



Circular Letter (CL) No.	2021-18
Date:	16 March 2021
Supersedes:	None

CIRCULAR LETTER

TO: All Pre-Need Companies

SUBJECT: Providing the Protocol for Pre-Need Companies in Financial Distress which are at the Same Time Undergoing Rehabilitation or Other Proceedings Under Republic Act No. 10142, Otherwise Known as the “Financial Rehabilitation and Insolvency Act (FRIA) of 2010”

Whereas, Pre-Need Companies in financial distress may undergo proceedings such as conservatorship, receivership or liquidation under the charter or governing law for the pre-need industry, *i.e.* the Pre-Need Code;

Whereas, a proceeding *in rem* may also be initiated *judicially* under R.A. No. 10142 (*An Act Providing for the Rehabilitation or Liquidation of Financially Distressed Enterprises and Individuals*), otherwise known as the “Financial Rehabilitation and Insolvency Act (FRIA) of 2010”;

Whereas, the initiation of the appropriate proceeding necessitates the appointment by the Insurance Commission of the corresponding conservator, receiver, or liquidator, as the case may be, while the Rehabilitation Court, under R.A. No. 10142, shall also appoint the Rehabilitation Receiver or Liquidator, at the same time;

Whereas, a question of jurisdiction arises whenever a regulated entity in financial distress necessitates its placing under conservatorship, receivership or liquidation also is undergoing proceedings under R.A. No. 10142, or the FRIA law;

Whereas, under the Doctrine of Concurrent Jurisdiction, where an agency assumes jurisdiction over a matter ahead of the other agencies that have original concurrent jurisdiction, the agency that first took cognizance shall exercise that jurisdiction *to the exclusion of the others* (*Rubio, Jr. v. Paras*, 455 SCRA 697; and *Ombudsman v. Rodriguez*, G.R. No. 172700, July 23, 2010);¹

Whereas, Section 17 of R.A. No. 10142 provides: “*Attempts to seek legal or other recourse against the debtor outside these proceedings shall be sufficient to support a finding of indirect contempt of court.*”


¹ Cited by the Office of the Solicitor General in its letter to the Commission, dated November 26, 2020.

NOW, THEREFORE, pursuant to the powers of the Insurance Commissioner to repeal or amend rules or regulations under Section 47 of Republic Act (RA) No. 9829, otherwise known as the Pre-Need Code of the Philippines, the following protocol shall be observed for pre-need companies in financial distress which have been undergoing rehabilitation or other proceedings under Republic Act No. 10142, Otherwise Known as the "Financial Rehabilitation and Insolvency Act (FRIA) of 2010" prior to the effectivity of the Pre-Need Code:

SECTION 1. Acquisition of jurisdiction. - Whichever entity acquires jurisdiction ahead of the other entity shall acquire said jurisdiction to the exclusion of the other. Consequently, if the Commission had already acquired prior jurisdiction over a company, the Commission shall appoint a conservator pursuant to the charter regulating the entity. On the other hand, if a Rehabilitation Court had already acquired prior jurisdiction over a company, such jurisdiction shall remain with the court until the termination of the case. The Commission shall yield jurisdiction to the Rehabilitation Court in conformity with the judicial doctrine, cited above, and shall give way to the appointment of a Rehabilitation Receiver or Liquidator by the court.

SECTION 2. Non-preclusion of Commission regulatory powers. – The acquisition of jurisdiction by the court does not preclude the Commission from exercising its regulatory powers over the regulated entity. Henceforth, the Commission shall communicate its regulatory directives to the proper corporate officers, i.e., its company President, etc. to effect its directives and requirements.

SECTION 3. Effectivity. – This circular shall take effect immediately.


DENNIS B. FUNA
Insurance Commissioner

