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CIRCULAR LETTER

To : All Mutual Benefit Associations

Subject : Guidelines for the Implementation of Alternative Dispute Resolution Mechanisms for Microinsurance (ADReM) Involving Mutual Benefit Associations

Republic Act (R.A.) No. 9285 or the Alternative Dispute Resolution (ADR) Act of 2004, Republic Act (RA) No. 9520 or the Philippine Cooperative Code of 2008 and Insurance Memorandum Circular 1-2010, Annex 1, I (G) on the Key Features of a Microinsurance Contract, provide for the use of ADR to resolve various types of disputes.

Chapter 6 of the 2011-2016 Philippine Development Plan (PDP) encourages stakeholders to "x x x b) Strengthen consumer protection by improving the implementation of existing consumer protection laws and regulations on transparency, disclosure, consumer assistance and redress or grievance mechanisms." The ADReM processes, incorporated into the Philippine Microinsurance industry, provide its stakeholders with options to resolve disputes outside the courtroom, and to minimize the expense and delays of litigation.

This implementing Guidelines takes reference from the ADReM Framework for Microinsurance developed by the Technical Working Group (TWG) led by the Department of Finance-National Credit Council and the Insurance Commission, including representatives from Philippine Insurers and Reinsurers Association (PIRA), Philippine Life Insurers Association (PLIA), Philippine Chamber of Mutual Benefit Association, Inc. (PhilMBAI), CLIMBS Life and General Insurance Cooperative (CLIMBS), Cooperative Insurance

System of the Philippines (CISP), Microfinance Council of the Philippines, Inc. (MCPI), Rural Bankers Association of the Philippines (RBAP), RIMANSI Organization for Asia and the Pacific, Inc. (RIMANSI) German International Cooperation-Microinsurance Innovations Program for Social Security (GIZ-MIPSS) and Asian Development Bank-Japan Fund for Poverty Reduction (ADB-JFPR) Microinsurance Project.

Section1. Scope – The ADReM process shall only apply to disputes arising from denied claims or those not fully paid within 10 working days from receipt of complete documents. Nothing in these Guidelines shall preclude the parties from seeking other modes of settlement.

Section2. Definition of Terms

1. *Mediation* – a process whereby the mediator facilitates the negotiation between disputing parties to reach a voluntary, mutually satisfactory outcome.
2. *Conciliation* – a process whereby a conciliator takes a vigorous and active role in assisting disputants formulate solutions in order to reach an amicable settlement.
3. *Mediator/Conciliator* - A qualified individual who provides conciliation-mediation services.

Section3. Salient Features

Features	MEDIATION	CONCILIATION
Process	Structured, with specific stages	Less structured, following the course of the particular negotiation
Decision maker	The parties/disputants themselves	The parties/disputants themselves
Basis of decision	Needs and interests of all parties, rather than demands or positions	Most favourable reconciliation of positions
Involvement of the parties	Direct and full participation in representing their respective interests; deciding on issues; and creating, evaluating and agreeing on options and solutions	With the guidance and suggestions of the conciliator, direct and full participation in agreeing on options and solutions

1. The insured client may file their complaints with the head office or at the nearest branch office of their respective MBA. The complaint shall include the following information:
 - a. Name of insured
 - b. Policy number
 - c. Name of insurance company
 - d. Nature of claim
 - e. Amount of insurance
2. The recipient of the complaint shall within 24 hours notify in writing or through electronic means the concerned officers of the MBA on the details of the complaint and initiate the holding of the preliminary conference.
3. Within 3 working days upon receipt of notification, a preliminary conference shall be held among the parties to agree on a mediator-conciliator, venue and schedule of the mediation-conciliation meeting. Should the parties not agree on the available mediators-conciliators within the locality, parties may choose from the roster of mediators-conciliators in neighboring cities or municipalities.
4. The mediator-conciliator shall be chosen from the official roster or list posted in the IC website which, for this purpose, shall be updated on a regular basis.
5. If the parties fail to agree on a mediator-conciliator, venue and schedule of the mediation-conciliation meeting, the complainant upon presentation of a letter issued by the recipient of the complaint indicating such, may elevate the case to a second level process of mediation-conciliation with the association of MBAs (example PhilMBAI) where the concerned MBA is affiliated. In the case of MBAs not affiliated with any association, the case may directly be elevated to the IC.
6. Mediation-conciliation proceedings shall be held in a venue or in a manner mutually agreed upon by the parties.
7. Only complainants and the authorized representatives of the insurance providers directly involved in a case must be present in all sessions. Legal counsels are not allowed during the proceedings.



