CIRCULAR LETTER

TO : ALL HEALTH AND MAINTENANCE ORGANIZATIONS DOING BUSINESS IN THE PHILIPPINES

SUBJECT : GUIDELINES ON SECURITY DEPOSIT REQUIREMENTS

WHEREAS, Section 3(8), Chapter 1, Title IX, Book IV of the Administrative Code of 1987 mandates the Department of Health (DOH) to regulate the operations of and issue licenses and permits to hospitals, clinics, dispensaries, and other establishments, which include Health Maintenance Organizations (HMOs);

WHEREAS, an HMO refers to a juridical entity legally organized to provide or arrange for the provision of pre-agreed or designated health care services to its enrolled members for a fixed pre-paid fee or a specific period of time;

WHEREAS, the President, under Article VII, Section 17 of the Constitution, has the power and control over executive departments, bureaus and offices, as well as the continuing authority under existing laws to reorganize such executive departments, bureaus, and agencies;

WHEREAS, Section 1, Executive Order (EO) No. 192, s. 2015, mandates that jurisdiction over Health Maintenance Organizations (HMO) shall be transferred from the Department of Health (DOH) to the Insurance Commission (IC) in order to regulate and supervise the establishment, operations and financial activities of HMOs;

WHEREAS, The IC shall have the authority to exercise the following functions, among others:

a. Issue rules and guidelines, with respect to the establishment of HMO minimum capitalization, net worth, reserve funds and security deposit requirements, as well as the criteria for qualification and disqualification of directors, officers and marketing personnel, and the procedure for the submission of reportorial and/or examination requirements, registration of contracts and plans, adjudication of claims, and other relevant matters, as necessary;
b. Fix, assess, collect, and utilize fees and/or charges as it may find reasonable in the exercise of regulatory powers;

c. Regulate, supervise, and monitor the operations and management of HMOs to ensure compliance with EO No. 192, s. 2015, existing laws, rules, regulations and such other directives and circulars issued by the Insurance Commissioner;

d. Prepare, approve or amend, rules, regulations, orders, and circulars, and issue opinions, provide guidance on and supervise compliance with such rules, regulations, orders, and circulars; and

e. Exercise such other powers as may be provided by law as well as those which may be implied from, or which are necessary or incidental to carry out the express powers granted to the IC to achieve the objectives and purposes of EO No. 192.

f. Pursuant to existing laws, rules, and regulations, impose sanctions, and/or appropriate penalties;

NOW THEREFORE, pursuant to the powers vested in the Insurance Commissioner to issue rules and guidelines as may be deemed necessary to secure the enforcement of the EO No. 192, s. 2015 and to ensure the efficient regulation of the HMO industry, the Commission hereby prescribes the following guidelines for the security deposit requirement.

SECTION 1. APPLICABILITY

These guidelines shall govern the security deposit requirements of all HMOs doing business in the Philippines.

SECTION 2. OBJECTIVES

This Circular shall be used to protect the interests of the HMOs' enrolled members and to assure continuation of health care services to them.

SECTION 3. SECURITY DEPOSIT REQUIREMENTS

All HMOs doing business in the Philippines shall comply with the following security deposit requirements:

a. Security deposits shall at all times be not less than twenty five percent (25%) of the actual paid-up capital or Five Million Pesos, whichever is higher;

b. Security deposit shall be invested only in bonds or other instruments of debt of the Government of the Philippines or its political subdivisions or instrumentalities, or of government-owned-or-controlled corporations and entities, including the Bangko Sentral ng Pilipinas (BSP);
c. The investment shall at all times be maintained free from any lien or encumbrance; and

d. The investment shall be lodged under the non-tradable account of National Registry of Scripless Securities System (NROSS).

SECTION 4. REPLACEMENT OR WITHDRAWAL

Replacement or withdrawal of deposits may be made only with the prior written approval of the Commission subject to the Undertaking that the deposit to be replaced/withdrawn shall be returned/reinstated within five (5) working days from the release thereof.

SECTION 5. CLASSIFICATION OF THE SECURITY DEPOSITS

Security deposits shall be considered as an asset of the HMOs in the determination of its unimpaired Paid-Up Capital and/or Net Worth requirement.

SECTION 6. DOCUMENTARY REQUIREMENTS

All HMOs doing business in the Philippines shall submit the following documentary requirements within five (5) working days from the time of acquisition and/or replacement of security deposits:

a. Certified True Copy of Confirmation of Sale of securities from the bank;

b. Notarized Affidavit of Undertaking- which indicates the prescribed number of days within which to reinvest the proceeds of maturing securities to lodged under NROSS of the BTr (Annex A); and

c. Notarized Deed of Assignment with Special Power of Attorney- which indicates the authority of the Insurance Commissioner to act as Attorney In-Fact, with full power of substitution to facilitate the reinvestment transaction for and in behalf of the HMO, in case of non compliance (Annex B).

SECTION 7. TRANSITORY PROVISION

All HMOs shall be given until January 31, 2020 to comply with the requirements of security deposit.

SECTION 8. PENALTY FOR NON COMPLIANCE

Any violation of any section of this Circular Letter shall be considered as grounds for suspension or revocation of license or Certificate of Authority.

SECTION 9. SEPARABILITY CLAUSE

If any provision or part of this Circular Letter shall be held invalid or unconstitutional, the unaffected provisions or parts shall remain valid and subsisting.
SECTION 10. REPEALING CLAUSE


Further, all circulars, rules and regulations or parts thereof that are inconsistent with the provisions of this Circular are deemed repealed and superseded accordingly.

SECTION 11. EFFECTIVITY

This circular letter shall take effect starting 01 January 2020.

For strict compliance.

DENNIS B. FUNA
Insurance Commissioner