

**[IC CIRCULAR LETTER NO. 2013-32, November
04, 2013]**

**ADOPTION AND IMPLEMENTATION OF THE 2013 DISPUTE
SETTLEMENT PROCEDURES IN RELATION TO THE "RECRUITMENT
AND TRANSFERS OF EMPLOYEES AND SALES PRODUCERS"**

In line with the Commission's thrust to safeguard the interest of the insuring public, the 2013 Dispute Settlement Procedures in relation to the "Recruitment and Transfers of Employees and Sales Producers" is hereby adopted and issued for the guidance, compliance and implementation of all Life Insurance Companies doing business in the Philippines and their agents, copy attached hereto as Annex "A".

Hence, all life insurance companies are hereby enjoined to provide the necessary support to ensure the effective implementation of the Dispute Settlement Procedures.

Non-compliant companies, officers or agents shall be subject to disciplinary sanctions provided under Section 438 of the 2013 Amended Insurance Code.

Adopted: November 4, 2013

(SGD) EMMANUEL F. DOOC
Insurance Commissioner

ANNEX "A"

**2013 Dispute Settlement Procedures in Relation to the "Recruitment and
Transfers of Employees and Sales Producers"**

RULE I

1. For sales producers, the recruiting company, when requested, shall allow the current principal to retain the hiree for a maximum period of sixty (60) days before the start of the new contract. This period will allow the current principal with adequate time to take remedial steps to avoid work or service disruption. In the case of employees, the provisions of the Labor Code or their employment contracts shall apply.
2. The recruiting company shall not, in any manner, directly or indirectly, employ or contract the services of employees or sales producers reporting directly to the hiree for a period of one year from the date of the transfer.
3. A company in violation of the foregoing shall pay the aggrieved company a fine, as follows:
 - 3.1 In case of sales producers - 50% of their last two (2) years commission or overrides, with a minimum of P100,000.
 - 3.2 In case of employees - six (6) months' salary of the recruited employee(s) at the recruiting company's rate.

The imposition of fines, however, is without prejudice to other remedial actions available to the aggrieved company under existing laws and regulations.

RULE II

Dispute Settlement Procedures

General Provisions

1. Any and all disputes between or among PLIA Members arising out of or in connection with Rule 1 shall be resolved exclusively by conciliation or mediation or, in case of termination of mediation other than by settlement of the dispute, by arbitration, in accordance with these Rules.
2. For the avoidance of doubt, membership in PLIA shall constitute submission to these dispute resolution procedures and no separate agreement shall be required from the disputants.
3. The objectives of dispute resolution are to:
 - 3.1 Encourage the early and expeditious settlement of disputes;
 - 3.2 Provide an alternative, and less adversarial, mode of dispute resolution; and
 - 3.3 Ensure confidentiality of the proceedings for the protection of the interest of all Members.

Conciliation

4. Conciliation is an informal process where a neutral third party, the Conciliator, brokers an amicable settlement between the disputants. The Conciliator may call the parties to a meeting or meet with them separately to bring about reconciliation. Mediation is the voluntary process in which a Mediator, selected by the disputant parties, facilitates communication and negotiation, and assists the parties in reaching a voluntary agreement regarding a dispute. Arbitration is the voluntary process in which one or more arbitrators, appointed in facilitates communication and negotiation, and assists the parties in reaching a voluntary agreement regarding a dispute accordance with these rules, resolve a dispute by rendering an award.
5. The Conciliator for all disputes shall be the PLIA President, or in case of the PLIA President's refusal of the role, the Director-in-Charge for Ethics and Compliance, or in case of such director's refusal of the role, any other director designated by the PLIA President.
6. Mediators and Arbitrators shall be chosen from the Roster of PLIA-Accredited Mediators and Arbitrators.
 - 6.1 The PLIA General Manager shall preside over the process of nominating members of the Roster. The PLIA General Manager shall solicit nominations before the date of the organizational meeting of the Board that will approve the nominations.
 - 6.2 Nominees shall be of good moral character, be knowledgeable in life insurance, and trained and qualified in accordance with PLIA's standards and procedures.
 - 6.3 The PLIA Board shall accept nominees to the Roster at the first organizational meeting of their term. The PLIA Board shall have

sole authority to assess the qualification of all nominees according to the above standard.