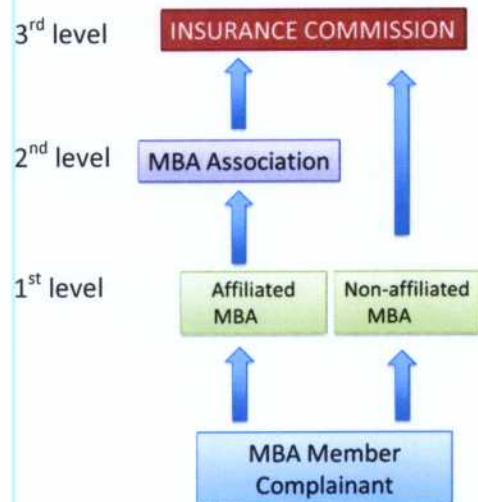
party facilitator	process facilitator who does not give opinions, suggestions nor judgments on disputes	responsible for seeking a solution to the dispute, who may give opinions and advice, but not impose a judgment
Types of possible outcomes	"Win-win" situation; mutual acceptance	Best compromise solution acceptable to the parties

Section4. Structural Elements of ADReM – The ADReM process shall be characterized by the following:

1. *Least cost* – must be affordable for all microinsurance stakeholders.
2. *Accessible* – must be convenient to all parties and based on procedures that are easily understood.
3. *Practical* – must be feasible and appropriate for the microinsurance sector, taking into account the needs of diverse stakeholders, and existing systems and policies. Available resources must be maximized for sustainability.
4. *Effective* – must result in mutually acceptable agreements that are doable.
5. *Timely* – must be resolved swiftly and within the time prescribed by rules set by the regulators.

Section5. ADReM Procedures

Illustration: ADReM Process for Mutual Benefit Associations (MBAs)



8. Mediation-conciliation proceedings shall be completed within 30 working days from the date of filing of the complaint.

a. If settlement is reached, the parties or their authorized representatives must sign the agreement. Authorized representatives must present Special Power of Attorney prior to signing the agreement.

b. If no settlement is reached at the MBA level within 15 working days from the date of filling of the complaint, or where the parties fail to appear for two consecutive sessions, the parties may elevate the case to a second level process of mediation-conciliation conference with the association of MBAs (example PhilMBAI) where the concerned MBA is affiliated with, upon presentation of the Certificate of Non-Resolution issued by the mediator-conciliator.

c. In case of non- settlement at the level of MBA association within 30 working days from the date of filling of the complaint, the parties may elevate the case to a third level process with the IC upon presentation of the Certificate of Non-Resolution issued by the mediator-conciliator.

d. In case an MBA is not affiliated to an association of MBAs, and where there is no settlement reached at the first level of mediation-conciliation conference within 30 working days from the date of filling of the complaint, the parties may directly elevate the case to the IC upon presentation of the Certificate of Non-Resolution issued by the mediator-conciliator.

Section6. Fees – Mediators-conciliators may charge fees for their services in an amount not exceeding five hundred pesos (Php500.00) or an amount that shall be determined by the Insurance Commission. Cost sharing arrangement may be agreed upon by both parties.

Section7. Information Campaign – MBAs shall promote the use of mediation and conciliation as a recourse mechanism available to all members to address any dispute.

Section8. Reporting – MBAs shall provide information on the outcome of cases referred to ADReM processes in the Annual Statements.



Section 9. Other Governing Rules – The rules on confidentiality, competence, impartiality, consent and self-determination, and enforcement of settlement agreements that govern ADReM process shall be in accordance with RA 9285 and its implementing rules and regulation (IRR).

This circular shall take effect immediately.



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Insurance Commissioner