



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



NOTICE TO THE PUBLIC
17 November 2017

EXPOSURE DRAFT ON THE PROPOSED CIRCULAR ON THE TRUST REQUIREMENT FOR OUTSTANDING HEALTH MAINTENANCE ORGANIZATIONS (HMOs) CONTRACTS WITH BENEFIT COVERAGE OF MORE THAN TWELVE (12) MONTHS

The Insurance Commission hereby posts for the information of all concerned the Circular Letter on Trust Fund Requirements for outstanding HMO contracts with benefit coverage of more than twelve (12) months. The proposed Circular Letter is intended to issue rules and guidelines with respect to the establishment of HMOs trust fund and submission of related reports of HMO companies.

To promote the participation of the public, the Insurance Commission is openly soliciting comments and suggestions from all interested persons.

All interested persons may submit their written comments and suggestions to the Ad Hoc Group on HMOs of the Insurance Commission with the office address at **Insurance Commission Bldg., 1071 United Nations Ave., Manila**. Such written comments and suggestions may also be submitted electronically through email to mds.laygo@insurance.gov.ph.

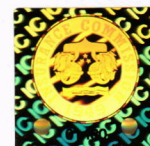
Comments and suggestions made through phone call or text messages would not be entertained and shall be disregarded automatically.

The deadline for submission of the written comments and suggestions shall be at **3:00 P.M. on 11 December 2017**. Late submission shall no longer be considered.

The Exposure Draft Circular which is attached hereto will be posted on the Insurance Commission website (<https://www.insurance.gov.ph/>).

Be guided accordingly.

DENNIS B. FUNA
Insurance Commissioner





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Circular Letter (CL) No.:	
Date:	
Supersedes:	None

DRAFT ONLY

CIRCULAR LETTER

**TO : ALL HEALTH MAINTENANCE ORGANIZATIONS (HMOs)
DOING BUSINESS IN THE PHILIPPINES**

**SUBJECT : TRUST FUND REQUIREMENT FOR OUTSTANDING HMO
CONTRACTS WITH BENEFIT COVERAGE OF MORE
THAN TWELVE (12) MONTHS**

WHEREAS, the Insurance Commission 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. 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;
- c. 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.

NOW THEREFORE, pursuant to the authority granted to the Insurance Commission by Section 4 of Executive Order 192, s. 2015 dated 12 November 2015, the Insurance Commission (IC) do hereby order and direct:

Section 1. Trust Fund -

A Trust Fund shall be established to protect the interest of HMO's enrolled members and policyholders with a contractual benefit coverage of more than twelve (12) months.

Section 2. Monthly Trust Fund Minimum Deposit Requirement For Collection from HMO Contract with a benefit coverage of more than twelve (12) months (Sold after the Effectivity of Circular No. 2017-19) -

Starting 01 January 2018, HMOs shall make minimum monthly deposits to the Trust Fund of at least forty-five percent (45%) of collection from HMO contracts with a benefit coverage of more than twelve (12) months products (Sold Prior to Effectivity of Circular No. 2017-19), unless the viability study done by an independent Actuary in good standing of the Actuarial Society of the Philippines (ASP) requires otherwise.

The deposit to the Trust Fund shall be made within twenty (20) days from the end of each reference month.

Section 3. Monthly Trust Fund Deposit Requirement For Collection from HMO Contract with a benefit coverage of more than twelve (12) months (Sold before the Effectivity of Circular No. 2017-19) -

The minimum monthly and total contribution for outstanding HMO contract sold before the effectivity of Circular No. 2017-19 with a benefit coverage period of more than twelve (12) months shall be determined and certified by the independent Actuary based on the viability study of such HMO products. The period of contribution shall not exceed the remaining period of coverage unless a longer period shall be approved by the Commissioner.

However, before the availability of the determination and certification by independent Actuary, HMOs in the interim shall make an initial trust fund deposit of at least five percent (5%) of all collections from such outstanding policy, unless the initial viability study done independent Actuary requires otherwise. For this purpose, HMOs shall be required to submit a **Seriatim Listing** (in soft or hard copy) of all outstanding enrolled members and policyholders with a benefit coverage of more than twelve (12) months (Sold before the Effectivity of Circular No. 2017-19) on before December 31, 2017.

HMOs without outstanding enrolled members and policyholders with a benefit coverage of more than twelve (12) months must submit a **Certification under Oath** by the Principal Officer of the HMO concerned.

Failure to submit such seriatim listing or certification under oath of without outstanding HMO contract with a benefit coverage of more than twelve (12) months within the same period provided in this Section shall subject the HMO company to a basic fine of ₱5,000.00 and an additional ₱500.00 for every calendar day of delayed payment.

A separate Trust Fund account must be established for the purpose of this Section.

Section 4. Duration of the Trust Fund -

The trust fund for the purpose of this Circular shall remain until all the outstanding HMO contract with a benefit coverage period of more than twelve (12) months shall have been exhausted or terminated

Section 5. Additional Deposit -

Should the Commission discover a deficiency in the minimum deposit requirements of Sections 2 and 3 of this Circular, it shall give notice of the same to the HMO and require the HMO to make additional deposit. The HMO concerned shall have thirty (30) days from receipt of notice to make additional deposit.

Failure to deposit the deficiency despite notice shall cause the Commission to issue a cease and desist order from enrolling new member until the deficiency is covered-up.

