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**IMPLEMENTING RULES AND  
REGULATIONS  
OF  
REPUBLIC ACT NO. 7742  
AMENDING PRESIDENTIAL  
DECREE NO. 1752, EXECUTIVE  
ORDER NOS. 35 AND 90**

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Pursuant to the authority granted to the Board of Trustees of the Home Development Mutual Fund under Section 5 of Republic Act No. 7742 as well as under Section 13 of Presidential Decree No. 1752, as amended, the following rules and regulations are hereby promulgated and issued for the guidance of all concerned.

**RULE I  
Preliminary Provisions**

**SECTION 1.** Title — These Rules shall be known as the Rules and Regulations Implementing Presidential Decree No. 1752, as amended by Executive Order No. 35 and Republic Act No. 7742.

**SECTION 2.** Construction — Any doubt in the interpretation of these Rules shall be resolved in favor of the employees.

**RULE II  
Statement of Objectives**

**SECTION 1.** Statement of Fund's Objectives — In general, the objectives of the Fund are:

1. To promote home ownership through the establishment of an affordable and adequate housing credit system for its members;
2. To invest the provident savings of its members taking into consideration profitability and safety of the funds as a means of providing them provident benefits upon termination of their membership in the Fund;
3. To provide small and short-term loans and other benefits to its members; and
4. To promote self-reliance and self-determination among workers through membership in an integrated nationwide savings system.

### **RULE III**

#### **Definitions of Terms**

**SECTION 1.**      Definition of Terms — The following terms shall mean:

- (a) Employer — any person, natural or juridical, domestic or foreign, who carries on in the Philippines any trade, business, industry, undertaking or activity of any kind, and uses the services of another person who is under his orders as regards such services, the government, its national and local offices, political subdivisions, branches, agencies, or instrumentalities including corporations owned and/or controlled by the Government;
- (b) Employee — any person in the service of an employer who receives compensation for such service;
- (c) SSS — the Social Security System created under Republic Act Numbered Eleven Hundred and Sixty-One, as amended;

- (d) GSIS — the Government Service Insurance System created under Commonwealth Act Numbered One Hundred Eighty-Six, as amended;
- (e) Fund — the Home Development Mutual Fund created by Presidential Decree No. 1752, as amended by Executive Order No. 35 and Republic Act No. 7742;
- (f) Board — the duly constituted Board of Trustees of the Home Development Mutual fund;
- (g) President of the Fund — the Chief Executive Officer who shall execute and administer the policies and resolution approved by the Board, and shall direct and supervise the operations and management of the Fund;
- (h) Member — any person mandatorily covered by the provisions of Presidential Decree No. 1752, as amended by Executive Order No. 35 and Republic Act No. 7742 or if not mandatorily covered, voluntarily opted to be covered by the provisions thereof and is registered in the Fund;
- (i) Active Member — a member who is updated in his monthly contributions;
- (j) Member-Borrower — a member who has an outstanding account under any of the Fund's housing loan programs;
- (k) Member-Saver — a member who has no outstanding account under any of the Fund's housing loan programs;
- (l) Total Accumulated Value — the sum of the employee's contributions and the employer's required contributions and the corresponding dividends credited thereto;
- (m) Monthly Compensation — shall mean the member's basic monthly salary plus Cost of Living Allowance (COLA);
- (n) Monthly — the period from the end of the last payroll period of the preceding month to the end of the last payroll

period of the current month if compensation is on hourly, daily or weekly basis; if on any other basis, “monthly” shall mean a period of one calendar month;

- (o) Dividends — shall mean a corporate profit set aside, declared and ordered by the Board of Trustees to be paid to the members proportionately according to their respective interests which shall be credited to their Total Accumulated Value, payable out of the net income of the preceding year;
- (p) Net Income — shall mean the balance of realized or accrued earnings for a given period after deducting all costs and expenses, interests, taxes, losses and charges of every character, including depreciation and depletion for the period.
- (q) Membership Term — a period of 20 years commencing from the first day of the month to which the member’s initial contribution to the Fund applies;
- (r) Permanent Total Disability — loss or impairment of a physical or mental function resulting from injury or sickness which completely incapacitates a member to perform any work or engage in any business or occupation as determined by the Fund;
- (s) Net Fund Asset — the total assets of the Fund less current liabilities.
- (t) Investible Funds — shall mean funds available after deducting costs of operations and expenses, administrative and general expenses, reserves for benefit claims, provisions for a sinking fund for the return of member’s equity upon maturity, and provision for taxes.
- (u) Superior Housing Plan — means an employer’s housing plan for his employees existing as of the effectivity of Republic Act No. 7742 which is considered superior to the Pag-ibig Housing Loan Program in terms of:

