



Circular Letter (CL) No.:	2023-21
Date:	16 August 2023
Supplements:	CL No. 2022-40 dated 09 August 2022 ( <i>Guidelines on Voluntary Cessation and Withdrawal of Pre-Need Business in the Philippines</i> ) and CL No. 2014-15 dated 15 May 2014 ( <i>Schedule of Fees and Charges</i> )

### CIRCULAR LETTER

**TO : ALL PRE-NEED COMPANIES DOING BUSINESS IN THE PHILIPPINES**

**SUBJECT : SUPPLEMENTAL GUIDELINES ON VOLUNTARY CESSATION AND WITHDRAWAL FROM PRE-NEED BUSINESS IN THE PHILIPPINES**

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**WHEREAS**, Circular Letter (CL) No. 2020-112 dated 02 December 2020 or the *Guidelines on Formal Closure of Liquidation Proceedings for Pre-Need Companies under Liquidation and Final Disposal and Distribution of Assets Including Unclaimed Benefits* was issued to provide guidelines for companies with sufficient corporate assets to satisfy the company's corporate liabilities or if there are no remaining corporate liabilities and the company has no intention to continue its corporate life.

**WHEREAS**, CL No. 2022-40 dated 09 August 2022 or the *Guidelines on Voluntary Cessation and Withdrawal of Pre-Need Business in the Philippines* was issued to provide specific guidelines for the proper run-off or cessation and withdrawal of pre-need business in the Philippines.

**WHEREAS**, the Commission observed that the said guidelines on voluntary cessation should also include guidelines on the treatment of unclaimed benefits, surplus in trust funds, and residual corporate freehold assets.

**WHEREAS**, voluntary cessation and withdrawal of pre-need business can also be classified as another mode of formal closure.

**WHEREAS**, in cases where the law does not provide for prescriptive periods for bringing actions and claims, the claim shall be barred after five (5) years<sup>1</sup>, and that by analogy, this period may also be adopted for the purpose of fixing a legal end to pre-need unreleased benefits.

**WHEREAS**, there has to be a formal closure of the servicing proceedings and final disposal of documents after all the necessary steps to run-off a company's pre-need business have been fully undertaken;

**WHEREAS**, it is only fair and reasonable to declare all inactive planholders to have waived their right to their claims should they fail to claim their benefits within the aforesaid period despite personal knowledge, sufficient notices, or publication of the final call for distribution.

**NOW, THEREFORE**, pursuant to the authority of the Insurance Commissioner provided under Section 6 of Republic Act No. 9829 or the Pre-Need Code of the Philippines, the following "**Supplemental Guidelines on Voluntary Cessation and Withdrawal of Pre-Need Business in the Philippines**" is hereby adopted:

#### **SECTION I - APPLICABILITY**

This Guidelines shall apply to any **domestic pre-need company** intending to voluntarily cease the sales and registration of its pre-need plans and withdraw its pre-need business in the Philippines.

#### **SECTION II – DEFINITION OF TERMS**

Whenever used in this Guidelines, the following terms shall have the respective meanings hereafter set forth or indicated, unless the context requires otherwise:

- A. Abandoned Benefits** refers to benefits which remain unclaimed for a period of at least five (5) years from the date of the first letter notice of the company offering the early termination of plans or from the maturity date, whichever comes first, and after the process stated in Section IV hereof had been completed. These constructively waived benefits may also be considered as presumed waiver of right (under Sec. II (F) hereof) or presumed error in the books of the concerned pre-need company (under Sec. II (E) hereof) and may

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<sup>1</sup> Prescription, Article 1149 and 1150 of the New Civil Code of the Philippines.

**Article 1149.** *All other actions whose periods are not fixed in this Code or in other laws must be brought within five years from the time the right of action accrues. (n)*

**Article 1150.** *The time for prescription for all kinds of actions, when there is no special provision which ordains otherwise, shall be counted from the day they may be brought. (1969)*

be rebooked as other income of the trust fund available for distribution to the remaining planholders.

- B. Distribution Officer** refers to a private person designated by the Insurance Commissioner as in-charge of the distribution of the unreleased benefits.
- C. Inactive Planholders** refers to planholders who have not claimed their benefit checks for the past five (5) years from the date of the first letter notice and despite several subsequent notices.
- D. Net Abandoned Benefits** refers to Abandoned Benefits remaining after distribution.
- E. Presumed Error** refers to an error or mistake in the preparation of the master list conclusively presumed as a result of the completion of the process under Section IV hereof.
- F. Presumed Waiver of Right** refers to the waiver of right conclusively presumed as a result of the completion of the process under Section IV hereof.
- G. Trust Fund Surplus** refers to the remaining trust fund assets after payment of or setting aside the corresponding plan benefits including the Net Abandoned Benefits.
- H. Unclaimed Benefits** refers to benefits not yet claimed as of date of voluntary cessation and withdrawal of pre-need business.
- I. Unreleased Benefits** includes abandoned benefits, unclaimed benefits, and suspended benefits.

## **SECTION II – POST-CLOSURE DISTRIBUTION OF BENEFITS**

To satisfy this Commission that all benefits will be settled by the company, a post-closure distribution for all unclaimed and unreleased benefits shall commence after the Commission's approval to terminate the servicing proceedings of the company.

