



Republic of the Philippines
 Department of Finance
INSURANCE COMMISSION
 1071 United Nations Avenue
 Manila



Advisory No.:	RS-2022-038
Classification:	Regulatory and Supervisory Advisory
Date:	14 October 2022

INSURANCE COMMISSION ADVISORY

TO : The Public

SUBJECT : Request for Comments on the Draft Implementing Rules and Regulations of Republic Act No. 11765 or the “Financial Products and Services Consumer Protection Act”

On 06 May 2022, Republic Act No. 11765 or the “Financial Products and Services Consumer Protection Act” (FCPA) was signed into law. Under Section 18 thereof, financial regulators are directed to prepare the necessary rules and regulations to implement the provisions of the FCPA within one (1) year from its effectivity.

In view of the foregoing, the Insurance Commission prepared a draft Insurance Memorandum Circular providing for the “Implementing Rules and Regulations of Republic Act No. 11765, Otherwise Known as the ‘Financial Products and Services Consumer Protection Act’” (“the draft Rules”). The draft Rules aim to implement the FCPA and ensure that appropriate mechanisms are in place to protect the interest of consumers of financial products and services under the conditions of transparency, fair and sound market conduct, and fair, reasonable, and effective handling of financial consumer disputes, which are aligned with global best practices. The draft Rules seek to establish guidelines to institutionalize consumer protection as an integral component of corporate governance and risk management of financial service providers.

Relative thereto, the public is hereby requested to provide comments on the attached draft Rules. The comments shall be submitted to the **Technical Working Group on the Drafting of the FCPA IRR** through the following email addresses on or before 31 October 2022:

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DENNIS B. FUNA
 Insurance Commissioner



**INSURANCE MEMORANDUM
CIRCULAR NO. 2022-_____**

**IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT NO.
11765, OTHERWISE KNOWN AS THE “FINANCIAL PRODUCTS AND
SERVICES CONSUMER PROTECTION ACT”**

Pursuant to its mandate to safeguard the rights and interests of the insuring public, pre-need and Health Maintenance Organizations (HMOs) customers and to effectively carry out the provisions of Republic Act (RA) No. 11765, otherwise known as the “Financial Products and Services Consumer Protection Act” (FCPA), the Insurance Commission (“the Commission”) hereby issues, adopts, and promulgates the following rules and regulations (“the Rules”). The Commission may supplement these Rules and issue related guidelines and issuances as it may deem necessary for the effective implementation of the provisions of the FCPA.

**RULE I
PRELIMINARY PROVISIONS**

Section 1. Statement of Policy. It is the policy of the State to ensure that appropriate mechanisms are in place to protect the interest of the consumers of financial products and services under the conditions of transparency, fair and sound market conduct, and fair, reasonable, and effective handling of financial consumer disputes, which are aligned with global best practices. These mechanisms reinforce their confidence in the financial market and foster the stability of the Philippine financial system. Towards this end, the State shall implement measures to protect the following rights of financial consumers:

- a. Right to fair and equitable treatment;
- b. Right to disclosure and transparency of financial products and services;
- c. Right to protection of consumer assets against fraud and misuse;
- d. Right to data privacy and protection; and
- e. Right to timely handling and redress of complaints.

These Rules establish guidelines to institutionalize consumer protection as an integral component of corporate governance and risk management of financial service providers. These Rules aim to:

- a. Ensure adequate consumer protection against unfair business

- practices;
- b. Achieve fair and beneficial consumer outcomes;
- c. Empower consumers; and
- d. Manage consumer risks and potential harms to financial consumers.

Section 2. Scope and Coverage. These Rules shall apply to all financial products or services regulated by the Commission.

Section 3. Construction and Interpretation. These Rules shall be liberally construed and resolved in favor of financial consumers in order protect their rights as enumerated in Rule I, Section 1.

Section 4. Definition of Terms. As used in these Rules, the following terms shall mean:

- a. **Claim Settlement Ratio** refers to the percentage of claims settled by an Insurance Commission-regulated entity (ICRE) in relation to the total number of claims received.
- b. **Cooling off or free-look period** refers to the number of days provided in the financial product or service contract, commencing from the time of receipt of the contract by the financial consumer until the last day of the period provided in Rule II.B, Section 6, that the financial consumer may return or cancel the contract, and if ever payment was made, the amount paid shall be returned in full to the consumer. For Variable Unit-Linked (VUL) insurance products, the amount returned to the consumer shall be the sum of all charges and the market value of the units.
- c. **Financial consumer or client** refers to a person or entity, or their duly appointed representative, who is a purchaser, recipient, or prospective purchaser or recipient of financial products or services regulated by the IC. It shall also refer to any person, natural or juridical, who had or has a current or prospective financial transaction pertaining to financial products or services regulated by the Commission.
- d. **Financial consumer complaint** refers to an expression of dissatisfaction submitted by a financial consumer relative to a financial product or service regulated by the Commission in which a response and/or resolution is expected.
- e. **Financial product or service** refers to financial products or services regulated by the Commission, including but not limited to insurance, pre-need, and HMO products and services. This also includes digital financial products or services which pertain to the broad range of financial services accessed and delivered through digital channels.