- 1) eligibility requirement
  - 2) interest rate
  - 3) repayment period
  - 4) loanable amount, and
  - 5) percentage of covered employees benefitted by the housing plan
- (v) Superior Retirement/Provident Plan — means an employer's retirement/provident plan for his employees existing as of the effectivity of Republic Act No. 7742 which is considered superior to the benefits offered by the Fund to its members in terms of:
- 1) vesting features
  - 2) retirement age and/or years of service required
  - 3) employer's contribution, and
  - 4) amount of benefits extended
- (w) Distressed Employer — an employer who suffered at least twenty-five (25%) percent capital impairment for the past taxable year as evidenced by his Audited Financial Statement;
- (x) Waiver of Coverage — temporary exclusion from coverage under the Fund of an employer who is not yet registered with the Fund;
- (y) Suspension of Coverage — temporary exclusion from coverage under the Fund of an employer who is already registered with the Fund.

## **RULE IV Membership**

**SECTION 1.** Coverage — Membership in the Fund shall be mandatory upon all employees covered by the Social Security System and the Government Service Insurance System, and their respective employers; Provided however, that coverage of the employees whose monthly compensation is less than four thousand pesos (P4,000.00) shall be voluntary; Provided further, that upon membership with the Fund, their employer shall contribute an amount in accordance with Section 1 of Rule VI hereof.

**SECTION 2.** Effectivity of Coverage — Subject to the provisions of the preceding section, for employees covered by the GSIS or SSS who are not yet members of the Fund prior to the effectivity of Republic Act No. 7742 as well as for those who suspended their membership under the provisions of Executive Order No. 90 and their respective employers, mandatory coverage shall take effect on the date of effectivity of Republic Act No. 7742: Provided, That implementation thereof shall start on January 1, 1995.

Thereafter, mandatory coverage of the employer shall take effect on the first day of his business operation, and that of the employee on the date of his employment.

**SECTION 3.** Portability of Membership — A member who transfers to another employer or who becomes self-employed carries with him his Total Accumulated Value.

**SECTION 4.** Termination of Membership — Membership shall be terminated anytime upon the occurrence of any of the following:

- a) Membership Term Maturity;
- b) Death;
- c) Retirement;
- d) Permanent Total Disability or Insanity;

- e) Departure from the Country permanently;
- f) Termination from the service by reason of health.

Occurrences other than the above shall not constitute termination of membership except as may otherwise be provided by the Board of Trustees.

**SECTION 5.** Retirement — Any member shall be compulsorily retired under the Fund upon reaching age sixty-five (65). He may, however, opt to retire earlier under the Fund upon the occurrence of any of the following:

1. His actual retirement from the SSS, GSIS or separate employer provident/retirement plan, provided, however, that under the latter case, the member has at least reached age forty-five (45);
2. Notwithstanding his continued employment or service upon reaching age sixty (60); provided, he is not a member-borrower.

**SECTION 6.** Permanent Total Disability — The following disabilities shall be deemed total and permanent:

1. Temporary total disability lasting continuously for more than one hundred twenty days;
2. Complete loss of sight of both eyes;
3. Loss of two limbs at or over the ankle or wrist;
4. Permanent complete paralysis of two limbs;
5. Brain injury resulting in incurable imbecility or insanity; and
6. Such other cases which are adjudged to be total and permanent disability by a duly licensed physician and approved by the Board of Trustees.

## **RULE V Registration**

SECTION 1. Registration of Members — It shall be the duty of every employer to register all his covered employees by submitting to the Fund all data and information the Fund may require in relation to their respective businesses and employees in such forms as the President of the Fund may prescribe for the purpose.

