

[IC Circular Letter No. 2015-20, April 27, 2015]

**RULES IMPLEMENTING TITLE 9, CHAPTER IV OF THE AMENDED
INSURANCE CODE ON BANCASSURANCE**

*Adopted: 27 April 2015
Date Filed: 04 May 2015*

Pursuant to the provisions of Sections 375 to 377, Title 9, Chapter IV (Bancassurance) of Republic Act No. 10607, otherwise known as the Amended Insurance Code, and in addition to the rules and regulations contained in the "Guidelines on Variable Life Insurance Contracts" previously issued by the Insurance Commission in July 2002, and any of its amendments, the following directives and requirements shall be observed, implemented and complied with by insurance companies in the conduct of Bancassurance activities and the offering and sale of insurance products, including Variable Life Insurance policies, in bank premises.

Section 1. DEFINITION OF TERMS

As used herein, and unless the context otherwise requires, the following terms have the respective meanings hereinafter set forth or indicated:

- a) **Bancassurance activities.** - The presentation and sale to bank customers by an insurance company of its insurance products within the premises of the head office of such bank duly licensed by the Bangko Sentral ng Pilipinas (BSP) or any of its branches under such rules and regulations which the Insurance Commissioner and the BSP may promulgate. For purposes of clarity, the terms "bancassurance" and "cross-selling" can be used interchangeably.
- b) **Bancassurance Arrangements or Agreements.** - The written and duly signed contract entered into by and between the insurance company and the counterpart bank embodying the terms and conditions agreed upon by them relating to the conduct of Bancassurance activities and transactions as herein provided.
- c) **Fund.** - The type of underlying investment chosen by the VUL policyholder upon which the separate investment accounts are placed, and may include a Bond Fund, Equity Fund, Money Market Fund, Balanced Fund, or such other Insurance Commission-approved Funds.
- d) **Market Conduct Guidelines (MCG).** - The rules adopted and implemented by the Insurance Commission through Circular Letter No. 2013-33 dated 04 November 2013 which governs the performance of the functions of agents and the agency leaders in the selling of life insurance products.
- e) **Managers.** - Such persons or entities authorized by the insurance company or as approved by the Insurance Commission, as the case may be, to manage the separate Fund relating to the investment portion of VUL policies.

- f) **Variable Life or Variable Unit-Linked (VUL) Insurance Contractor Policy.** - Any insurance policy or contract on either a group or on an individual basis issued by an insurance company providing for benefits or other contractual payments or values there under to vary so as to reflect investment results of any segregated portfolio of investments or of a designated separate account in which amounts received in connection with such contracts shall have been placed and accounted for separately and apart from other investments and accounts. This contract may also provide benefits or values incidental thereto payable in fixed or variable amounts, or both. It shall not be deemed to be a security or securities as defined in The Securities Act, as amended, or in the Investment Company Act, as amended, nor subject to regulations under said Acts.

Section 2. AUTHORITY TO ENGAGE IN BANCASSURANCE

- a) **Requirements to Conduct Bancassurance.** - Bancassurance or cross- selling of insurance products by insurance companies may be conducted only in premises of banks having secured prior Monetary Board (MB) approval to engage in the said activities. The conduct by the concerned insurance companies of Bancassurance activities, including the execution of such written arrangements or agreements relevant thereto, shall be approved or ratified by its Board of Directors.

Insurance companies cannot offer, for cross-selling at any bank, insurance products which do not bear the prior approval of the Insurance Commissioner.

