Republic of the Philippines
Department of Finance
INSURANCE COMMISSION
1071 United Nations Avenue
Manila

CN: AJA16-0061

Legal Opinion No.:	LO-2017-03
Date:	JUNE 15, 2017

COMMISSIONER GERARDO C. NOGRALES
Chairman
National Labor Relations Commission
PPSTA Building No. 5
Banawe Avenue, Quezon City

ATTENTION: **Labor Arbiter Beatriz T. De Guzman**

SUBJECT: **Inquiry Regarding Exemption from Garnishment and/or Execution of Variable Life Insurance Policy**

Dear Commissioner Nograles:

This refers to Labor Arbiter Beatriz T. De Guzman's letter dated 31 March 2017 seeking clarification whether an existing variable life insurance product is exempt from garnishment and/or execution.

As stated in Labor Arbiter De Guzman's letter and its attachments, on 09 January 2012, the National Labor Relations Commission issued an Entry of Judgment of even date granting the complainant money judgment in the sum of PhP1,939,349.50. Thereafter, on 09 November 2012, a corresponding Writ of Execution was issued. Among the properties garnished were the judgment debtor's variable life insurance policies with Pru Life U.K. However, in a letter dated 21 February 2017, Pru Life U.K. claimed that said policies should be exempt from execution under Rule 39, Section 13(k) of the1997 Rules of Civil Procedure in relation to Rule XI, Section 9 of the 2011 NLRC Rules of Procedure.

After a careful evaluation, the Commission finds the contention of Pru Life U.K. tenable.

Proceeds of life insurance policies are protected by law from claims of creditors. The object of this is "to enable a husband, when death deprived wife and children of his support, to secure them from want and to prevent them from becoming a charge upon the public."[1]

This principle is enshrined under Section 13, Rule 39 of the Rules of Court which exempts proceeds of any life insurance from execution, thus:

> "*Property exempt from execution.* — Except as otherwise expressly provided by law, the following property, and no other, shall be exempt from execution:
>
> xxx
>
> (k) Monies, benefits, privileges, or annuities accruing or in any manner growing out of any life insurance;
>
> xxx"

It bears emphasis that the abovecited rule does not omit variable life insurance as properties exempt from execution, but, instead, expressly covers **any** life insurance. Simply stated, all kinds of life insurance are exempt from execution.

Despite this, a question was raised whether variable life insurance is excluded from the coverage of the exemption since it has an investment component not present in traditional life insurance products.

To answer this, it is prudent to discuss the nature of a variable life insurance.

A variable contract is defined under the Insurance Code, as amended by R.A. 10607, as "any 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 thereunder to vary so as to reflect investment results of any segregated portfolio of investments x x x."[2]

Under the same law, a life insurance company may be authorized to issue, deliver, sell or use variable contracts.[3] In which case, a variable life insurance arises.

In this type of insurance, a policyholder is allowed to allocate a portion of the premiums to an investment component after deducting some charges. The death benefit and cash surrender value of a variable life insurance contract increase or decrease based on the performance of the investment component. In case the investment performs poorly and the value falls below the original premium payment, the insurance company is still bound to pay the minimum guaranteed death benefit, which cannot be lower than the amount stipulated in the contract, and which is normally a multiple of the premium payment.

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[1] *Gallardo v. Morales, G.R. No. L-12189, April 29, 1960.*

[2] *Section 238 (b).*

[3] *Section 243, ibid.*

With respect to its non-guaranteed benefits, the same are derived from the remaining value of the segregated investment portfolio after the cost of insurance and investment expenses have been deducted.

From the foregoing, it shows that a variable life insurance contains both an insurance component and an investment component.[4]

Despite the existence of the said two components, **a variable life insurance should be taken as a single life insurance contract and not a bundling of two (2) independent contracts since both components are indivisible from one another.**

To stress, the investment component cannot be detached from the insurance component, and cannot stand alone without a life policy contract since the investment component is only a means of augmenting the benefits or the value of a variable life insurance. In fact, if a policy contract expires or cancelled, the investment portion also terminates.

Notwithstanding the inseparability of the investment component as above-mentioned, a variable life insurance should still be considered as a life insurance product since, *first*, it provides for the protection of policyholder or beneficiaries, and, *second*, as will be discussed below, it is a life insurance within the meaning of the law.

It bears emphasis that a variable life insurance's investment component does not alter the fact that a variable life insurance is primarily contingent upon the insured's life since its investment component, as abundantly explained, only determines the potential benefits of the policy and not the risk insured against, *i.e.* loss of life.

To illustrate, all prospective policyholders of a variable life insurance have to strictly comply with the established underwriting requirements such as disclosure of physical condition, age, profession, and health history, among others. This requirements are sought to make sure that each prospective policyholder has insurable interest since the same is an essential element of a variable life insurance contract. It is only upon showing that the beneficiary will suffer a pecuniary loss upon the death of the proposed insured can the contract be issued.

Clearly, the foregoing shows that a variable life insurance is dependent upon the life of the insured. In this regard, a variable life insurance positively conforms with the definition of a life insurance, that is, "an insurance on human lives and insurance appertaining thereto or connected therewith"[5] "made payable on the death of the insured, or on his surviving a specified period, or otherwise contingently on the continuance or cessation of his life."[6]

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[4] *Gantenbein M. & Mata M.A. (2008). Swiss Annuities and Life Insurance: Secure Returns, Asset Protection, and Privacy. Hoboken, New Jersey: John Wiley & Sons, Inc.*

[5] *Section 181, R.A. 10607.*

[6] *Section 182, ibid.*

Since a variable life insurance is a life insurance within the meaning of the law, it is therefore within the coverage of exemption under the Rules of Court. Concomitantly, all its proceeds, including its investment proceeds, are protected from creditors' claims since the same are "(m)onies, benefits, privileges, or annuities accruing or in any manner **growing out of any life insurance**."[7]

Moreover, in case of doubt concerning the inclusion of a variable life insurance as properties exempt from execution, the Supreme Court declared in *Gallardo v. Morales*[8] that exemption statutes or rules should be liberally construed with a view to giving effect to their beneficent and humane purpose, that is, to enable an individual to provide a fund after his death for his family which will be free from the claims of creditors. To this end, every reasonable doubt as to whether a given property is or is not exempt should be resolved in favor of exemption.

Therefore, following the liberal interpretation accorded to exemption from execution, proceeds of variable life insurance must necessarily be exempted from garnishment and/or execution.

Please be guided accordingly.

Thank you.

Very truly yours,

DENNIS B. FUNA
Insurance Commissioner

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[7] *Section 13, Rule 39 of the Rules of Court*
[8] *G.R. No. L-12189, April 29, 1960.*