SECTION 2. Obligation of Employer to Voluntary Members — Any employee whose monthly compensation is less than four thousand (P4,000.00) pesos who opts to voluntarily join the Fund shall be registered by his employer within thirty (30) days from the date he signifies in writing his intention to join the Fund.

SECTION 3. Liability of Employer for Non-Compliance — Any employer found guilty of non-compliance of Sections 1 and 2 of this Rule shall be liable under Section 1 of Rule XIII. An employer found guilty of coercing and/or compelling any employee under his employ, whose monthly compensation is less than four thousand (P4,000.00) pesos not to join the Fund shall likewise be liable under Section 1 of Rule XIII.

## **RULE VI Contributions**

SECTION 1. Rate of Contributions — The rate of contributions of members of the Fund shall be as follows:

- a. Employees earning not more than One Thousand Five Hundred Pesos (P1,500.00) per month — one percent (1%);
- b. Employees earning more than One Thousand Five Hundred Pesos (P1,500.00) per month — two percent (2%);
- c. Employers — two percent (2%) of the Monthly Compensation of the contributing member.

For purposes of computing contributions of (a) and (b), “Monthly Compensation” shall mean basic salary plus Cost of Living



Allowances (COLA): Provided, however, that the maximum Monthly Compensation to be used in computing employee and employer contributions shall not be more than Five Thousand (P5,000.00) Pesos.

A member may, however, be allowed to contribute more than what is required herein should he so desire. The employer, however, shall only be mandated to contribute what is required under sub-section “c” hereof unless the employer agrees to match the employee’s increased contribution.

The employer shall not be entitled to deduct from the wages or remuneration of, or otherwise to recover from the employee the employer’s contribution.

**SECTION 2.** Contributions of Employee with Multiple Employers — In cases where an employee has two or more employers, such employee shall contribute monthly to the Fund a percentage of his monthly compensation per employer in accordance with the above section.

**SECTION 3.** Employer’s Fiduciary Obligation — The employer assumes a fiduciary relationship with both the Fund and the members concerned as regards the latter’s contribution and the required employer contribution, as well as the remittance thereof. Likewise, an employer who has been granted waiver or suspension of coverage under Rule VII hereof shall collect and remit to the Fund the contributions of his employees who are already members as of the effective date of the waiver or suspension and who continue with their membership during the period of waiver or suspension.

Failure or refusal of the employer to pay or to remit the contributions herein prescribed shall not prejudice the right of the covered employee to the benefits under the Fund.

**SECTION 4.** Collection from Members — Contributions of members shall be collected through payroll deductions by their respective employers, who for this purpose shall act as agent both of the Fund and the member.

Every employer shall issue corresponding receipts for all contributions deducted from the employee's compensation or shall indicate such deductions on the employee's pay slip.

HDMF members who subsequently become self-employed or self-paying shall remit their contributions directly to the Fund. However, should they be member-borrowers, they shall also pay the employer's counterpart.

**SECTION 5.** Remittance of Collections — All employers shall remit to the Fund their contributions as well as the contributions of their covered employees including those employees who, in proper instances, voluntarily join the Fund within fifteen (15) days from the date the contributions were collected unless another period is previously agreed upon between the employer and the Fund.

Refusal or failure to collect and remit the required contribution or the correct amount due shall subject the employer to penalty of three (3%) percent per month of the amounts payable computed from the date the contributions fall due and until the same is paid in addition to the penalty imposed under Section 1 of Rule XIII.

**SECTION 6.** Effect of Leave Without Pay, Suspension from Employment or Waiver or Suspension of Coverage — In the event a member-saver goes on leave without pay, is subjected to disciplinary action where he is suspended from work or his employer's coverage is waived or suspended, his monthly contributions shall be suspended for the duration of the leave without pay, suspension from work or waiver or suspension of coverage: Provided, that such member-saver may opt to remain in good standing by remitting to the Fund his monthly contributions together with the employer counterpart to be shouldered by him. A member-borrower, on the other hand, shall continue to pay and remit to the Fund his monthly contributions together with the employer counterpart to be shouldered by him.