6.4 Each Member is entitled to submit one nominee to the Roster.

6.5 The following persons shall automatically be nominated to the Roster:

6.5.1 The President for the calendar year of the Life Underwriters' Association of the Philippines (LUAP).

6.5.2 The President for the calendar year of the General Agency Managers' Association of the Philippines (GAMA).

6.5.3 A PLIA legal representative to be designated by the PLIA Board.

6.5.4 A representative from the Ethics and Compliance Committee to be designated by the PLIA Board

7. If a dispute should arise, the parties shall attempt to reconcile through Conciliation. If Conciliation fails, the parties shall enter into Mediation. If Mediation fails, the parties shall enter into Arbitration. Mediation

8. Consideration must always be given to the need to promote candor of parties and Mediators through the confidentiality of the mediation process, the policy of fostering prompt, economical, and amicable resolution of disputes in accordance with the principles of integrity of determination by the parties, and the policy that the decision-making authority in the mediation process rests with the parties. The provisions on voluntary mediation in the Alternative Dispute Resolution Act of 2004 (Republic Act. No. 9285) shall apply suppletorily.

9. To qualify as a Mediator, one shall be independent and impartial, and have no conflict of interest with respect to any of the issues brought for mediation or with respect to any of the parties.

10. Upon acceptance of the Mediation Request as described below, the parties shall each submit to PLIA the names of not more than ten (10) nominees from the Roster in order of preference for appointment as mediator. All nominees must accept or reject their nomination within five (5) days of receipt of the notice of their nomination. The Mediator will be chosen in accordance with the following:

10.1 The common nominee of the parties shall be appointed, subject to the nominee's acceptance of the nomination.

10.2 Should there be more than one common nominee, the common nominee who is ranked higher in the order of preference of the parties, shall be appointed.

10.3 Should there be no common nominee, the PLIA President shall appoint another qualified and available nominee who will act as the Mediator. Such nominee appointed by PLIA must not be a nominee of any of the parties.

11. If any Mediator shall become disqualified or unwilling or unable to serve, the common nominee ranked next to the disqualified or unwilling or unable to serve nominee shall be appointed.

12. The Mediator shall fix the date and the time of each mediation session. The Mediation shall be held at the PLIA office, or at any other convenient location agreeable to the Mediator and the parties. The Mediator shall attempt to settle the dispute amicably between the parties within forty-five (45) days from the appointment of the Mediator. If no settlement agreement is signed within the said period, the Mediator shall declare the mediation failed, provided that both

parties may agree to extend the said period by a maximum of fifteen (15) days. The Mediator may adopt the proceedings attached hereto as Annex "A".

Arbitration

13. The Request for Arbitration shall be submitted to PLIA, through the PLIA General Manager who shall act as Secretary of the proceedings, copy furnished the other party, and shall state:

- Names of the parties to the case, their counsels, if any, and their addresses and telephone numbers;
- The nature of the dispute and the remedy sought.

Within fifteen (15) days, the other party shall file an Answer, copy furnished the other party.

14. Appointment of Arbitrators.

– The parties shall appoint an Arbitral Panel composed of Three (3) Arbitrators. PLIA shall send to each party the Roster. Each party shall strike the names objected to, provided that a minimum of ten (10) remain on the list. If a party does not return the list within two days, all persons named therein shall be deemed acceptable. The first party shall appoint one Arbitrator from the list provided by the second party, the second party shall appoint one Arbitrator from the list provided by the first party, and the Arbitrators appointed by both parties shall appoint the third Arbitrator, who shall be the Chairman of the Panel. PLIA shall invite the arbitrators in accordance with the designated order of mutual preference. If the chosen and invited arbitrators are unable to act as such, the parties may select by mutual choice a person or persons not on the list.

15. Arbitration Proceedings

a) Preliminary Conference - At the discretion of the arbitrator(s), a preliminary conference may be scheduled with the parties to:

- specify and clarify the issues to be resolved
- stipulate the uncontested facts
- consider other matters that will expedite the arbitration proceedings such as:
 - identification of witnesses to be called
 -
 - extent of, and schedule for, presentation of material and
 - relevant documents as evidenced and other information

b) Place and Schedule of Hearing - Generally, the hearing shall be completed within one day. The arbitrator(s) shall set the place, date and time for the hearing. PLIA shall send a notice to the parties at least five days in advance. The hearing may proceed in the absence of any party who, after due notice, fails to be present or fails to obtain a postponement.

c) Attendance at the Hearing - The arbitrator(s) shall maintain the privacy of the hearing. Only persons having a direct interest in the arbitration are entitled to attend the hearing. The arbitrator(s) shall have the discretion of determining the propriety of the attendance