Hence, servicing pre-need companies who already complied with all the requirements of this Commission pursuant to CL No. 2022-40 but the distribution has not yet been completed despite efforts to reach the remaining planholders concerned may apply for early termination of its servicing proceedings and final closure if the following conditions are met:

- a) Funds for distribution exclusively for the planholders and expense fund have been separately earmarked;
- b) Distribution should have already been completed except that there are a number of checks still remaining unclaimed or distribution has been ongoing for at least five (5) years solely because of the remaining unclaimed, unreleased, suspended, or abandoned benefits, or at least fifty percent (50%) of the distribution checks have already been claimed/released;

- c) Contingent fund has been earmarked for contingent liabilities or suspended benefits, if any; and
- d) An extensive distribution plan for unclaimed, unreleased, or suspended benefits, if any, or abandoned benefits or net abandoned benefits if any, has been submitted and approved.

### **SECTION III – DESIGNATION OF DISTRIBUTION OFFICER**

After the termination of the servicing proceedings, the Commission shall continue the distribution via the aforementioned post-closure distribution. In this case, the Insurance Commissioner may designate a Distribution Officer (DO).

To ensure the continuous flow of distribution works, the Division Manager of this Commission's Conservatorship, Receivership and Liquidation Division shall act as the *ex-officio* DO in the meantime that a DO has not yet been designated by the Insurance Commissioner or, in case of resignation of the designated DO, during the period between the effectivity of the current DO's resignation/removal and the appointment of a new DO.

The said designation of the *ex-officio* DO is automatically effective upon the issuance of the Certificate of withdrawal declaring the pre-need business in the Philippines as officially withdrawn or resignation of the outgoing DO, as the case may be, and shall automatically cease upon the appointment of the incoming DO.

It should be emphasized that the remuneration of the said DO and other expenses that will be incurred during the distribution shall be shouldered by the company.

### **SECTION IV – TURN OVER OF THE REMAINING TRUST FUND ASSETS INCLUDING THE EXCESS ASSETS TO THIS COMMISSION**

The remaining trust fund assets of the company including the excess assets and those considered as unclaimed benefits shall be immediately turned over to this Commission prior to the Commission's approval of the company's voluntary cessation and withdrawal of pre-need business. In line with this, the company shall open a bank account with the Land Bank of the Philippines, United Nations Avenue Branch, or any bank subject to prior approval of the CRL Division for the said remaining assets. Said bank account shall be named as "Insurance Commission for the Account of Planholders of "Name of Company". Original copies of the certificates of title, or any ownership documents for non-liquid trust fund assets, if any, shall also be turned over to the Commission for safekeeping.

### **SECTION V - PROCEDURES FOR DECLARATION OF ABANDONMENT OF BENEFITS**

Benefits may be declared abandoned after the servicing pre-need company has completed the following steps:

- 1) Determination by the Overseer of the amount and schedule of Abandoned Assets.

- 2) Sending of Letter notices to the last known address of each policy holder. The same may be supplemented by sending said letter notices via e-mail.
- 3) Publication in a newspaper of general circulation of the Notice to the Public.
- 4) Posting in the official website of this Commission of the Notice to the Public.
- 5) Payment of the benefits to those who came forward.
- 6) Publication in a newspaper of general circulation of formal declaration of presumed error or presumed waiver of right and posting in the official website of this Commission of the list of abandoned benefits.

#### **SECTION VI - TREATMENT OF TRUST FUND SURPLUS**

Trust fund surplus as defined under Section II (G) hereof shall remain under the custody of the Commission and shall be disposed of pursuant to law or regulation.

#### **SECTION VII - TREATMENT OF RESIDUAL CORPORATE FREEHOLD ASSETS**

For renamed companies with repurposed operations that continue their corporate personality the Residual Corporate Freehold Assets shall remain with the said company available for continued operations.

In case the company decides not to continue its corporate personality, the said corporate assets shall be distributed to its stockholders upon dissolution, or expiration of term, or as may be allowed by law.

#### **SECTION VIII - BOOKING OF ASSETS**

Residual Corporate Freehold Assets shall be booked and invested/deposited separately from the distributable trust fund.

The DO and the IC representatives shall be the exclusive signatory for the distributable trust fund. For the corporate freehold assets, the signatories shall be the DO, IC representative/s, and the Company representative.

#### **SECTION IX – DISPOSAL OF DOCUMENTS**

Documents pertaining to the servicing proceedings and final formal closure may be disposed of after the lapse of ten (10) years from the issuance of the Certificate of Withdrawal declaring the pre-need business in the Philippines as officially withdrawn.

The Disposal process shall be in accordance with Republic Act 9470 otherwise known as the National Archives of the Philippines Act of 2007 and National Archives of the Philippines (NAP) General Circular No. 2 otherwise known as the Guidelines on the Disposal of Valueless Records in the Government Agencies.

#### **SECTION X – SEPERABILITY**

The provisions of this Circular are declared separable and, in the event any part thereof be declared invalid, the other provisions shall remain in force.

**SECTION XI - EFFECTIVITY**

This Circular shall take effect immediately.

  
**REYNALDO A. REGALADO**  
Insurance Commissioner



LSG/CRL/bgmr