**SECTION 7.** Effect of Resignation or Separation from Employment — When an employee under mandatory coverage has resigned or is separated from employment, his employer's contribution on his account and the employer's obligation to pay contribution arising from that employment shall cease upon the

effectivity of his resignation or at the end of the month of separation. Should the employee be a member-saver, he may suspend his contributions to the Fund during the period of his unemployment. However, he may remain in good standing by remitting to the Fund his monthly contributions together with the employer counterpart to be shouldered by him. A member-borrower, on the other hand, shall continue to pay and remit to the Fund his monthly contributions together with the employer counterpart to be shouldered by him.

## **RULE VII**

### **Waiver or Suspension**

**SECTION 1.** Waiver or Suspension — Existing Provident or Retirement Plan — An employer and/or employee group who has an existing provident or retirement plan as of the effectivity of Republic Act No. 7742, qualified under Republic Act No. 4917 and actuarially determined to BE sound and reasonable by an independent actuary duly accredited by the Insurance Commission, may apply with the Fund for waiver or suspension may be granted by the President of the Fund on the basis of verification of the waiver or suspension does not contravene any effective collective bargaining or other existing agreement and that the features of the plan or plans are superior to the Fund and continue to be so. The certificate of waiver or suspension of coverage issued herein shall only be for a period of one (1) year but the same may be renewed for another year upon the filing of a proper application within a period of sixty (60) days prior to the expiration of the existing waiver or suspension.

**SECTION 2.** Waiver or Suspension — Existing Housing Plan — An employer and/or employee group who has an existing housing plan as of the effectivity of Republic Act No. 7742 may apply with the Fund for waiver or suspension of coverage. Such waiver or suspension of coverage may be granted by the President of the Fund on the basis of verification that the waiver or suspension of coverage does not contravene any effective collective bargaining or other existing agreement and that the features of the plan or plans are superior to the Fund and continue to be so. The certificate of waiver or suspension of coverage issued herein shall only be for a period of one (1) year but the same may be renewed for another year upon the

filing of a proper application within a period of sixty (60) days prior to the expiration of the existing waiver or suspension.

**SECTION 3.** Waiver or Suspension — Distressed Employer — An employer who suffered at least twenty-five (25%) percent capital impairment for the past taxable year immediately preceding the filing of his application for waiver or suspension of coverage as evidenced by his audited financial statement for the same period may be granted waiver or suspension of coverage by the President of the Fund upon verification that such capital impairment exists. The certificate of waiver or suspension of coverage issued herein shall only be for a period for one (1) year but the same may be renewed for another year upon the filing of a proper application within a period of sixty (60) days prior to the expiration of the existing waiver or suspension.

**SECTION 4.** Effects of Waiver or Suspension — Existing Provident or Retirement/Housing Plan — Waiver or suspension of coverage granted to an employee under Sections 1 or 2 of this Rule shall likewise apply to his employees who are members of the employer's private plan; Provided, That such members are not member-borrower shall continue to pay and remit to the Fund his monthly contributions to be shouldered by him. A member-saver may opt to remain in good standing by remitting to the Fund his monthly contributions with or without employer contributions.

Employees who are non-members of the employer's private plan at the time the certificate of waiver or suspension of coverage is granted shall continue to be mandatorily covered by the Fund and their employer is required to set aside and remit to the Fund the employee contributions together with the employer contributions.

**SECTION 5.** Effects of Waiver or Suspension — Distressed Employer — Waiver or suspension of coverage granted to an employer under Section 3 of this Rule shall likewise apply to all his employees; Provided, That such employee-members are not member-borrowers of the Fund. A member-borrower shall continue to pay and remit to the Fund his monthly contributions together with the employer contributions to be shouldered by him. A member-saver, on the other hand, may opt to remain in good standing by remitting

to the Fund his monthly contributions with or without employer contributions.

SECTION 6. Processing of Applications — The President of the Fund shall issue the rules or procedures that shall govern the filing, receipt, requirements processing and actions on applications of waiver or suspension mentioned in the preceding sections of this Rule. Application for waiver or suspension shall be made in such forms as may be prescribed by the President of the Fund.

Notwithstanding the filing of an application for waiver or suspension, mandatory coverage shall remain in full force and effect until the same is expressly waived or suspended by the President of the Fund.

