are empowered to make an agreement or representation on behalf of the insurer and an indication that statements by the insured, or on his or her behalf, shall be considered as representations and not warranties.
- (6) An identification of the **owner** of the insurance contract.

- (7) A description of any adjustments in policy values to be made in the event of **misstatement of age or sex** of the insured. That if the age or sex of the insured has been misstated, the amount of insurance will be adjusted to the amount which the premium would have purchased at the correct age or sex, applicable risk class, applicable service charges and applicable premium rates as of the policy date.

If at the correct age or sex, the insured is not eligible for any coverage under the policy or its incidental benefits, the insurer will refund the corresponding premiums actually received by the insurer less any indebtedness under the policy.

- (8) A provision that in the event the policyholder **fails to pay a premium** on time or discontinues paying premiums, notwithstanding the provision on grace period and notwithstanding periods for nil allocation of premiums, and there are withdrawal values in the policyholder's account, the policy either continues at the same sum assured for the same basic benefits or at a reduced sum assured for death and incidental benefits.

If the policyholder fails to pay a premium on time and there are no withdrawal values in the policyholder's account, the policy terminates immediately on the day the premium is due.

- (9) A provision that in the event the policyholder wishes to **continue to pay a premium** at any time within three (3) years from the date of premium default, he may do so upon the written application and submission of evidence of insurability, including good health, satisfactory to the insurer unless the withdrawal value has been paid or the period of extended insurance has expired, and upon payment of all amounts necessary to revive the policy.

- (10) A provision stating that the **investment policy** of the separate account(s) shall not be changed without the approval of the Commission and that the approval process is on file with the Commission.

- (11) A description of the **basis for computing the withdrawal value** under the policy shall be included.

- (12) A provision allowing the policyholder to make **partial withdrawals**;
- (13) A statement that while the policy is in force, the Insured may, subject to the approval of the insurer, **transfer or “switch”** any of his or her units in a particular separate variable account to another separate variable account or some other separate variable accounts which may have been established by the insurer; such “switch” will be effected by the cancellation of the units to be “switched” and the creation of new units in the separate variable account being “switched” to; unit price will be calculated accordingly.
- (14) A statement of any conditions or requirements concerning the **assignment** of the policy where the policy can be used as a security or collateral for any financial dealings. The party to whom the policy is assigned as a security or collateral must notify the insurer in writing of its interest. The insurer shall not be responsible for the verification of the authenticity or validity of any such assignment.
- (15) A provision setting forth conditions or requirements as to the **designation**, or change of designation, of a beneficiary and a provision for disbursement of benefits in the absence of a beneficiary designation.
- (16) **Premiums** or charges for incidental insurance benefits shall be stated separately.
- (17) An exclusion for **suicide** within two (2) years of the issue date of the policy or its last reinstatement, if any, the pertinent provisions of the Insurance Code shall apply. Provided, however, that to the extent of the increased death benefits only, the policy may provide an exclusion for suicide within two (2) years of any increase in death benefits which results from an application of the owner subsequent to the policy issue date.

A provision for benefits payable in case of death by suicide is not compensable shall be included. The benefits payable should not be less than the market value of the units plus initial charges thereof.

(18) Such other provisions as are currently required for traditional life insurance policies and are not inconsistent with these Guidelines shall apply.

#### **D. Other Policy Provisions**

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The following provision may in substance be included in a variable life insurance contract or related form delivered or issued for delivery in the Philippines.

- (1) Incidental insurance benefits may be offered.
- (2) Any other policy provision approved by the Commission.

## Section 5. Reserve Liabilities for Variable Life Insurance Contracts

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Reserve liabilities for variable life insurance contracts shall be established in accordance with actuarial procedures that recognize the variable nature of the benefits provided and any mortality guarantees.

The insurer's actuary shall determine the appropriate methodology and basis for the valuation of liabilities for variable life insurance contracts subject to the approval of the Commission.

The liabilities of the insurer in respect of its variable life insurance contracts shall not be less than the amount needed to meet the withdrawal values, the death claims, administrative expenses and other expenses relating to such policies.

