



Circular Letter (CL) No.:	2022-40
Date:	9 August 2022
Supplements:	CL No. 2014-15 dated 15 May 2014 (Schedule of Fees and Charges)

CIRCULAR LETTER

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

SUBJECT : GUIDELINES ON VOLUNTARY CESSATION AND WITHDRAWAL OF PRE-NEED BUSINESS IN THE PHILIPPINES

WHEREAS, Circular Letter (CL) No. 2014-14 or *the Definition and Licensing of Servicing Insurance Companies*, CL No. 2017-26 *establishing the guidelines on voluntary cessation of non-life insurance business in the Philippines*, CL No. 2018-25 *establishing the guidelines on companies that fail to comply with the net worth requirement of Section 194* and CL No. 2018-30 *establishing the guidelines for non-life insurance companies with (1) existing servicing licenses prior to 5 May 2017; or (2) pending applications for servicing licenses prior to 5 May 2017* were issued to guide all non-life insurance companies to properly run-off its non-life insurance business.

WHEREAS, Circular Letter No. 2019-50 dated 16 September 2019 or the *Guidelines for the Determination of Compliance with Statutory Minimum Unimpaired Paid-up Capital Requirements for Pre-Need Companies* was issued to establish, among other things, the required minimum unimpaired paid-up capital for pre-need companies with servicing licenses and/or those that are not selling any type of plans.

WHEREAS, Circular Letter 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, prior to this issuance, several Pre-Need Companies have already been operating as a servicing pre-need company or have pending applications.

WHEREAS, for the avoidance of confusion, there is a need to establish specific guidelines for the proper run-off or cessation and withdrawal of pre-need business in the Philippines.

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, this Circular Letter on “**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.

This Guidelines shall likewise apply to all pre-need companies with currently issued servicing licenses opting to voluntarily cease their business operations, insofar as applicable.

Voluntary cessation or withdrawal of pre-need business is anticipatory or preventive in nature. Hence, this Circular Letter shall **not** apply to- (1) a company placed under conservatorship, receivership and liquidation; (2) a company that has been issued an existing Cease and Desist Order by this Commission; or, (3) a company with existing paid-up capital and/or trust fund deficiency.

SECTION II - SUBMISSION OF LETTER OF INTENT

A domestic pre-need company intending to voluntarily cease and cancel the registration of all of its pre-need plans and run-off its business must submit a letter of intent to voluntarily cease the sales and the cancellation of the registration of its pre-need plans and withdraw its pre-need business before the Insurance Commission.

SECTION III. - DOCUMENTARY REQUIREMENTS FOR APPLICATION AS A SERVICING PRE-NEED COMPANY

A domestic pre-need company intending to voluntarily cease its pre-need business shall submit the aforementioned letter of intent together with the following documentary requirements:

- a. Copy of its latest Certificate of Authority (CA);
- b. Board resolution stating that at least a majority of the members thereof has approved the company's cessation of sales and cancellation of registration of its pre-need plans and the withdrawal of business operations related thereto and that the same has been ratified by the stockholders of the company owning at least two thirds (2/3) of the outstanding capital stock;
- c. Latest audited financial statements for the preceding two (2) years and interim financial statements as of the end of the month immediately preceding the date of the submission of the proposal;
- d. Draft Notice to the Public to be published in accordance with Circular Letter No. 2016-34 and in the company's and Insurance Commission's respective websites, which shall contain the following:

NOTICE

TO ALL PLANHOLDERS AND CREDITORS OF ____:

NOTICE IS HEREBY GIVEN THAT THE BOARD OF DIRECTORS OF _____ HAS, BY A MAJORITY VOTE, AS RATIFIED BY STOCKHOLDERS OWNING AT LEAST TWO-THIRDS (2/3) OF THE OUTSTANDING CAPITAL STOCK, RESOLVED TO VOLUNTARILY CEASE AND WITHDRAW ITS PRE-NEED BUSINESS AND HAS SUBMITTED AN APPLICATION FOR CESSATION OF SALES AND CANCELLATION OF REGISTRATION OF ALL ITS PRE-NEED PLANS TO THE INSURANCE COMMISSION FOR ITS APPROVAL.