SECTION 7. Decision of the President of the Fund— The decision or resolution of the President of the Fund on application for waiver or suspension shall, unless appealed to the Board of Trustees, become final and unappealable after the lapse of thirty (30) days from receipt of notice by the applicant and/or aggrieved party. The decision of the Board of Trustees shall, unless appealed to a competent court, become final and unappealable after fifteen (15) days from notice of such decision.

SECTION 8. Future Provident or Retirement/Housing Plan — The establishment of a separate provident or retirement/housing plan after the effectivity of Republic Act No. 7742 shall not be a ground for waiver or suspension of coverage in the Fund.

## **RULE VIII**

### **Benefits**

SECTION 1. Return of Contributions — A member shall be entitled to receive his Total Accumulated Value upon termination of his membership in accordance with Section 4 of Rule IV, free from any pending obligation with the Fund or any of its loan programs. In the event of his death, his legal heir shall likewise receive the same free from any pending obligation with the Fund or any of its loan programs.

SECTION 2. Optional Withdrawal of Contributions — A new member of the Fund after the effectivity of Republic Act No. 7742 shall have the option to withdraw his total accumulated value after the tenth or fifteenth year of continuous membership: Provided that said member has no outstanding housing loan with the Fund at the time of withdrawal. This option may be exercised only once and shall not prejudice his continuing membership in the Fund.

The exercise of this option by the member shall not be considered as a ground to terminate his membership with the Fund. He shall continue to be mandatorily covered by the Fund and his employer is mandated to deduct and remit the employee's required contribution together with his employer contribution pursuant to these Rules.

The provision shall likewise apply to all members who voluntarily joined the Fund under provisions of Executive Order No. 90 prior to the effectivity of Republic Act No. 7742.

SECTION 3. Dividend Benefit — The Board of Trustees shall set aside annually an amount which in no case shall be less than seventy (70%) percent of the annual net income of the Fund, to be paid in the form of dividends to members and credited proportionately to their Total Accumulated Value.

SECTION 4. Death Benefits — Upon the death of a member, his legal heirs shall be entitled to death benefits in an amount to be determined by the Board in addition to the total accumulated value as mentioned in Section 1 hereof.

## **RULE IX**

### **Adjudication of Claims and Disputes**

SECTION 1. Facility of Payment of Claims and Benefits — The Board of Trustees shall prescribe such rules and regulations to facilitate payment of benefits, proceeds and claims under Presidential Decree No. 1752, as amended and all other laws pertinent thereto.

SECTION 2. Adjudication and Settlement of Claims and Disputes — The Fund shall have original and exclusive jurisdiction over all claims and disputes on any matter relative to the implementation of



the provisions of Presidential Decree No. 1752, as amended, affecting the rights and interest of the members. The decision of the President of the Fund shall be final and unappealable after the lapse of thirty (30) days from receipt of notice by the aggrieved party of such decision and without him taking the appropriate remedies available to him to the Board of Trustees. The decision of the Board of Trustees shall, unless appealed to a competent court, become final and unappealable after fifteen (15) days from notice of such decision.

The President shall prescribe the forms to be used and the procedure to be followed in the adjudication and settlement of the aforementioned claims and disputes.

SECTION 3. Proof of Death of a Member — The proof of the death of the member shall be established by a duly certified death certificate or a certified extract from the Death Register issued by the Civil Registrar or by such other officer authorized to issue such extracts. The Fund may likewise accept as additional proof such other documents as it may, in its discretion, deem acceptable.

## **RULE X**

### **Administration of the Fund**

SECTION 1. Administration Costs — The Fund shall bear the costs of administration and development, in such amounts and/or limits as the Board of Trustees may fix, but not exceeding two (2%) percent of the net Fund Assets of the previous year.

SECTION 2. Audit — The Chairman of the Commission on Audit shall act as the ex-officio auditor of the Fund and, accordingly, is empowered to appoint a representative and other subordinate personnel to perform and report on such audit duties, responsible to and removable only by the Commission on Audit Chairman, without prejudice, however, to the power of the Board of Trustees to contract for another mode of independent audit service, in addition to that provided by the Commission on Audit.