- f. **Financial service provider** refers to a person, natural or juridical, which provides financial products or services regulated by the Commission.
- g. **Incurred Claims Ratio** refers to the percentage of premiums or contributions that are paid out in the form of benefits and services within a particular period.
- h. **Informal complaint** refers to a complaint filed before the Insurance in relation to financial products or services defined in paragraph (e), subject to the procedures set forth in Rule VIII. This shall exclude actions filed before the Commission pursuant to the Commission's adjudicatory and administrative powers
- i. **Insurance Commission-Regulated Entity (ICRE)** refers to a person, natural or juridical, that is licensed, registered, regulated, and/or supervised by the Commission, as provided under existing laws, rules and regulations.
- j. **Market conduct** refers to the manner by which a financial service provider designs and delivers its financial products or services and manages its relationships with its clients and the public.
- k. **Marketing** refers to the act of communicating, offering, promoting, advertising, or delivering of financial products or services by financial service providers.
- l. **Persistency ratio** refers to the percentage of policies receiving timely premiums in relation to the number of net active policies within a particular period.
- m. **Responsible pricing** refers to the pricing, terms, and conditions of financial products and/or services that are set in a way that is transparent, affordable to clients, and sustainable for financial service providers.

RULE II ICRE MARKET CONDUCT GUIDELINES

A. Fair and Equitable Treatment of Customers.

Section 1. General Provision. It is the right of every financial consumer to be treated fairly, honestly and professionally at all stages of the transaction. Both the Commission and the ICREs shall ensure that mechanisms are in place to safeguard the interests of consumers.

Section 2. Code of Conduct. In ensuring that financial consumers are treated

with professional competence and in a manner that is fair and responsible, ICREs are required to establish a Code of Conduct applicable to all staff and authorized agents containing the following:

- a. The organizational values and standards of professional conduct adopted by the ICRE that uphold consumer protection; and
- b. The procedures followed by the ICRE in detecting violations of consumer protection standards, as well as responding to and enforcing sanctions relative to such violations.

The Code of Conduct to be adopted by the ICREs shall be aligned with the Market Conduct Guidelines to be promulgated by the Commission. ICREs who have adopted Codes of Conduct prior to the issuance of these Rules shall ensure the alignment of their respective codes to the Market Conduct Guidelines. The Code of Conduct shall serve as an integral part of ICREs' recruitment and training policies.

Section 3. Suitability and Affordability Assessments. In ensuring that products and services are offered with skill, due care and diligence, while at the same time considering the consumer's financial situation, needs, capabilities and overall risk profiles, ICREs shall conduct assessments to determine the affordability and suitability of a financial product for consumers.

If, as a pre-condition for availing a financial product or service, a financial consumer is obliged by the financial service provider to purchase another product, the consumer shall have the option to choose the provider of said product subject to reasonable standards that may be set by the financial service provider. The financial service provider is required to inform the consumer of said right prior to availing a financial product or service.

Section 4. Fairness of Terms and Conditions. ICREs shall ensure that the terms and conditions of the products and services they offer are fair and do not provide any significant imbalance in the parties' rights and obligations arising under the contract to the detriment of the financial consumer.

Section 5. Evaluation of Financial Products and Services. In ensuring that the financial products or services offered are appropriately targeted to the needs, understanding, capacity and risk appetite of financial consumers, ICREs shall continuously evaluate their financial products and services, and implement internal policies and procedures for setting prices considering, among others, the principle of responsible pricing and other relevant guidelines promulgated by the Commission.

The Commission shall develop guidelines on product oversight and governance policy, on a per industry level, which aim to set the standards for effective product development and management.

B. Disclosure and Transparency.

Section 1. General Provisions. It is the right of every financial consumer to receive clear, concise and full disclosure of all information relative to a financial product or service that is being offered to them. This includes the right to receive information from financial service providers in a manner that will allow the financial consumer to adequately compare similar financial products or services offered in the market.

The financial consumer's right to disclosure and transparency shall be upheld before, during and after a sale of a financial product or service and during key stages of the relationship with the consumer.

Section 2. Disclosure of Terms and Conditions. ICREs shall disclose all significant terms and conditions of a financial product or service, which includes the following, among others:

- a. Information on risks, return, possible warnings;
- b. Any waiver of rights and limitations of liabilities;
- c. Consumer's rights and responsibilities;
- d. Consequences of failure to meet obligations;
- e. Rights and responsibilities of ICREs;
- f. Involvement of authorized agents;
- g. Any conflict of interest by ICRE staff;
- h. Cancellation of financial product or service; and
- i. Full price or cost of the financial product or service including all interest, fees, charges and penalties, and whether they can change over time.

For more complex products, such as VUL products, the key features, costs and risks shall be highlighted in a key facts statement or Product Highlight Sheet (PHS), which shall enable a comparison with other products and shall be provided at no additional cost. Before the consumer signs any contract, the ICRE shall ensure that the customer has freely signed a statement to the effect that the consumer has duly received, read and understood the PHS.

For financial products with an investment component, ICREs shall disclose in their respective cover notes that the risk shall be borne solely by the financial consumer, if applicable.

Section 3. Changes in Key Features, Terms and Conditions. ICREs shall notify financial consumers, in writing, whether in printed or electronic form, of any changes in the key features and terms of the financial products and services at least thirty (30) days prior to the implementation of such changes. The notifications shall include an explanation on the nature and extent of the change, the potential impact of said change on the financial consumer, and the approval of the Commission if applicable.

Section 4. Business and Contact Information. ICREs shall disclose in their respective financial product or service contract / policy / agreement / plan, website, promotional materials and social media platforms the following information, among others:

- a. Address and contact details of the ICRE's head office, branches and intermediary;
- b. Contact and information of the ICRE's consumer assistance team, as well as information on its Consumer Assistance Management System (CAMS) as provided in Rule IV;
- c. Statement that the ICRE is regulated by the Commission, as well as the address and contact details of the Commission's Head Office and its district offices; and
- d. The jurisdiction in which the ICRE or intermediary is legally permitted to provide financial products or services.