(SIGNED)
AUTHORIZED SIGNATORY
NAME OF COMPANY

- e. Actuarial valuation Report as of the end of the month preceding the date of filing of the Letter of Intent for voluntary cessation, including the valuation file with a seriatim list of all planholders with all pertinent information such as but not limited to the following:
 - i. Plan Type (Education/Pension/Life);
 - ii. Term, Payment Period;
 - iii. Mode of Payment;
 - iv. Instalment Amount;
 - v. Gross Contract Price, Status;
 - vi. Plan Effective Date;
 - vii. Plan Issue Date;
 - viii. Maturity Benefit/Initial Education Benefit/Memorial Benefit, as applicable;
 - ix. Maturity Date;
 - x. and other pertinent details as may be necessary;
- f. Trust Fund statement as of the month preceding the date of filing of Letter of Intent for voluntary cessation, including the lists of investments for the Trust Fund;
- g. Original copy of the notarized list of creditor/s and corresponding amount of liability/ies;
- h. Original copy of the notarized list of pending cases before any judicial, quasi-judicial, and administrative agencies, and the statuses thereof, or a verified certification that there are no such pending cases certified by the company's legal officer, or in the absence thereof, the company's president, as the case may be;
- i. Original copy of the notarized masterlist of existing planholders including the corresponding date of policy issuance, periods and amount of maturity value;

- j. Original copy of the notarized list of in-forced plan contracts and unclaimed benefits;
- k. Organizational structure that will support the business during the process of the company once the proposal for voluntary cessation of sales and registration of pre-need plans and the business operations related thereto is approved;
- l. A joint and several assumption of liability executed by the treasurer and the president of the issuer for claims that may arise as a result of said cancellation/suspension; and,
- m. Such other documents as may be required by the Commissioner.

For purposes of the preparation of its financial statements, the applicant Pre-Need Company must notify in writing its external auditor and actuary **at least sixty (60) days** before the end of the calendar year of its intention to apply for voluntary cessation of sales and cancellation of registration of pre-need plans and the business operations related thereto.

SECTION IV. -SUBMISSION OF SERVICING PLAN

The applicant company shall simultaneously submit a **servicing plan** which shall contain the following:

- a. Plan for the investment of its trust fund assets to achieve the projected investment earnings and benefit pay-outs as well as the plan for the disposition of trust fund assets in accordance with the Pre-Need Code;
- b. Plan for corporate assets to achieve projected investment earnings and expenses as well as payouts to creditors;
- c. Cash flow projections up to the end of the period for which all obligations will be fulfilled by the company;
- d. Plan for payment of benefits;
- e. Treatment of lapsed policies, particularly those within the reinstatement period;
- f. Projected timeline for the implementation of the Plan and the milestone dates thereof; and
- g. Other relevant information.

SECTION V. - ISSUANCE OF A SERVICING LICENSE

Once the letter of intent and servicing plan have been approved by the Insurance Commission, the company shall immediately surrender its existing CA as pre-need company and apply for a new CA to act as a servicing pre-need company, which shall be valid for the remaining period of the surrendered CA and renewable depending on the circumstances of the servicing operations.

Henceforth, it shall be considered as a servicing pre-need company whose business transactions shall be confined to:

- a. Accepting periodic installment payments from its planholders;

- b. Paying termination values and/or maturity values of outstanding plans to its planholders, if applicable in accordance with Section 24 of the Pre-Need Code and Section 26 of the Implementing Rules and Regulations thereof;
- c. Such other related services.

The servicing license shall be renewable annually on or before the date of its expiry until the conclusion of the servicing proceedings in accordance with the approved servicing plan, unless otherwise ordered by the Commissioner.

SECTION VI. - PAYMENT OR TERMINATION OF OUTSTANDING PRE-NEED PLANS

Continuity of each existing pre-need plans issued by the applying Pre-Need Company shall always be honored by the said company taking into account the promised benefits according to plan.

The company may offer to its planholders an early termination or conversion of plans provided, that such termination or conversion shall at all times be at the option and voluntary on the part of the planholder and shall be in accordance with Section 24 of the Pre-Need Code and Section 26 of the Implementing Rules and Regulations thereof.

The pay-out to each planholder shall not be less than the amount of payments such planholder has made with an additional premium. The present value of the future benefits may also be considered.

The IC may determine such other distribution computation as may be equitable under the circumstances.

Provided further, that in determining the benefits to be distributed, the financial condition of the company and the interest of all the parties concerned shall be taken into consideration.

In evaluating the proposed benefit payments, the IC may hire an accredited actuary, the cost of which shall be considered by the company.

SECTION VII. - EXAMINATION OF THE FINANCIAL CONDITION OF THE COMPANY

Upon receipt of the Letter of Intent and the servicing plan together with the complete documentary requirements attached thereto, the Conservatorship, Receivership and Liquidation Division ("CRL") shall evaluate the same. On the other hand, the Pre-Need Division shall examine the latest financial condition of the company.

For the purpose of determining the trust fund requirement of applicant pre-need company, the application of Circular No.23-2012 pertaining to the Transitory Pre-Need Reserves is suspended. The amount of pre-need reserve shall be the same as that stated in the Actuarial Valuation Report prepared by independent actuary, without the application of Discount Interest Rate for Pre-Need Reserves.