The actuary of an insurer shall ensure that the liabilities of the insurer in respect of its variable life insurance contracts are adequate at all times. The actuary shall increase such liabilities to cover any contingencies or guarantees relating to such policies whenever he or she considers necessary.

## Section 6. Unit Pricing

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### A. Pricing of Units

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The selling and buying prices for the units shall be determined in accordance with the following methodologies.

#### Single Pricing

- (1) The net asset value per unit is the market value of the assets of a separate account(s) divided by the total number of units.

The net asset value per unit may be adjusted, as appropriate, for an estimated transaction cost per unit that is intended to reflect the average commission and brokerage that is expected to be incurred in respect of the investments of the separate account(s). The transaction cost shall be reviewed regularly, and revised if necessary.

- (2) The buying and selling prices per unit are equal to the adjusted net asset value per unit as at the next valuation date, after the receipt of request for purchase of units.

Pricing on a “next valuation date” basis is known as “forward pricing”.

- (3) The basis for determining the selling and buying price for units shall be set according to whether the separate account(s) is in a contracting or expanding status, this being defined as appropriately by the insurer.

#### Dual Pricing

- (1) The net asset value per unit is the market value of the assets of a separate account(s) divided by the total number of units.

The net asset value per unit may be adjusted, as appropriate, for an estimated transaction cost per unit that is intended to reflect the average commission and brokerage that is expected to be incurred in respect of the investments of the separate account(s). The transaction cost shall be reviewed regularly, and revised if necessary.

- (2) The offer price per unit is equal to the adjusted net asset value per unit as at the next valuation date plus the initial charge, after the receipt of request for purchase of units.

Pricing on a “next valuation date” basis is known as “forward pricing”.

- (3) The bid price per unit is equal to the adjusted net asset value per unit as at the next valuation date, after the receipt of the re-purchase request.
- (4) The basis for determining the selling and buying price for units shall be set according to whether the separate account(s) is in a contracting or expanding status, this being defined as appropriately by the insurer.

#### Other Pricing Methods

The buying and selling prices for the units may be determined in accordance with a generally accepted pricing method other than single and dual pricing, subject to the approval of the Commission.

### **B. Publication of Unit Prices**

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The insurer must publish the latest values of the following items in at least one national newspaper each time there is a change in unit value but at least on a monthly basis:

- (1) The offer/selling price per unit;
- (2) The bid/buying price per unit; and
- (3) The net asset value per unit.

## Section 7. Separate Account(s)

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The following requirements apply to the establishment and administration of separate variable account(s):

### A. Establishment and Administration of Separate Account(s)

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- (1) An insurer authorized to issue, deliver, sell or use variable life insurance contracts shall establish one or more separate variable accounts pursuant to [Section 237 of the Insurance Code](#).
  - (a) If no law or other regulation provides for the custody of separate variable account assets and if such company is not the custodian of such separate variable account assets, all contracts for custody of such assets including any amendments thereof shall be in writing, and the Commission shall have authority to review and approve both the terms of any such contract and the proposed custodian prior to the transfer of custody.
  - (b) Such company shall not without prior written approval of the Commission employ in any manner in connection with the handling of separate variable account assets any person who:
    - (i) within the last ten (10) years has been convicted of any felony or a misdemeanor arising out of such person's conduct involving embezzlement, fraudulent conversion, misappropriation of funds or securities;
    - (ii) within the last ten (10) years has been found by the Commission to have violated or has acknowledged violation of any provision of the Insurance Code involving fraud, deceit, or knowing misrepresentation; or
    - (iii) within the last ten (10) years has been found by the Securities and Exchange Commission to have violated or has acknowledged violation of any provision of the securities law involving fraud, deceit, or knowing misrepresentation.