SECTION 3. Tax and Guarantee Benefits — Notwithstanding any provisions of existing law, decree, executive or administrative order, rules or regulations to the contrary, the Fund and all its assets,

collections, receivables and increments, as well as all distributions therefrom, whether of contributions, ratable income of the Fund, or dividends paid to or received by the members thereof, or their heirs/beneficiaries, shall be exempt from the payment of any and all forms of taxes, assessments and other charges. All such provident payments shall not be liable to attachment, garnishment, levy or seizure by or under any legal or equitable process whatsoever, either before or after receipt by the persons entitled thereto, except to pay any debt of the covered member to the Fund. In addition, the Government of the Republic of the Philippines hereby guarantees the payment of employees' and employers' contributions and dividends to the members when they are due.

**SECTION 4.** Investment of Money — No less than seventy (70%) percent of the Fund's investible funds shall be invested in housing in support of the National Shelter Program as provided for under Executive Order No. 90. All other moneys of the Fund, which are not utilized for housing purposes or are not needed to meet current administrative and operational requirements, shall be invested in a manner to be determined by the Board of Trustees with due and prudent regard for the Fund's safety, growth and liquidity.

**SECTION 5.** Visitorial and Enforcement — For the proper determination of an employer's compliance with the mandatory provisions of Presidential Decree No. 1752, as amended, the Fund or its duly authorized representatives may at anytime inspect the premises, books of accounts and records of any person or entity covered, require it to submit reports regularly, and act on any violation committed under Presidential Decree No. 1752, as amended.

## **RULE XI**

### **Miscellaneous Provisions**

**SECTION 1.** Substitute Retirement Plans — A private employer shall have the option to treat the coverage of the Fund as a substitute retirement benefit for the employee concerned within the purview of the Revised Labor Code; Provided, such option does not in any way contravene any effective collective bargaining or other existing agreement.



**SECTION 2.** Disposal of Amounts Unclaimed or Otherwise Remaining in the Fund — Any amount standing to the credit of any member who has not contributed to the Fund for a period of ten years after he has attained the age of sixty five years as computed from the date of birth shown on the member's record shall be regarded as an unclaimed deposit and shall be transferred to the reserve account to be established by the Board.

The reserve account shall be applied in such manner as the Board may from time to time direct.

## **RULE XII Sunset Review**

**SECTION 1.** Sunset Provision — Every three (3) years after the effectivity of Republic Act No. 7742, the Congress shall conduct a "sunset review" of the Fund which shall entail a systematic evaluation of the Fund to determine whether or not on the basis of the Fund's performance, impact or accomplishments with respect to its objectives or goals, the Fund merits continued existence. Such review shall be undertaken by the Committees of the Senate and the House of Representatives which have legislative jurisdiction over the Fund.

## **RULE XIII General Provisions**

**SECTION 1.** Penalty Clause — Pursuant to Section 23 of Presidential Decree No. 1752, as amended by Executive Order No. 35 and Republic Act No. 7742, refusal or failure without lawful cause or with fraudulent intent to comply with the provisions of said law as well as the implementing rules and regulations adopted by the Board of Trustees pertinent thereto, particularly with respect to registration of employees, collection and remittance of employee savings as well as the required employer contributions, or the correct amount due, within the time set in the implementing rules and regulations or specific call or extension made by the Fund Management shall render the employer liable to a fine of not less but not more than twice the amount involved or imprisonment of not more than six (6) years; or both such fine and imprisonment at the discretion of the court, apart from the civil liabilities and/or obligations of the offender or

delinquent employer. When the offender is a corporation, public or private, the penalty shall be imposed upon the members of the governing board and the President or General Manager without prejudice to the prosecution of related offenses under the Revised Penal Code and other laws, revocation and denial of operating rights and privileges in the Philippines and deportation when the offender is a foreigner.

SECTION 2. Repealing Clause — All rules and regulations, policies, orders and issuances implementing Presidential Decree No. 1752, as amended, contrary to or inconsistent with these Rules are hereby repealed or modified accordingly.

SECTION 3. Effectivity — These Rules shall take effect fifteen (15) days after the publication thereof in two (2) newspapers of general circulation.