If the company is found to be compliant with all the financial requirements provided under Republic Act No. 9829 or the Pre-Need Code of the Philippines, the Pre-need Division shall confirm that the applicant pre-need company has complied with all the statutory financial requirements. It shall then forward its findings to the CRL Division.

Thereafter, should the CRL Division find the servicing plan and other documentary requirements attached thereto to be in order, the CRL Division shall submit its favorable recommendation, together with the aforementioned findings of the Pre-Need Division, to the Insurance Commissioner to allow the applicant Company to proceed with its servicing proceedings and cessation of pre-need business in accordance with the servicing plan and accordingly, issue a new CA in favor of the applicant to act as a servicing pre-need company. Accordingly, the regular CA shall be surrendered to the Insurance Commissioner.

However, if the company is found to have an impaired paid-up capital or trust fund deficiency or both, the application for voluntary cessation of pre-need business shall **be held in abeyance**, unless the company immediately infuses fresh capital to cure the said capital impairment and/or trust fund deficiency. If not, the Commission shall issue a Show Cause Order requiring the company to fund its trust fund deficiency within **sixty (60) days** upon receipt of the order; otherwise it should explain why it should not be placed under conservatorship, receivership or liquidation pursuant to Section 49 of the Pre-Need Code.

SECTION VIII. - NOTICE TO THE PUBLIC

Upon payment of the fees contained in Section IX this Guidelines, the company shall send the approved Notice to the Public of its application for cessation of sales and registration of pre-need plans and the business operations related thereto individually to all of its planholders and creditors through registered mail and electronic mail.

In addition, the approved Notice to the Public, as contained in Section II (d) hereof, shall be published at least once a week for three (3) consecutive weeks in a newspaper of general circulation in accordance with CL No. 2016-34 dated 21 June 2016, as well as in the company's and Insurance Commissioner's websites.

The company shall be required to submit corresponding affidavits to attest to the sending and publication of the approved Notice to the Public to the CRL Division.

SECTION IX. - PAYMENT OF FEES

The company shall pay the amount of Php 25,250.00 (inclusive of 1% legal research fund) as filing fee for cessation and withdrawal of pre-need business and another Php. 25,250.00 (inclusive of 1% legal research fund) upon the approval of the application for cessation of pre-need business.

The company shall likewise be subject to the required annual supervision fees and fees for the issuance of the new and renewal CA to act as a servicing company provided under CL No. 2014-15 dated 15 May 2014 on Fees and Charges.

SECTION X. - SUPERVISION OF THE PROCESS AND APPOINTMENT OF AN OVERSEER

The approved servicing plan, together with all the submitted documents, shall be forwarded to the CRL Division for supervision of the process of voluntary cessation in accordance with the approved servicing plan.

The CRL Division shall recommend the appointment and engagement of the services of an **Overseer** to monitor and ensure compliance with the approved servicing plan and other requirements of this Commission during the process of the cessation. The salary of the overseer shall be chargeable against the corporate assets of the Pre-Need Company.

The overseer shall quarterly conduct financial examination on the company and shall be required to submit to the CRL Division **quarterly reports** on the status of the company, particularly in the implementation of the approved servicing plan. Moreover, the Overseer is mandated to submit and comply with all the requirements of this Commission.

Should the overseer find that there is deviation from the Servicing Plan without approval of the Insurance Commission or non-compliance with the implementation requirements therefor by the company, he shall immediately inform the CRL Division in writing of said fact.

The CRL Division shall verify the report of such deviation or non-compliance and shall issue a Show Cause Letter against the company, ordering it to explain within ten (10) days its justification for such finding.

Deviation from the Plan without approval of the Insurance Commission or non-compliance thereto shall cause the company to be placed under conservatorship, receivership or liquidation as the case may be, without prejudice to sanctions that may be imposed against its officers and/or employees.

SECTION XI. - MANAGEMENT OF THE TRUST FUND ASSETS AND CORPORATE ASSETS

The management of the trust fund and corporate assets of the company shall be governed by the approved servicing plan. Any withdrawal, disposition or transfer of assets from the trust fund for whatever purpose shall be in accordance with the servicing plan, consistent with the provisions of **Section 30 of the Pre-Need Code** and shall have the prior approval of this Commission.

Withdrawals from the Trust Fund shall be strictly limited to: (1) the payment of costs of benefits or services; (2) the termination values payable to the planholders; and (3) the insurance premium payments for insurance - funded benefits of memorial life plans and other costs necessary to ensure the delivery of benefits or services to planholders, which shall include necessary and incidental expenses directly and strictly related to the payment of said benefits to planholders, *provided*, that said costs shall be within reasonable limits to be determined by the overseer. Any withdrawal from the Trust Fund shall at all times be subject to the prior approval of the Insurance Commission upon the recommendation of the appointed overseer.