- (2) All amounts received by the company in connection with any variable life insurance contracts which are required by the terms thereof to be allocated or applied to one or more designated separate variable accounts shall be placed in such designated account or accounts.
- (3) The assets and liabilities of each such separate variable account shall at all times be clearly identifiable and distinguishable from the assets and liabilities in all the other accounts of the company.
- (4) Notwithstanding any provision of law to the contrary, the assets held in any such separate variable account shall not be chargeable with liabilities arising out of any other business the company may conduct but shall be held and applied exclusively for the benefit of the owners or beneficiaries of the variable life insurance contracts applicable thereto.
- (5) In the event of the insolvency of the company, the assets of each such separate variable account shall be applied to the contractual claims of the owners or beneficiaries of the variable life insurance contracts applicable thereto subject to existing laws and rules and regulations of the Commission.
- (6) The reserve liability for variable life insurance contracts shall be established in accordance with actuarial procedures that recognize the variable nature of the benefits provided, and shall be approved by the Commission.
- (7) Separate life insurance variable accounts shall not be used for variable annuities or for the investment of funds corresponding to dividend accumulations or other policyholder liabilities not involving life contingencies.

## **B. Amounts in the Separate Account(s)**

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The company shall maintain in each separate variable account assets with a value at least equal to the valuation reserves and such other liabilities arising out of the variable life insurance contracts.

## C. Investments by the Separate Account(s)

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- (1) A company which has established one or more separate variable accounts pursuant to [Section 237 of the Insurance Code](#) may invest and re-invest all or any part of the assets allocated to any such account in the securities and investments authorized by [Sections 198, 200, 201 and 202](#) for any of the funds of an insurance company in such amount or amounts as may be approved by the Commission.

In addition thereto, such company may also invest in common stocks or other equities which are listed on or admitted to trading in a securities exchange located in the Philippines, or which are publicly held and traded in the over-the-counter market and as to which market quotations have been available.

- (2) No such company shall invest in excess of ten per centum of the assets of any such separate variable account(s) in any one corporation issuing such common stock. The assets and investments of such separate variable account(s) shall not be taken into account in applying the quantitative investment limitations applicable to other investments of the company.
- (3) In the purchase of common capital stock or other equities, the company shall designate to the broker, or to the seller if the purchase is not made through a broker, the specific separate variable account(s) for which the investment is made.
- (4) The separate variable account(s) shall have sufficient net investment income and readily marketable assets to meet anticipated withdrawals under policies funded by the separate variable account(s).
- (5) Except as otherwise specifically provided by the contract, no sale, exchange, or other transfer of assets may be made by a company, between any of its separate variable accounts or between any other investment account and one or more of its separate variable accounts, unless:

- (a) In the case of a transfer into a separate variable account, such transfer is made solely to establish the account or to support the operation of the contracts with respect to the separate variable account to which the transfer is made, or in case of a transfer from a separate variable account, such as transfer would not cause the remaining assets of the account to become less than the reserves and other contract liabilities with respect to such separate variable account; and
- (b) Such transfer, whether into or from a separate variable account, shall be made by a transfer of cash, or by a transfer of securities having a valuation which could be readily determined in the market place, provided that such transfer of securities is approved by the Commission. Only the true and duly verified balances of any current, savings, time and/or fixed deposit in any financially sound commercial banks or trust company may be transferred. For purposes of this sub-section, only the following shall be considered “securities having a valuation which would be readily determined in the market place”:
  - (i) securities listed in or admitted to trading in a securities exchange located in the Philippines;
  - (ii) bonds or other evidences of debt of the government of the Philippines, or its political subdivisions authorized by law to issue bonds, or of government-owned or controlled corporations and entities, including the Bangko Sentral ng Pilipinas;
  - (iii) new bond or debt issues which may reasonably be expected to be listed on a securities exchange located in the Philippines; and
  - (iv) short-term debt instruments approved by the Commission under [Section 201 of the Insurance Code](#).
- (6) The Commission may authorize other transfers among such accounts, if, in its opinion, such transfer would not be inequitable.

- (7) All amounts and assets allocated to any such separate variable account shall be owned by the company and with respect to same the company shall not be nor hold itself out to be a trustee.

#### **D. Valuation of Separate Account(s) Assets**

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Assets allocated to any separate variable account shall be valued at their market value on the date of any valuation, or if there is no readily available market, then in accordance with the terms of the variable contract applicable to such assets. In the absence of such contract terms, assets shall be valued in accordance with the provisions [of Section 208 of the Insurance Code](#).