Section 5. Advertising Materials. ICREs shall ensure that their respective advertising materials are not false, misleading, or contain deceptive statements or omit key information that may materially and/or adversely affect the decision of the consumer to avail of a service or acquire a product.

ICREs shall develop procedures for an independent review of promotional material intended for consumers, particularly with respect to materials prepared or designed by intermediaries or any other third (3rd) party, for purposes of verifying the accuracy of such promotional material. ICREs shall be bound by all statements made in the marketing and sales materials relative to their offered financial products and services.

Section 6. Cooling-Off Period. Financial consumers shall be given adequate time to review, ask questions and receive information to fully understand the terms and conditions of financial products or services prior to signing the contract or executing the transaction. All financial products or services offered by ICREs are required to have a cooling-off or free-look period according to the following schedule, regardless of whether such products or services are offered through traditional or electronic channels:

Coverage Period	Cooling-off Period
Longer than six (6) months	Fifteen (15) days
Longer than thirty (30) days up to six (6) months	Five (5) days
Thirty (30) days or less	No cooling-off period

Section 7. Documentation to be Received by the Financial Consumer. ICREs shall provide the financial consumer a copy of each of the documents signed by them, together with all terms and conditions. In addition, ICREs shall provide the

consumer proof of the transaction, whether in printed or electronic form, at the option of the consumer, immediately after the transaction has been completed. For products or services offered through digital means, ICRES shall provide printed copies of records upon request of the consumer.

Statements of account or billing statements shall be provided regularly in a convenient manner to the customer, or through the channel in which the product was sold, commensurate to the type of product and terms thereof.

Section 8. Disclosure of Information. ICRES shall disclose and regularly update, at least on a quarterly basis, in their websites and, when available, social media platforms:

- a. Approved Synopsis of the Annual Statement/s and/or Consolidated Trust Fund/s, if applicable;
- b. Any changes in the "Claims Handling Policy";
- c. Number of complaints received and acted upon during the quarter, including information on the average number of days for resolution of complaints.

C. Protection of Consumer Assets Against Fraud and Misuse.

Section 1. General Provisions. Financial consumers shall have the right to expect the protection of consumer assets by ICRES against fraud and misuse. ICRES must provide clear information on the action taken or to be taken in relation to a complaint, inquiry or request from a financial consumer involving fraud and unauthorized transactions. This right shall be exercised in accordance with Rule IV, VIII, IX and X.

D. Privacy and Protection of Client Data.

Section 1. General Provisions. It is the right of every financial consumer to expect that their financial transactions, as well as all personal information disclosed in the course of their transactions with ICRES, are kept confidential and secured at all times.

Section 2. Information Security Standards. To ensure privacy and protection of data of financial consumers, ICRES shall adopt and implement information security standards to ensure the safety and protection of the confidentiality, integrity, availability, authenticity and non-repudiation of client's information and financial transactions. The ICRES's Information Security Standards shall include the following components, among others:

- a. Crafting and implementation of a written Privacy Policy that will govern the processing, use, distribution, storage and eventual disposal of client information, as well as identification of levels of permissible access to consumer's data for employees;

- b. Ensuring that privacy policies are regularly communicated throughout the organization;

Placing appropriate systems or risk mitigation measures to protect the confidentiality, security, accuracy and integrity of the personal information of consumers, including a written security plan;

- c. Providing written communications to its consumers as to how it will use and share consumers' personal information, in accordance with existing laws, rules and regulations on data privacy. ICRES shall obtain the written consent of consumers before sharing the consumers' personal information with third (3rd) parties;
- d. Providing consumers access to their information and allowing consumers to challenge the accuracy and completeness of the information, to amend their information as may be appropriate, and to request for the removal of their personal information from the ICRES' system if the consumers no longer wish to use the ICRES' services. ICRES shall only collect data, including digital information, necessary for processing consumer requests and transactions; and
- e. Providing clear policies and procedures on data breaches, including incident reporting and notification to consumers.

E. Timely Handling and Redress of Complaints.

Section 1. General Provisions. Financial consumers shall be provided with accessible, affordable, independent, fair, accountable, timely and efficient means for resolving complaints regarding their financial transactions. ICRES are required to have in place mechanisms for complaint handling and redress.

Section 2. Components of an Effective and Timely Handling and Redress of Complaints. ICRES demonstrate the ability to provide effective recourse to consumers if they are able to:

- a. Establish an effective CAMS as provided in Rule IV;
- b. Develop internal policies and practices on consumer redress, including time for processing, complaint response and customer access;
- c. Maintain an up-to-date log and records of all complaints from customers subject to their complaints handling procedure. The following information shall be recorded by ICRES:
 - (i) Date the complaint was received;
 - (ii) Details of the complaint;
 - (iii) Summary of the ICRES' response;
 - (iv) Action taken to resolve the complaint;

- (v) Details of any other relevant correspondences or records; and
 - (vi) Date the complaint was resolved.
- d. Ensure that information on how to file a complaint is clearly visible in the ICREs' premises and websites;
 - e. Undertake an analysis of the patterns of complaints from customers on a regular basis including investigating whether complaints indicate an isolated issue or a more widespread issue for consumers. This analysis of consumer complaints must be escalated to the ICREs' compliance / risk management division unit, as well as to senior management; and
 - f. Provide for adequate resources to handle financial consumer complaints efficiently and effectively.