The disposition of the corporate assets shall only proceed upon approval from the Commission. Considering that the company is not insolvent, the disposition shall be under supervision of the CRL Division through the appointed overseer, in accordance with the approved servicing plan and in harmony with the pertinent and applicable provisions of R.A. 11232 otherwise known as the Revised Corporation Code of the Philippines on dissolution of corporations and this Commission's Circular Letter No. 2020-112.

SECTION XII. - FINANCIAL CONDITION AFTER THE APPROVAL OF THE LETTER OF INTENT AND SERVICING PLAN

The company shall be subject to regular reporting and examination by the Insurance Commission during the servicing proceedings of the company. It shall at all times maintain the Trust Fund and Liquidity Reserve requirement as provided under the Pre-Need Code.

In the event that the company's investments or assets suffer losses, thus making the company deficient in the financial requirements, the company shall, within **twenty (20) calendar days** upon determination of deficiency by the Insurance Commission, submit a business plan containing the manner by which it will be able to cover said deficiency.

The period for recovery stated in the business plan shall not exceed **sixty (60) calendar days**, unless otherwise allowed by the Insurance Commissioner.

It should be noted that while the CRL Division supervises and monitors the servicing proceedings of the servicing pre-need company, the regular reporting and examination on the financial viability of the servicing pre-need company should still be examined by the Pre-Need Division.

Failure to comply with the financial requirements or to submit a viable business plan, or both within the aforementioned periods shall immediately cause the company to be placed under Conservatorship, Receivership or Liquidation by the Insurance Commission as the case may be.

SECTION XIII. - CONSEQUENCES OF APPLICATION FOR VOLUNTARY CESSATION OF PRE-NEED BUSINESS

During the implementation of the Plan for voluntary cessation of sales and registration of pre-need plans and the business operations related thereto, the company shall be subject to the following restrictions/limitations:

- a. The company shall terminate the offering and sale of its pre-need products;
- b. The company shall not declare any form of dividends unless approved by the Commissioner;
- c. The company shall not distribute any form of profit sharing, performance bonuses, and other compensation schemes that are based on the profits or earnings of the company to the members of the board of directors, executives and officers, without prejudice to the observance of law-mandated bonuses;
- d. The company shall not grant increase in salaries, per diems, allowances, fringe benefits and any similar compensation and benefits to the members of the

- board of directors, executives and officers unless approved by the Commissioner;
- e. The company shall not cause the sale, lease, or mortgage of its assets unless approved by the Commissioner;
 - f. No favorable endorsement for purposes of effecting any amendments in the company's Articles of Incorporation and By-Laws shall be granted to reflect any shift to or inclusion of any other line of business during the implementation of the plan; and
 - g. And such other limitations/restrictions the Commissioner may impose.

SECTION XIV. - FORMAL AND APPROVAL OF CESSATION AND WITHDRAWAL OF PRE-NEED BUSINESS

- a. The CRL shall recommend the completion of the servicing plan only after a determination that the company has settled all its outstanding liabilities to its planholders.
- b. *Any surplus in the Trust Fund after payment of all its outstanding liabilities to its planholders shall be allowed for withdrawal in accordance with Circular Letter No. 2015-43 dated 7 August 2015 on the Guidelines on the Management of the Trust Fund Surplus of Pre-Need Companies.*
- c. Upon approval by the Commissioner, the company shall be issued a Certificate of Withdrawal declaring its pre-need business in the Philippines as officially withdrawn.
- d. The company shall thereafter be required to surrender its servicing license for cancellation.
- e. A Notice of Withdrawal declaring the company's pre-need business in the Philippines as officially withdrawn shall be published at least once a week for three (3) consecutive weeks in accordance with CL No. 2016-34 dated 21 June 2016. Expenses for such publication shall be borne by the company.
- f. In case the company will opt for the final Dissolution of the company, the provisions of the Revised Corporation Code of the Philippines and this Commission's Circular Letter No. 2020-112 shall govern.
- g. Notices as may be determined necessary by the Insurance Commissioner shall be published according to the rules of the IC.
- h. Additional procedures as may be determined by the circumstances may also be undertaken upon order by the Insurance Commissioner

SECTION XV. – INTERIM EX-OFFICIO OVERSEER

In cases where no Overseer has yet been appointed or designated for such company or whenever vacancy arises, the Division Manager shall *ipso facto* act as said company's interim *Ex-Officio* Overseer until such time that an Overseer is appointed or designated. Any lawyer of the CRL Division may also be designated as such *ex-officio* Overseer.

SECTION XVI. - PAYMENT OF SUPERVISION FEES

The company shall pay the required annual supervision fees provided under CL No. 2014-15 dated 15 May 2014 on Fees and Charges.

SECTION XVII. - 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 XVIII. - EFFECTIVITY

This Circular shall take effect immediately.



DENNIS B. FUNA
Insurance Commissioner



LSG/CRL/bgmr