Section 6. Allowable Withdrawal to the Trust Fund -

Withdrawal from the Trust Fund shall be allowed only for the payment of the following:

- a. Medical Fees;
- b. Professional Fees;
- c. Hospital Bills;
- d. Refund for cancellation of contract;
- e. Other expenses of the same nature as the preceding items directly attributable to member's hospitalization/utilization; and
- f. Other withdrawal with prior written consent from the IC.

Section 7. Terms and Conditions of Trust Fund -

A Trust Fund shall be established separately for the requirements of Section 2 and 3 of this Circular.

No Trust Fund shall be established by an HMO with an affiliate trust bank or trust company.

The Trust or Investment Management Agreement (IMA) shall provide the following salient provisions, among others:

- A. The manner in which the Trust Fund is to be operated;
- B. Investment powers of the Trustee, including the character and kind of investment;
- C. Settlement of accounts of the Trustee with respect to the Trust Fund;
- D. Basis upon which the Trust Fund may be terminated;
- E. Provisions for withdrawals from the Trust Fund;
- F. Monthly Trust Fund Statement from the Trustee shall be provided by the HMO to the IC;
- G. Trustee must submit any Trust Fund Statement requested by IC for its own verification process;
- H. The Trustee shall submit such other data or information on the Trust Fund as may be requested by the IC without waiver from the HMO Trustor;
- I. The Trustee and the HMO Trustor shall have a joint management and control over the Trust Funds and the right at any time to sell, convert, invest, change, transfer or otherwise change or dispose of the assets comprising the funds within the parameters prescribed in the trust agreement and provided these parameters are compliant with the IC's regulations;
- J. The Trustee shall not use the Trust Fund to invest in or extend any loan or credit accommodation to the HMO Trustor, its directors, officers, stockholders, and related interests as well as to persons or enterprises controlling, owned or controlled by, or under common control with said HMO company, its directors, officers, stockholders and related interests;
- K. No single withdrawal in the Trust Fund of more than twenty (20%) percent shall be allowed without a written consent or approval from the IC;

- L. Allowable withdrawal provided by preceding Section of this Circular; and
- M. The Trustee shall not allow the HMO trustor to terminate the trust account without prior consent from the IC.

Section 8. Investment of the Trust Fund -

To ensure liquidity and security of the Trust Fund, all its investment shall be limited to the following:

- A. Government Securities.
- B. Savings/time deposits with duly licensed universal commercial banks only.
- C. Investment in stocks listed on the main board of Philippine Stock Exchange.
- D. Others as may be approved by the Commissioner.
- E. Commercial papers duly registered with the Securities and Exchange Commission with a credit rating of "PRS 1" for short term and "PRS AAA" for long-term based on the rating scale by Philippine Rating Services Corporation of its equivalent at the time of investment.
- F. The maximum exposure to long-term commercial papers shall not exceed fifteen percent (15%) while the exposure to each commercial paper issuer shall exceed ten percent (10%) of the allocated amount
- G. Secured real estate mortgage to corporations which are financially stable and profitable for the last three (3) years, up to the extent of sixty percent (60) of the zonal valuation of the property at the time the loan was granted. The loan shall be covered by a transfer certificate of title registered in the name of the mortgagor and free from liens and encumbrances. The maximum amount to be allocated shall exceed five percent (5%) of the total trust fund while the amount granted to each borrower shall exceed ten percent (10%) allocated. The maximum term of the loan should be no longer than four (4) years.
- H. Investment in stocks listed on the main board of Philippine Stock Exchange.

The amount allocated for this purpose shall not exceed forty percent (40%) of the total trust fund, while the investment in any particular issue shall exceed ten percent (10%) of the allocated amount.
- I. Real Estate properties located in strategic areas of cities and first class municipalities.

The transfer certificate of title (TCT) shall be in the name of the HMO company, free from liens and encumbrances and shall be transferred in the name of the trustee unless the seller/transferees is the HMO company wherein an annotation to the TCT relative to the sale/transfer may be allowed. It shall initially recorded at acquisition cost.

Real estate may be appraised every three (3) years by a licensed real estate appraiser, accredited by the Philippine Association of Real Estate Appraisers, to reflect the increase or decrease in the value of the property. In case the appraisal would result in the an increase in the value, only sixty percent (60%) of the appraisal increase is allowed to be recorded in the books of the trust fund but in case of decline in value, the entire decline shall be recorded. Appraisal increment should not be used to cover the required monthly contribution to the trust fund. However, the total recorded value of the real estate investment shall not exceed ten percent (10%) of the total trust fund amount.

J. Others as may be approved by the Commissioner.

Section 9. Monthly Reports -

Submission of the following reports shall be made not later than 25th day of the following month, starting 01 January 2018 and every month thereafter, both in hard and soft copy (excel format in CD or flash drive)

- A. Schedule of Collection (*soft copy only*)
- B. Trust Fund Requirements (Sec. 2 & Sec. 3)
- C. Deposit to Trust Fund Report
- D. Monthly withdrawal Report

Failure to submit any monthly report shall be subject the HMO company to a basic fine of ₱5,000.00 plus ₱500.00 for every calendar day of delayed payment.

Section 10. Amendments, Supplements or Modifications -

The Commission reserves the right to amend, supplement or modify this Circular Letter as may be required.

Section 11. Separability -

If, for any reason, any part or provision of this Circular is declared invalid or unconstitutional, any part or provision not affected thereby shall remain in full force.

Section 12. Effectivity -

This Circular Letter shall be effective after fifteen (15) days from the date of its issuance.

DENNIS B. FUNA
Insurance Commissioner

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