RULE III

CONSUMER PROTECTION RISK MANAGEMENT SYSTEM

Section 1. Establishment of a Consumer Protection Risk Management System (CPRMS). As a component of ICREs' enterprise-wide risk management processes and risk governance framework, which includes the Own Risk and Solvency Assessment (ORSA), ICREs are required to establish their respective CPRMS, which shall serve as the foundation for ensuring ICREs' adherence to the FCPA, other consumers protection laws, and relevant rules and regulations promulgated by the Commission.

Section 2. Components. In ensuring that consumer protection risks are identified, measured, monitored and mitigated, the CPRMS shall include the following, among others:

- a. Governance structure;
- b. Policies;
- c. Processes;
- d. Measurements; and
- e. Control procedures.

Section 3. Responsibilities of the Board of Directors. The Board shall be primarily responsible for approving and overseeing the implementation of ICREs' CPRMS, and shall perform the following, among others:

- a. Approving the CPRMS and CAMS, taking into consideration the ICREs' business model, market, product lines, and relationships with third parties that may give rise to consumer protection risks;
- b. Reviewing and approving the ICREs' Code of Conduct;

- c. Ensuring that relevant information pertaining to the CAMS and ICREs' compliance with the FCPA, other consumer protection laws, rules and regulations and market conduct guidelines promulgated by the Commission, as well as actions taken relative thereto, are reported to the Board on a regular basis;
- d. Ensuring adequate provision of resources and effective implementation of training and competency requirements for officers and personnel;
- e. Approving remuneration and compensation packages structured to encourage responsible business conduct, fair treatment and mitigate conflicts of interest; and
- f. Periodically reviewing the implementation of the CPRMS and CAMS, including how findings are reported and whether the audit mechanisms in place provide adequate oversight in relation to the ICREs' business model and/or operating environment.

Section 4. Responsibilities of Senior Management. The Senior Management shall be responsible for ensuring that the practices of the ICREs are aligned with the approved consumer protection policies and risk management system. In this regard, the Senior Management shall perform the following, among others:

- a. Ensure that the approved CPRMS and CAMS policies and procedures are clearly documented, properly understood, and appropriately implemented across all levels and business units;
- b. Ensure that adequate systems and controls are in place to promptly identify issues that affect the consumer across all phases of the relationship with the consumer;
- c. Ascertain that weaknesses in the consumer protection practices or consumer protection emerging risks are addressed and corrective actions are taken in a timely manner;
- d. Establish an effective monitoring and management information system to regularly measure, aggregate, and analyze consumer-related issues to determine the level of consumer protection risk. The management information system should be able to:
 - (i) Provide adequate information on the performance and quality of the ICRE's CAMS that allows for identification of emerging consumer issues and root cause analysis;
 - (ii) Determine the level of consumer protection risk exposure;
 - (iii) Identify and monitor, in a timely manner, consumer protection

risks that may result in financial loss to consumers, legal and reputational risks, and other related risks; and

- (iv) Identify and assess emerging or increasing consumer risks that affect the ICRE's consumers through social media monitoring, market monitoring, and other relevant means.

RULE IV CONSUMER ASSISTANCE MANAGEMENT SYSTEM

Section 1. Establishment of a Consumer Assistance Management System (CAMS). ICREs are required to establish their respective CAMS for the following purposes relative to the handling of consumer complaints, inquiries or requests:

- a. Receiving;
- b. Recording;
- c. Evaluating;
- d. Resolving; and
- e. Monitoring and reporting.

The CAMS shall be implemented by a designated officer, unit, group or department commensurate to the size, structure, nature of products and services, and complexity of operations of the ICRE, ensuring at all times that there is no conflict of interest. Financial consumers who are unsatisfied with the ICREs' handling of their complaints, inquiries and requests may elevate their concerns to the IC through the mechanisms provided in Rules VIII to X.

Section 2. Manual of Consumer Assistance Policies and Procedures ("Manual"). ICREs are required to establish, maintain, and implement Manuals which contain the internal policies, processes, and practices they follow in handling complaints, inquiries, and requests from financial consumers. The Manual shall contain the following, at the minimum:

- a. Corporate structure of the unit, group or department implementing the CAMS ("the Consumer Assistance Team"), with an enumeration of the roles and responsibilities of all persons involved in CAMS implementation. The Consumer Assistance Team shall be separate and independent from the ICREs' claims handling units. Any complaint or disagreement relative to claims handling may be referred to the Consumer Assistance Team;
- b. Capacity building for their respective Consumer Assistance Teams, which includes the conduct of regular trainings on the following, among others:
 - (i) ICRE's corporate structure and financial products and services
 - (ii) Interpersonal skills / customer service;

- (iii) Basic and advanced listening skills;
- (iv) Written and verbal communication skills;
- (v) Handling financial consumer feedback;
- (vi) Dealing with difficult people; and
- (vii) Problem solving and conflict resolution.

c. Consumer assistance process and timeline. ICREs may provide for their own periods for addressing consumer complaints, requests, and inquiries which shall not, in any case, exceed the following periods:

CONCERN	TIMELINE	
For complaints or requests		
Acknowledgment	Simple	Within two (2) days from receipt of complaint / request
	Complex	Within two (2) days from receipt of complaint / request
Processing and resolution (assessment, investigation, and resolution)	Simple	Within seven (7) days from receipt of complaint / request
	Complex	Within forty-five (45) days from receipt of complaint / request
Communication of resolution to requesting consumer	Simple	Within nine (9) days from receipt of complaint / request
	Complex	Within forty-seven (47) days from receipt of complaint/request
For inquiries	By next business day	

- d. Complaints recording / data management system;
- e. Risk assessment strategies;
- f. Reporting of complaints statistics to the ICRE's board of directors and the Commission;
- g. System for evaluating effectiveness of the CAMS; and
- h. Glossary

Section 3. Publication of the CAMS. ICREs shall make details of their respective CAMS available to financial consumers. Key features of the CAMS shall be published in the following:

- a. Conspicuous places within the premises of ICREs;

- b. Terms and conditions of the ICREs' products and services;
- c. Various channels of service delivery; and
- d. Marketing materials.

Section 4. Consumer Assistance Mechanisms. ICREs shall make available a range of consumer assistance channels for submitting complaints, including but not limited to walk-in or personal visit, centralized web portal, mobile application, social media, letter, email, telephone, fax, and such other channels as may be deemed necessary by the ICREs, or as may be required by the Commission, to address consumer needs. ICREs shall ensure that there is a consumer assistance help desk or hotline dedicated to addressing consumer inquiries and concerns manned by the Consumer Assistance Team.

Section 5. Information to be Gathered from Financial Consumers. In receiving and acknowledging consumer complaints or requests by the Consumer Assistance Team, ICREs shall obtain and record the following data from the consumers:

- a. Full name and contact details;
- b. Nature of complaint / request and relevant details;
- c. Resolution or action requested; and
- d. Name of ICRE's claims handling personnel that originally handled the subject concern, if applicable.

The acknowledgment shall include an assurance that the ICRE is dealing with the complaint or request, and that the consumer shall be kept informed of the progress of the ICRE's assessment and investigation. The consumer assistance officer must be able to explain, whenever applicable, the consumer assistance process and the relevant timelines to the consumer.

Section 6. Institutional Approach in Assessing and Investigating Complaints. ICREs are required to establish an institutional approach in assessing and investigating complaints or requests and options in resolving them, considering the peculiarities of the complaints or requests and the desired remedies of the consumer. Results of the assessment, investigation, and resolution of the complaints or requests shall be communicated to the complainant in printed form, regardless of mode of transmittal, and in simple and clear language.

Section 7. Consumer Feedback Mechanism. ICREs shall establish consumer feedback mechanisms which will allow the recording and analysis of consumer feedback to improve their respective CAMS. Feedback shall be obtained on the following matters:

- a. Overall consumer satisfaction;
- b. Processes needing improvement;
- c. Personnel needing improvement; and
- d. Any suggestions for improvement.

Consumer feedback may be obtained through a feedback form or customer satisfaction survey which shall be made available to walk-in clients and in the ICRE's other consumer assistance channels.

Section 8. Complaints Database. ICREs shall create their respective database of complaints received, including supporting and relevant documents. The complaints database shall include the following information, among others:

- a. Name of the complainant;
- b. Date of receipt of the complaint;
- c. Subject or nature of the complaint;
- d. Name of the personnel directly handling or in charge of the complaint and the officer supervising its resolution;
- e. Actions taken on the complaint;
- f. Resolution of the complaint;
- g. Date of resolution; and
- h. Other relevant information.

The database shall be maintained by the Consumer Assistance Team in the ICRE's management information system that allows for consolidation, comparison, and analysis of complaints data to identify trends in consumer complaints, determine whether complaints indicate an isolated issue or a more widespread concern for consumers, and identify potential problems and risks. The database shall be accessible to the Commission.

Section 9. Submission of Complaints Reports to the ICREs' Board of Directors. The Consumer Assistance Team shall submit Complaints Reports to the ICRE's Board of Directors on a monthly basis. The Complaints Report shall include, at the minimum, the following information:

- a. General category of complaints received;
- b. Number of complaints received per category;
- c. Number of complaints resolved;
- d. Aging of complaints;
- e. Explanations for deviations, if any, from the required resolution period;
- f. General description of resolutions and actions taken relative to complaints received; and
- g. Recommendations on how to avoid recurring complaints and suggestions for process and personnel competency improvement.

ICREs shall submit a Consolidated Complaints Report to the Commission on a quarterly basis, following the template in Annex A. The Quarterly Consolidated Complaints Report shall be submitted until the fifteenth (15th) day of the month following the end of the quarter.

**RULE VI
MARKET MONITORING GUIDELINES**

Section 1. General Provisions. Section 6(c) of the FCPA authorizes the Commission to require submission of reports and documents from ICREs, and obtain relevant data about financial products, services and markets from other government agencies.

Section 2. Market Monitoring to Ensure Consumer Protection. The Commission shall optimize the use of technology to gather information from the market, including but not limited to:

- a. Misselling;
- b. Claims practices, including instances of underpayment, late payment and non-payment;
- c. Engaging in business regulated by the Commission without a license;
- d. Selling regulated products without prior approval from the Commission;
- e. Deviations from approved products;
- f. Customer satisfaction / feedback;
- g. Improper complaints handling;
- h. Establishment of branches without prior approval from the Commission; and
- i. Activities of licensed and unlicensed agents and intermediaries, including instances of underpricing, overpricing and misrepresentation.