The assets of such separate variable account shall be valued at least as often as variable benefits are determined but in any event at least monthly.

Otherwise, the valuation shall be book value or acquisition cost whichever is lower, or at a valuation approved by the Commission.

#### **E. Separate Account(s) Investment Policy**

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- (1) The company shall file with the Commission a statement of the investment policy it intends to follow for the investment of the assets held in the separate variable account(s), and a statement of procedures for changing such investment policy. The statement of investment policy shall include a description of the investment objectives intended for the separate variable account(s).

- (2) The investment policy filed under (1) above and any change in such investment policy shall be subject to the approval of the Commission.

- (a) Any investment policy or change filed shall be effective upon approval by the Commission. At any time, the Commission may, after notice and hearing, disapprove any investment policy or change that has become effective.

- (b) The Commission may disapprove the investment policy or any change therein if it determines that the change would be detrimental

to the interests of the policyholders participating in such separate variable account(s).

## **F. Charges Against Separate Account(s)**

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The company must disclose in writing, prior to or contemporaneously with delivery of the policy, all charges that may be made against the separate variable account(s), including, but not limited to, the following:

- (1) taxes or reserves for taxes attributable to investment gains and income of the separate variable account(s);
- (2) actual cost of reasonable brokerage fees, taxes and similar direct acquisition and sale costs incurred in the purchase or sale of separate variable account assets;
- (3) actuarially determined costs of insurance (tabular costs) and the release of separate variable account liabilities;
- (4) charges for administrative expenses and investment management expenses, including internal costs attributable to the investment management of assets of the separate variable account(s);
- (5) a charge, at a rate specified in the policy, for mortality and expense guarantees;
- (6) any amounts in excess of those required to be held in the separate variable account(s);
- (7) charges for incidental insurance benefits.

Indirect expenses such as general overheads of the Company should not be charged to the separate variable account(s).

## **G. Investment Advisory Services to a Separate Account(s)**

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An insurer shall not enter into a contract under which any person undertakes, for a fee, to regularly furnish investment advice to such insurer with respect

to its separate variable account(s) maintained for variable life insurance contracts unless:

- (1) the insurer has obtained prior approval from the Commission.
- (2) the insurer has filed with the Commission and continues to file annually the following information and statements concerning the proposed advisor:
  - (a) the name and form of organization and its principal place of business;
  - (b) the names and addresses of the partners, officers, directors and persons performing similar functions or, if such an investment advisory be an individual;
  - (c) a statement provided by the proposed advisor as to whether the advisor or any person associated therewith:
    - (i) has been convicted within ten (10) years of felony or misdemeanor arising out of such person's conduct as an employee, salesman, officer or director of an insurance company, a banker, an insurance agent, a securities broker, or an investment advisor involving embezzlement, fraudulent conversion, or misappropriation of funds or securities.
    - (ii) has been permanently or temporarily enjoined by an order, judgement or decree of any court of competent jurisdiction from acting as an investment advisor, underwriter, broker, or dealer, or as an affiliated person or as an employee of any investment company, bank or insurance company, or from engaging in or continuing any conduct or practice in connection with any such activity;
    - (iii) has been found by the regulatory authorities to have willfully violated or have acknowledged willful violation of any provision of the securities law or insurance laws or of any rule or regulation under any such laws; or

(iv) has been censured, denied an investment advisor registration, had a registration as an investment advisor revoked or suspended, or been barred or suspended from being associated with an investment advisor by order of regulatory authorities.

(3) such investment advisory contract shall be in writing and provide that it may be terminated by the company without penalty to the company or the separate variable account(s) upon no more than sixty (60) days written notice to the investment advisor.

The Commission may, after notice and opportunity for hearing, by order require such investment advisory contract to be terminated if he deems continued operation thereunder to be hazardous to the public or the company's policyholders.

## Section 8. Information Furnished to Applicants

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An insurer delivering or issuing for delivery in the Philippines a variable life insurance contract shall disclose to applicants adequate and accurate information required by this section.

All sales materials used by any agent of an insurer to market the variable life insurance contract must be approved by the insurer and shall not include any statement, promise or forecast which the insurer knows to contain any concealment of material facts. It shall not be written in a language which may confuse or mislead an applicant due to his or her lack of experience or knowledge.