- b) **Role of Bank Employees.** - As a general rule, unless specifically trained and qualified for the purpose, the role of bank employees in bancassurance shall be limited to the referral of bank clients to the representatives of insurance company. Clients should give prior consent before any such referral.
- c) **When Bank Employees Can Make Preliminary Presentation.** - As an exception, bank employees who have been specifically trained and qualified by the insurance company to make presentation of its insurance products and discuss the financial needs of the bank clients, may preliminarily present and discuss product features of insurance products with bank clients as part of his/her tasks of presenting product option to bank clients. Bank employees should be duly certified as having undergone such training. The Insurance commission shall prescribe and approve such training programs for bank employees. Being merely incidental to their duties as bank employees, such bank employees taking part in bancassurance shall no longer be required to obtain an insurance agents' license. Provided, however, the Commissioner may, should he deem it proper, require bank employees to obtain a license to act as insurance agent from the Insurance Commission and issue appropriate guidelines therefor.
- d) **Acts Allowed for Bank Employees.** - These trained and qualified bank employees may perform the following activities:
- i. Assessing their banking client's financial needs against the banking or other financial products that said client already has;

- ii. Based on such initial assessment, presenting *preliminarily* insurance and other financial products that are available from the insurance company that may better meet the customer's financial needs without making any final recommendations;
- iii. Presenting *preliminarily* general or generic descriptions of the products of the insurance company;
- iv. Presenting *preliminarily* a history, background or profile of the insurance company;
- v. Presenting *preliminarily* the historical returns of particular insurance products with an appropriate disclaimer statement that emphasize that returns are not guaranteed and that performance depends on various market conditions;

and such other activities that may be required to obtain the clients' consent to be *referred* to the insurance company's licensed representatives for further discussion, without the same being deemed as "selling" or "solicitation" requiring a license from the Insurance Commission under Chapter IV, Title I of the revised Insurance Code and may therefore receive referral incentives for such activities.

Without the required training and qualification, bancassurance activities of bank employees shall be limited to the referral of bank customers to the sales representatives of the insurance company.

- e) **Acts not Allowed for Bank Employees.** - Bank employees are not allowed to conduct substantial presentation of insurance products, which involves discussion on the details and particularities of insurance products. The bank employees may not conclude any contract and must refer such conclusion to the insurance agent. The conclusion of a contract shall refer to any agreement or the amount of investment or premium to be paid.
- f) **Proper Identification of Insurance Agents and Bank Employees.**- There shall be clear distinction between representatives of financial product providers who sell insurance products and bank employees. Bank employees authorized to market and/or sell insurance products shall be clearly identified.
- g) **Distinct Areas.** - The presentation and/or sale of insurance products shall be conducted in an area distinct from areas where own-bank products are sold.

Section 3. BANCASSURANCE ARRANGEMENTS OR AGREEMENTS

- a) **Submission and Approval of Bancassurance Agreements.** - Pursuant to Sections 375^[1] and 377^[2] of the Amended Insurance Code, Bancassurance Arrangements or Agreements entered into by and between the insurance company and the bank shall be submitted to the Insurance Commission for its approval. The contracting parties shall be authorized to conduct Bancassurance activities only upon the review and approval by the Insurance Commission of the Bancassurance Arrangements or Agreements.
Any and all amendment of the Bancassurance Arrangements or Agreements shall likewise be submitted for the prior approval of the Insurance Commission.