To this end, the Commission may obtain relevant data on financial products, services, and markets from both the private and public sectors, including within and outside the insurance, pre-need and HMO industries, as well as from other government agencies. The Commission may also analyze relevant statistics, hold industry consultations, and monitor various media for relevant news on market conduct practices and consumer sentiments.

The information gathered by the Commission shall be analyzed to develop a baseline understanding of the market and to identify financial service providers or practices that deviate significantly from the norm or that may pose a potential risk to financial consumers.

**RULE VII
GUIDELINES ON MARKET CONDUCT SURVEILLANCE
AND EXAMINATION**

Section 1. General Provisions. Section 6(b) of the FCPA authorizes the Commission to conduct surveillance and examination on site or off site, which shall be separate from financial examination, to ascertain that the provisions of the FCPA are complied with.

Section 2. Surveillance and Examination by the Commission. The Commission shall promulgate separate guidelines on the conduct of surveillance and examination activities, consistent with the FCPA and other relevant rules and

regulations. This examination shall be separate from the examination on prudential regulations compliance.

Section 3. Components. The surveillance and examination referred to in this Rule shall include the investigation, assessment and monitoring of ICREs, to determine compliance with the FCPA, these Rules, and such other related issuances by the Commission, including but not limited to the following:

- a. Obtaining information about the ICREs' policies, procedures, activities, and compliance program to assess the effectiveness of the ICREs' CPRMS
- b. Assessment of the ICREs' overall compliance with the FCPA and these Rules, other laws and regulations on market conduct and consumer protection, and such other rules and regulations issued by the Commission; and
- c. Assessment of the risks to consumers and markets of financial products and services.

The conduct of examination shall include the following, among others:

- a. Visits to the head office and/or branches;
- b. Interview of any of the directors, trustees, officers and personnel;
- c. Walkthrough of relevant areas of operations;
- d. Validation of results of surveillance activities; and
- e. Verification, review and evaluation of documents and records, including policy and ICRE's claims database.

The Commission shall have the authority to administer oaths to any director, trustee, officer or employee of the ICREs, as well as to compel the presentation of all books, documents, papers, records and such other evidence as may be necessary to ascertain the compliance of ICREs with the FCPA.

The Commission shall be afforded the full opportunity to examine books, and review systems and procedures at any time during business hours when required to do so.

RULE VIII HANDLING OF INFORMAL COMPLAINTS

Section 1. General Provision. Section 6(e) of the FCPA requires the Commission to establish an efficient and effective consumer redress or complaints handling mechanism to address conflict or dissatisfaction in relation to financial products or services. Relative thereto, this Rule shall provide the framework on the handling of informal complaints arising from financial products regulated by the Commission.

Section 2. Informal Complaints Mechanism Not Mandatory. Consistent with Section 6(e) of the FCPA, the mechanism provided in Rule VIII is not mandatory and shall be at the option of the financial consumer. The consumer may opt not to avail of the informal complaints mechanism in this Rule, and directly proceed to the adjudication process in Rule IX or seek redress under Rule X.

Section 3. How Initiated. Financial consumers may initiate the informal complaints mechanism through the submission of the Claimant's Assistance Request (CAR) Form either physically to the Commission or through electronic mail. The CAR Form is attached herewith as Annex B.

Section 4. Documentary Requirements. The CAR Form in the preceding section shall be submitted to the Commission together with the following documents:

- a. For complaints against Non-Life Insurance Companies:
 1. Copy of the policy;
 2. Copy of the denial letter, if any; and
 3. Copy of supporting documents, if any.
- b. For complaints against Life Insurance Companies:
 1. Copy of the policy;
 2. Copy of the denial letter, if any; and
 3. Copy of supporting documents, if any.
- c. For complaints against Pre-Need Companies:
 1. Copy of the contract; and
 2. Copy of the Certificate of Full Payment.
- d. For complaints against HMO Companies:
 1. Copy of the contract.

The Commission may relax the documentary requirements to be submitted by the financial consumers upon full operationalization of the CPRMS and CAMS.

Section 5. Evaluation by the Commission. The Commission shall evaluate the CAR Form together with the supporting documents submitted by the financial consumer. Within three (3) days from receipt of the CAR Form and the supporting documents, the Commission shall inform the financial consumer of any of the following actions:

- a. **Termination of the complaint** if the Commission finds that there is no basis for the filing of the complaint;
- b. **Conduct of Mediation/Conciliation Conference** if the Commission finds that the complaint involves complex issues; or
- c. **Referral to the concerned ICRE** if the Commission finds that the concerned ICRE has not yet acted on the claim with finality.

Section 6. Mediation Proceedings. The Mediation/Conciliation Conferences shall be conducted as follows:

- a. The entire Mediation/Conciliation Proceedings shall be conducted for a period not exceeding thirty (30) days;
- b. There shall be a maximum of three (3) Mediation/Conciliation Conferences for each specific complaint;
- c. For cases involving simple issues or in instances where the financial service provider has previously denied the claim of a financial consumer, there shall be a maximum of two (2) Mediation/Conciliation Conferences;
- d. If at any point during the Mediation/Conciliation Proceedings, the financial consumer and financial service provider agrees to enter into a compromise settlement, the complaint and the proceedings shall be terminated; and
- e. If after the conduct of the maximum number of Mediation/Conciliation Conferences or after the lapse of thirty (30) days as provided in this provision, whichever comes first, the financial consumer and financial service provider fail to come to an agreement or enter into a compromise settlement, the Mediation/Conciliation Proceedings shall be deemed terminated. Upon termination, the financial consumer may opt to file a formal claim under Rule IX and/or an administrative case under Rule X.