All sales materials and policy forms shall contain the following information:

- (a) A summary explanation, in non-technical terms, of the principal features of the policy, including a description of the manner in which the variable benefits will reflect the investment experience of the separate account(s) and the factors that affect the variation. The information shall include notices of the provision required by Sections 4(C)(1) and 4(C)(4);
- (b) A statement of the investment policy of the separate account(s), including:
  - (1) A description of the investment objectives intended for the separate account(s) and the principal types of investments intended to be made; and
  - (2) Any restrictions or limitations on the manner in which the operations of the separate account(s) are intended to be conducted;
- (c) A prominent statement that the investment risks under the policy are to be borne solely by the policyholders;
- (d) A statement of the initial charge, management fees, mortality charge and any other charges to be borne by the policyholders;

- (e) A description of the basis for computing all policy benefits;
- (f) A summary of the method to be used in valuing assets held by the separate account(s);
- (g) All guarantees to policyholders, including the guaranteed minimum death benefit, maximum mortality cost and expense charge, minimum rate of interest, minimum withdrawal value, surrender penalty and guaranteed maturity benefit, where applicable;
- (h) Illustrations of benefits payable under the variable life insurance contract based on assumed investment return rates of 5%, 10%, and 15%. These rates are the investment returns to insurers after deducting final tax but before deducting any fees or charges. The values illustrated shall be rounded to the nearest hundredth. Assumptions upon which illustrations are based and the method of calculation shall be clearly specified.

The Commission may from time to time change the assumed investment return rates to reflect market conditions.

- (i) Where the policy has the flexibility of distributing premiums among several separate account(s), illustrations of benefits payable based on the distribution proportion so elected by the policyholder;
- (j) A statement of the investment performance of the separate account(s) for each of the last ten (10) years or such lesser period as the separate account(s) has been in existence;
- (k) A prominent statement indicating that the value of the policy may increase or decrease in accordance with the experience of the separate account(s), the results shown are for illustrations only, that the performance of the separate account(s) is not guaranteed and that the value of the policy could be less

than the capital invested subject to any specified minimum guarantees.  
The statement must be of at least equal prominence to the illustrations  
that it relates to; and

- (l) Any other information that the Commission may from time to time deem  
necessary.

## Section 9. Periodic Disclosure to Policyholders

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### A. Statement to Policyholders

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An insurer delivering or issuing for delivery in the Philippines a variable life insurance contract shall mail to each variable life insurance policyholder at his or her last known address, within thirty (30) days after each anniversary of the policy or a specified date in each policy year, a statement for the purpose of keeping the policyholders advised on the performance and value of their policies.

The statement to policyholders on the performance and status of their variable life insurance contracts shall contain the following information.

- (1) The number and value of units held at the end of the previous statement period;
- (2) The number and value of units bought during the statement period;
- (3) The number and value of units sold during the statement period;
- (4) The number and value of units held at the end of current statement period;
- (5) Charges incurred during the statement period. Each of the charges shall be identified, e.g., initial charge, management fee, mortality, riders, etc.;
- (6) Total amount of premium received during the statement period;
- (7) The current death benefit at the end of the current statement period;
- (8) The net withdrawal value at the end of the current statement period; and
- (9) Any other information that the Commission may from time to time deem necessary.

## B. Report to Policyholders

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All policyholders shall be entitled to receive from the insurer an annual report on the performance of each separate account within sixty (60) days from the date to which the report relates, a copy of which shall be submitted to the Commission.

The report to policyholders on the performance of each separate account must include the following information.

- (1) A summary of the financial statement of the separate account(s) based on the last annual statement filed with the Commission;
- (2) The net investment return of the separate account(s) for the last year and, for each year after the first, a comparison of the net investment rate of the separate account(s) during the last year with the investment rate during prior years, up to a total of not less than five (5) years when available;
- (3) A list of investments held by the separate account(s) as of a date not earlier than the end of the last year for which an annual statement was filed with the Commission;
- (4) Any charges levied against the separate account(s) during the previous year;
- (5) A statement of any change, since the last report, in the investment objective and orientation of the separate account(s), in any investment restriction or material quantitative or qualitative investment requirement applicable to the separate account(s) or in the investment advisor of the separate account(s); and
- (6) Any other information that the Commission may from time to time deem necessary.

