



Bangko Sentral ng Pilipinas

OFFICE OF THE GOVERNOR

MEMORANDUM TO ALL BANKS AND OTHER FINANCIAL INTERMEDIARIES PERFORMING TRUST, OTHER FIDUCIARY BUSINESS AND INVESTMENT MANAGEMENT ACTIVITIES

Subject: Trust Fund of Pre-Need Companies

Pursuant to Section 80 of Republic Act No. 8791, otherwise known as "The General Banking Law of 2000", the Monetary Board, in its Resolution No. 279 dated 02 March 2006, approved the issuance of the rules and regulations that shall govern the acceptance, management and administration of the trust funds of Pre-Need Companies by banks and other entities authorized to perform trust and other fiduciary functions, as follows:

Section 1. Administration of Trust Fund. In line with the policy of providing greater protection to pre-need planholders, prudential measures are hereby laid out in the administration of trust funds of Pre-Need Companies. The trust fund, inclusive of earnings, shall be administered and managed by the trustee with the skill, care, prudence and diligence necessary under the circumstances then prevailing that a prudent man, acting in the same capacity and familiar with such matters, would exercise in the conduct of an enterprise of a like character and similar aims.

The trustee shall have exclusive management and control over the trust fund and the right at any time to sell, convert, invest, change, transfer or otherwise dispose of the assets comprising the funds.

Section 2. Trustee. No trust entity shall act as a trustee or administer or hold a trust fund established by a Pre-Need Company, which is a subsidiary or affiliate, as defined under existing Bangko Sentral ng Pilipinas regulations, of such trust entity. Trust entities currently holding or administering trust funds of an affiliate Pre-Need Company may continue to act as trustee of such funds after the transition period provided under Section 7 of this Memorandum only upon prior approval of the Monetary Board on the basis of a clear showing that no potential conflict of interest will arise. An absence of any exception or finding on conflicts of interest during an examination of the trust entity shall be deemed as prima facie evidence that no potential conflict of interest will arise.

Section 3. Investment of the Trust Fund. Unless otherwise allowed under existing laws or regulations issued by the Agency having jurisdiction and supervision over Pre-Need Companies, or with prior written approval by said Agency, loans and investments of the trust funds shall be limited to:

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- a. Evidences of indebtedness of the Republic of the Philippines and of the Bangko Sentral ng Pilipinas (BSP), and any other evidences of indebtedness or obligations wherein the servicing and repayment of which are fully guaranteed by the Republic of the Philippines or loans against such government securities;
- b. Commercial papers duly registered with the Securities and Exchange Commission with a credit rating of "1" for short term and "AAA" for long-term or their equivalent;
- c. Loans fully guaranteed by the Republic of the Philippines as to the payment of principal and interest;
- d. Loans fully secured by a hold-out on, assignment or pledge of deposits maintained either with the bank proper or other banks, and/or of deposit substitutes or of mortgage and chattel mortgage bonds issued by the trustee/fiduciary or by other banks;
- e. Loans fully secured by real estate in accordance with Section 37 and subject to the requirements of Sections 39 and 40 of R.A. No. 8791 and their implementing regulations; and
- f. Loans fully secured by unconditional payment guarantees (such as standby letters of credit and letter of indemnity) issued by banks/multilateral financial institutions.

Section 4. Transactions with Directors, Officers, Stockholders and their Related Interest (DOSRI). The trustee shall not, for the account of the trustor or the beneficiary of the trust, purchase or acquire property from, or sell, transfer, assign or lend money or property to, or purchase debt instruments of, any of the departments, directors, officers, stockholders, employees, subsidiaries and affiliates of the trustee and/or the trustor, and relatives within the first degree of consanguinity or affinity, or the related interests, of such directors, officers and stockholders, without prejudice to any rule that may be issued by the Agency having jurisdiction and supervision over such. Pre-Need Company allowing such transaction with the prior written approval of such Agency. Such written approval shall clearly specify the amount of the loan and/or investment including the name of the concerned director, officer, stockholder and their related interests.

Section 5. Applicability of the Rules and Regulations on Trust, Other Fiduciary Business and Investment Management Activities (Trust Rules). The provisions of the Trust Rules consistent with the provisions of this Memorandum shall supplementarily apply to trust funds of Pre-Need Companies.

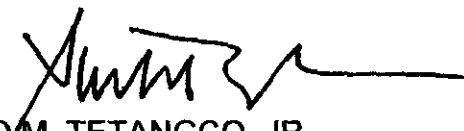
Section 6. Penalties and Sanctions. Any violation of the provisions of this Memorandum shall be a ground for prohibiting the concerned entity

from accepting, managing and administering Trust Funds of pre-Need Companies without prejudice to the imposition of the applicable sanctions prescribed or allowed under the Trust Rules.

Section 7. Transitory Provisions. Banks and other financial intermediaries performing trust and other fiduciary business, which are presently administering and managing trust funds of pre-need companies are hereby given a period of one (1) year from the date of effectivity of this Memorandum to comply with the requirements hereof.

Section 8. Effectivity. This Memorandum shall take effect fifteen (15) days following its publication in the Official Gazette or in any newspaper of general circulation in the Philippines.

FOR THE MONETARY BOARD:


AMANDO M. TETANGCO, JR.
Governor

28 March 2006