**RULE IX
ADJUDICATION**

Section 1. Adjudicatory Powers. The Commission shall have the authority to adjudicate all actions arising from or in connection with financial transactions with ICREs, specifically:

- a. Claims and complaints where the amount of actual damages, excluding interest, costs, and attorney's fees being claimed or sued upon any kind of insurance, bond, reinsurance contract, or membership certificate does not exceed in any single claim Five Million Pesos (PHP5,000,000.00);
- b. Claims and complaints pertaining to membership issues or benefits and services with an HMO under an HMO agreement, including actual damages, attorney's fees and costs;
- c. Claims and complaints involving pre-need plans;

- d. Claims involving Compulsory Motor Vehicle Liability Insurance (CMVLI);
- e. Claims where the amount being claimed or sued does not exceed in any single claim One Million Pesos (PHP1,000,000.00), exclusive of interest, costs, and attorney's fees (hereinafter referred to as "**Small Claims Cases**").

Section 2. How Initiated. Formal claims and complaints are initiated by the filing of a Verified Complaint containing the following information:

- a. Names and addresses of the parties;
- b. Substance of the claim;
- c. Date when the loss occurred;
- d. Amount of claim;
- e. Grounds for claim;
- f. Relief sought; and
- g. Confirmation that there is a final denial by the insurer.

Section 3. Payment of Docket Fees. Upon the filing of a Verified Complaint, the complainant shall pay docket fees to be determined on the basis of the principal amount claimed, exclusive of interest and attorney's fees, following the schedule below:

Principal Amount Claimed	Docket Fees
Does not exceed PHP200,000.00	PHP1,000.00
Exceeds PHP200,000.00 but less than PHP400,000.00	PHP2,000.00
Exceeds PHP400,000.00 but less than PHP600,000.00	PHP3,000.00
Exceeds PHP600,000.00 but less than PHP800,000.00	PHP4,000.00
Exceeds PHP800,000.00 but less than PHP1,000,000.00	PHP5,000.00
Exceeds PHP1,000,000.00 but less than PHP3,000,000.00	PHP10,000.00
Exceeds PHP3,000,000.00 up to PHP5,000,000.00	PHP15,000.00

plus an amount equivalent to one percent (1%) of the docket fee to be collected as Legal Research Fund (LRF) fee in accordance with RA No. 3870, as amended by Presidential Decree (PD) No. 1856 dated 26 December 1982.

Provided, That a party may be authorized to litigate their action as an indigent if the Commission, upon an *ex parte* application and hearing, is satisfied that the party has no money or property sufficient and available for food, shelter, and basic necessities for themselves and their family.

Section 4. Summons. Within three (3) working days from receipt of a complaint, the Commission shall issue a summons requiring the respondent/s to file a Verified Answer within fifteen (15) days from receipt thereof. A copy of the complaint and its annexes, if any, shall be attached to the said summons.

Service may be made on the president, managing partner, general manager, corporate secretary, treasurer, or in-house counsel of the respondent wherever they may be found, or in their absence or unavailability, on their secretaries.

If such service cannot be made upon any of the foregoing persons, it shall be made upon the person who customarily receives the correspondence for the respondent at its principal office.

In case the respondent is under conservatorship, receivership, or liquidation, service of summons shall be made on the conservator, receiver, or liquidator, as the case may be.

Should there be a refusal on the part of the abovementioned persons to receive summons despite at least three (3) attempts on two (2) different dates, service may be made electronically by sending an electronic mail to the respondent's electronic mail address.

Section 5. Filing of Answer. Within fifteen (15) days from service of summons, the respondent/s shall file their Verified Answer to the complaint and serve a copy thereof on the complainant. Affirmative and negative defenses not pleaded therein shall be deemed waived, except in the following instances:

- a. When the Commission has no jurisdiction over the subject matter;
- b. When there is another action pending between the same parties for the same cause; or
- c. When the action is barred by the statute of limitations.

Should the respondent fail to file an answer to the complaint within the period stated above, the Commission, *motu proprio* or upon motion, shall render judgment as may be warranted by the allegations in the complaint, as well as the affidavits and other evidence on record, unless the Commission, in its discretion, requires the complainant to submit additional evidence.

RULE X ENFORCEMENT AND ADMINISTRATIVE SANCTIONS

Section 1. Enforcement. The Commission shall have the authority to impose enforcement actions on financial service providers for failing to comply with the FCPA, these Rules, and other relevant laws and regulations. Such enforcement actions may include the following, among others:

- a. Restriction on the ability of ICREs to continue to collect excessive or unreasonable interests, fees or charges;
- b. Disqualification and/or suspension of directors, trustees, officers or employees of ICREs responsible for the violations of the provisions

of the FCPA, these Rules, and/or such other relevant guidelines, issuances, or orders of the Commission;

- c. Imposition of fines, suspension, or penalties for any non-compliance with or breach of the FCPA, these Rules, and/or other guidelines, issuances, or orders of the Commission on consumer protection and market conduct;
- d. Issuance of a Cease-and-Desist Order (CDO) to the financial service provider without the necessity of a prior hearing if in the Commission's judgment, the act or practice, unless restrained, amounts to fraud or a violation of the provisions of the FCPA and these Rules, or may unjustly cause grave or irreparable injury or prejudice to financial consumers. The financial service provider shall be afforded an opportunity to defend its act or practice in a summary hearing before the Commission, upon request made by the ICRE within five (5) calendar days from receipt of the order. If no such hearing is requested within the said period, the order shall be final. If a hearing is requested by the ICRE, the proceedings shall be conducted summarily without adhering to the technical rules of evidence, and all issues shall be determined primarily on the basis of records, after which the Commission may either reconsider, modify or affirm its order.