## Section 10. Qualifications of Agents for the Sale of Variable Life Insurance Contracts

### A. Licensing Requirements and Limitations

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- (1) No insurer, doing business in the Philippines, or any agent thereof, shall pay any commission or any compensation to any person for services in obtaining or placing insurance, unless such person shall have first procured from the Commission a license to act as an agent.
- (2) No person shall act as an agent in the Philippines without first procuring a license so to act from the Commission. Such license shall be issued only if, upon written application of the person desiring it and payment of the corresponding fee therefor, such person is found qualified and not otherwise disqualified for such license. Such license shall be valid until midnight of the 30<sup>th</sup> of June of the year following its issuance unless sooner revoked or suspended for cause, and may be renewed annually on the 1<sup>st</sup> day of January, or within six (6) months thereafter.
- (3) No insurer doing business in the Philippines, or any agent thereof, shall pay to any person licensed to act as an agent, nor shall such person receive any commission or other compensation for the insurance on his or her life unless such person has secured for or placed with the insurer at least an equal amount of outside business during the period covered by his or her license.
- (4) No person shall be licensed to act as an agent of more than one insurer.
- (5) No official or employee of an insurance broker shall be licensed to act as an agent.

### B. Qualification to Sell Variable Life Insurance Contracts

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- (1) A person shall not sell or offer for sale any variable life insurance contract unless the person is an agent and has filed with the Commission, in a form satisfactory to the Commission, evidence that the person holds a license or

authorization that may be required for the solicitation or sale of variable life insurance. As such, an agent must possess the following qualifications:

- (a) He is a resident of the Philippines.
  - (b) He must be trustworthy.
  - (c) He has been duly licensed to act as a life insurance agent for at least three (3) years or, in lieu thereof, for at least one (1) year with a production of at least PhP 50,000 in first year premiums during the immediately preceding year.
  - (d) He has satisfactorily completed a training program on variable life insurance contracts.
  - (e) He has passed the written examination prescribed by the Commission for such purpose, unless exempted from taking the same under Section 11(C)(7).
- (2) An examination administered by the Commission for the purpose of determining the eligibility of a person for licensing as an agent, shall after the effective date of these Guidelines, include questions concerning the history, purpose, regulation and sale of variable life insurance contracts as the Commission deems appropriate.

## C. Examination

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- (1) The applicant for license shall qualify himself or herself in a written examination for the kind of license applied for, if not otherwise exempt from taking the same.
- (2) The examination shall be held at such times and places as the Commission shall designate.
- (3) Those desiring to take such examination shall file an application with the Commission on forms prescribed by the Commission.

- (4) Every applicant for such examination shall, at the time his application is filed, pay to the Commission an examination fee of PhP 150.
- (5) The applicant for such examination must be of good moral character and must not have been convicted of any crime involving moral turpitude. He must satisfactorily show that he has been trained in the kind or kinds of insurance contemplated in the license applied for.
- (6) A grade of 70% shall be necessary to pass the examination.
- (7) No such examination shall be required of the following:
  - (a) One who presently holds, or had previously held at any time during the last ten (10) years, a license (excluding a temporary certificate of authority) of the kind applied for.
  - (b) One who has successfully completed the Insurance Agents' Courses conducted by the Insurance Institute for Asia and the Pacific or an academic course and/or training program, satisfactory to the Commission, in the kind of insurance contemplated in the license applied for.
  - (c) One who, because of his or her previous connections with any insurer, or with any office or firm handling insurance matters, is found by the Commission to be competent to transact the business contemplated in the license applied for.