- b) **Mandatory provisions of Bancassurance Agreements.** - The Bancassurance Arrangements or Agreements shall contain, among others, the following provisions:
 - i) That the insurance company must comply with all requirements of the Insurance Commission regarding bancassurance activities;
 - ii) That a mechanism will be in place to address any complaints that may arise from bancassurance transactions;
 - iii) That areas within the bank premises where bancassurance activities are conducted must be distinct and clearly marked to differentiate them from areas where bank products are being sold;
- c) **Omission of Provisions to be Submitted to the Insurance Commission.** - The insurance company may omit in the Bancassurance Arrangement or Agreement provisions that may be commercially sensitive before submission to the Insurance Commission, in order to maintain the confidentiality of computations of certain fees, such as, but not limited to, (1) the formula or computation of pre-termination fee or buy-out option fee and (2) schedule and computation of termination fee. Should the insurance company deemed that other provisions should also be kept confidential, it should seek prior approval from the Insurance Commission to omit such items from the Bancassurance Arrangement or Agreement to be submitted to the Commission. Deleted provisions should be divulged to the Insurance Commission if warranted and when so directed by the Insurance Commission. But these provisions shall not be divulged to other persons other than the concerned officers of the Insurance Commission.
- d) **Approval by Board of Directors.**- The conduct of cross-selling activities and the negotiation and subsequent execution of the corresponding Bancassurance Arrangement or Agreement shall have been approved or ratified by the Board of Directors of the concerned insurance company.
- e) **Grievance Mechanism.**- To further protect the interests of the insuring public, both the bank and the insurance company shall provide in the Bancassurance Arrangement or Agreement written mechanisms that are specifically designed to address any and all complaints that may arise from the conduct of Bancassurance or cross-selling activities. The role of insurance companies and bank personnel in addressing all queries and resolving problems, claims and other concerns of the insuring public should likewise be clearly provided therein.
- f) **Jurisdiction of Insurance Commission.**Pursuant to Section 437, 438 and 439 of the Amended Insurance Code, the Insurance Commission shall exercise jurisdiction over claims and complaints involving any loss, damage or liability for which an insurance company may be answerable under any kind of policy or contract of insurance subject of bancassurance activity.

Section 4. ADVERTISING AND THE CONDUCT OF BANCASSURANCE ACTIVITIES

- a) **Promotional Materials.**- Brochures, newsletters, leaflets, pamphlets, product illustrations and such other sales and marketing aids prepared for the purposes of promoting insurance products or the conduct of

Bancassurance activities in bank premises must provide information that are reasonably accurate, made in good faith and without apparent showing of any misrepresentation or deception.

- b) **Conduct of Bancassurance activities.**- Insurance companies engaged in Bancassurance activities shall ensure that the activities relative thereto shall be conducted or performed by their authorized representatives in an honest and orderly manner, and in full observance of the following minimum guidelines:
- i) The client's rights to product choice or to refuse bundled or tiered financial products or services under the cross-selling arrangements shall, at all times, be recognized.
 - ii) No actual presentation of insurance products shall be initiated and conducted by the authorized representative of the insurance company in bank premises, unless prior consent is given by the client.
 - iii) No person, including bank personnel, shall be allowed to conduct the actual presentation and/or selling of insurance products to bank clients without securing the necessary license or authority from the Insurance Commission. However, bank employees may make preliminary presentation of insurance products, discuss the financial needs of the bank clients, and may preliminarily present and discuss product features of insurance products with bank clients when trained and qualified by the insurance company to do so pursuant to Section 2 of this Circular Letter.
 - iv) Any and all insurance products offered or cross-sold in bank premises by duly licensed persons shall always bear the prior approval of the Insurance Commissioner.
 - v) The insurance company must reasonably ensure that their authorized representatives should properly inform and make appropriate disclosures to the bank clients that the products being offered for sale to the public are not bank products and are neither guaranteed by the bank nor insured with the Philippine Deposit Insurance Corporation (PDIC).
 - vi) In the presentation of the insurance products, the authorized representatives of the concerned insurance company must consider the bank client's financial objectives, financial condition and protection needs. The personal and financial interests of the insurance company representative must always be secondary to that of the client's interests.
 - vii) Insofar as pertinent and relevant to the conduct of Bancassurance activities, the provisions of the **2013 Market Conduct Guidelines** issued by the Insurance Commission shall be observed by the authorized representatives of life insurance companies and, only as far as applicable, by non-life insurance company representatives.
- c) **Violation of Rules.**- Violation of laws, rules and regulations, issuances and circulars issued by the Insurance Commission and the BSP, including other competent government authorities, shall likewise cause the suspension of the conduct of Bancassurance activities and the imposition of such allowable amount of fines against the erring insurance company, subject to due notice and hearing.
- d) **Suspension of Bancassurance Activities.**- The Insurance Commission may order the immediate suspension of Bancassurance activities pending compliance by the insurance company of the mandatory requirements provided herein within such allowable period of