It is understood that the foregoing shall be without prejudice to the application of the rules of procedure as may be promulgated by the Commission;

- e. Suspension of operation, after proper notice and hearing, of any ICRE in relation to a particular financial product or service when in the Commission's judgment and based on its findings, the ICRE is operating in violation of the provisions of the FCPA and these Rules; and
- f. In any proceeding in which the Commission may impose a penalty for non-compliance with or breach of the FCPA, these Rules, and other existing laws and regulations, the Commission, in addition to the imposed fine, may issue an order requiring account and disgorgement of profits obtained, or losses avoided, as a result of a violation of the FCPA, these Rules, and other pertinent laws and regulations, including reasonable interest. The Commission is authorized to adopt rules, regulations and orders concerning the creation and operation of a disgorgement fund, payments to financial consumers, rate of interest, period of accrual, and such other matters as deemed appropriate to implement this provision.

The enforcement actions enumerated above shall be at the discretion of the Commission, without necessity of providing that the violative acts committed are performed with such frequency as to indicate a general business practice.

Section 2. Administrative Sanctions. Without prejudice to the enforcement actions prescribed under Section 6(d) of the FCPA and the criminal sanctions provided under Section 15 of the FCPA, the administrative sanctions under the Insurance Code, the Pre-Need Code, and EO No. 192 (s. 2015) shall be made applicable to ICREs, their directors, trustees, officers and employees or agents for violation of the FCPA or any related rules, regulations, orders or instructions of the Commission.

Provided, That in case profit is gained or loss is avoided as a result of the violation of the FCPA, a fine not more than three (3) times the profit gained or loss avoided may also be imposed by the Commission: *Provided, finally,* That in addition to the administrative sanctions that may be imposed, the authority of the ICRE to operate in relation to a particular financial product or service may be suspended or cancelled by the Commission.

Section 3. Liability of ICREs for the Acts or Omissions of its Authorized Representatives. ICREs shall be solidarity responsible for the acts or omissions of their directors, trustees, officers, employees or agents in marketing and transacting with financial consumers for their financial products or services. ICREs shall be solidarity liable with their accredited third-party service providers for the acts or omissions of the latter in marketing and transacting with financial consumers in relation to the financial products or services of ICREs.

RULE XI OTHER PROVISIONS

Section 1. Digitization of Commission Processes. The Commission shall implement initiatives aimed to digitize its processes to provide more efficient and effective consumer redress to address conflict/dissatisfaction arising from financial products or services. The digitization initiatives shall include online filing and resolution of complaints, submissions of ICREs of relevant data and information on consumer protection initiatives and programs, and implementation of complaints-handling and consumer assistance mechanisms through online platforms.

Section 2. e-Reklamo System. The Commission shall fully implement its e-Reklamo System, an online portal for lodging queries and complaints before the Commission. The Commission shall issue separate guidelines on the integration of ICREs' CAMS with the e-Reklamo System.

Section 3. Augmentation of Personnel. Consistent with RA No. 9829, otherwise known as the "Pre-Need Code", the Commission shall reorganize its

organizational structure and upgrade its human resource component to enable it to effectively and efficiently perform its functions under the FCPA.

Section 4. Release of Data Related to Consumer Protection. In recognition of financial consumers' right to transparency of financial products or services, the Commission shall release relevant data and information of ICREs relative to the handling of claims from financial consumers. This shall include the following, among others:

- a. Claim Settlement Ratio;
- b. Persistency Ratio; and
- c. Incurred Claims Ratio.

Section 5. No Waiver of Rights. No provision of a contract for a financial product or service shall be lawful or enforceable if such provision waives or otherwise deprives a client of a legal right to sue the ICRE, receive information, have their complaints addressed and resolved, or have their non-public client data protected.

RULE XII FINAL PROVISIONS

Section 1. Prescription. All actions or claims accruing under the FCPA and these Rules shall prescribe after five (5) years from the time the financial consumer transaction was consummated, or after five (5) years from the discovery of deceit or non-disclosure of material facts, *Provided*, That such actions shall, in any event, prescribe after ten (10) years from the commission of such violation.

Section 2. Transitory Clause. ICREs shall be given a period of six (6) months from the effectivity of these Rules to perform the following:

- a. Conduct a gap analysis of their current consumer protection practices vis-à-vis the provisions of these Rules; and
- b. Create an Action Plan duly approved by the ICREs' Board of Directors to achieve full compliance within a reasonable period of time but in no case longer than one (1) year from the effectivity of these Rules.

Section 3. Separability Clause. If any provision of these Rules is held unconstitutional or invalid, all other provisions not affected thereby shall remain valid.

Section 4. Repealing Clause. Pre-Need Memorandum Circular No. 01-10; IMC No. 2014-01, as amended by IMC No. 2022-01; IMC No. 2016-01, as amended by IMC Nos. 2020-01, 2020-02, and 2022-03; IMC No. 2017-01; and all other provisions and issuances inconsistent with these Rules are hereby repealed or amended accordingly.

Section 5. Effectivity. These Rules shall take effect fifteen (15) days after the date of its publication in at least two (2) newspapers of general circulation.

DENNIS B. FUNA
Insurance Commissioner

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