#### **D. Application for License**

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- (1) The application for the issuance or renewal of a license to act as an agent shall be upon forms prescribed by the Commission. Such application shall be accompanied by a copy of the applicant's income tax return for the preceding year, together with the corresponding receipt(s) showing payment of all income taxes due thereon.
- (2) In order to facilitate the processing of application for renewal of agent's license, particularly with respect to the income earned by the applicant concerned, it shall be considered sufficient compliance with the actively

engaged requirement, if it is certified under oath by the president or the executive/senior vice president (if there be more than one vice president) or the vice president (if there be only one vice president) of the insurer which the applicant represents that he or she has examined the income tax return of the said applicant for the preceding year and found that the amount of commission or other compensation which the latter has received for services rendered as an agent of said insurer for the year amounted to at least PhP 3,600.

- (3) The said certification shall be accompanied by a statement of waiver, jointly signed by the insurer and the agent concerned, to the effect that if the aforementioned certification be found to be false in any respect, the license so renewed in consideration of such certification shall be immediately cancelled without prior notice. The parties responsible therefor shall then be dealt with in the manner called for in the premises.
- (4) In case an agent's license for variable life insurance contract business is denied renewal on the ground that he or she has not been actively engaged as an agent, as provided in these Guidelines, such agent may, upon submission of a sworn certification executed by a responsible officer of the insurer concerned that the agent has to his or her credit business to which he or she is entitled to renewal commissions, be issued a special license to service existing policies solicited by him or her and receive renewal commission therefor, provided, however, that in no case shall he or she solicit new business under said license, nor shall such license be renewed annually for more than five (5) years.
- (5) An agent who, for not having been actively engaged as such, failed to qualify for renewal of his or her license during the period prescribed for such renewal may, after one year following the expiration of said license, apply for the issuance of new license upon showing that the applicant has undergone training in variable life insurance contracts with the insurer he or she desires to represent for at least forty (40) hours during the last six (6) months prior to his application.

## E. Fee

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The fee for issuance or renewal of license shall be the same as that for an insurance agent.

## F. Reports of Disciplinary Actions

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An insurer qualified under this regulation to sell or offer to sell variable life insurance contracts shall immediately report to the Commission:

- (1) Any suspension or revocation of the agent's license; and
- (2) Any judgment or injunction entered against him or her on the basis of conduct deemed to have involved fraud, deceit, misrepresentation or violation of any insurance law or regulation.

## G. Refusal to Qualify Agent to Sell Variable Life Insurance Contracts: Suspension, Revocation or Nonrenewal of License

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The Commission may reject an application or suspend or revoke or refuse to renew an agent's qualification under these Guidelines to sell or offer to sell variable life insurance contracts under any ground that would bar the applicant or agent from being licensed to sell other life insurance contracts. The following shall be considered as grounds for suspension, revocation or nonrenewal of license:

- (1) The applicant has wilfully violated any provision of the Insurance Code or of these Guidelines or any of the rules, regulations or instruction of the Commission.
- (2) The applicant has intentionally made a material misstatement in the application to qualify for such license.
- (3) The applicant has obtained or attempted to obtain a license by fraud or misrepresentation.
- (4) The applicant is guilty of fraud or dishonest practices.

- (5) The applicant has misappropriated or converted to his or her own use, or illegally withheld money required to be held in a fiduciary capacity.
- (6) The applicant has not demonstrated trustworthiness and competence to transact the business contemplated in his or her license in such manner as to safeguard the public.
- (7) The applicant has materially misrepresented the terms and conditions of policies or contracts of variable life insurance which he or she seeks to sell or has sold.
- (8) The applicant has failed to pass the written examination prescribed, if not otherwise exempt from taking the same.

In addition to the foregoing causes, no license to act as an agent shall be renewed if the holder thereof, has not been actively engaged as such agent.

Except as provided in Section (11)(D)(5), an application for the issuance of a license to act as an agent shall likewise be refused if the applicant, being a previous holder of a license for variable life insurance contract, which expired without having been renewed during the current year, has not been actively engaged as such agent during the effectivity of his last license.

A license to act as an agent may likewise be revoked upon the termination of the agency contract, in which the insurer concerned shall give immediate notice in writing to the Commission.

## Section 1. Separability

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If any provision of the Guidelines or its application to any person or circumstances is for any reason held to be invalid, the remainder of the Guidelines and the application of its provisions to other persons or circumstances shall not be affected.