



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



Legal Opinion (L.O.) No.:	2018-14
Date:	25 July 2018

**MS. JILL MARIE B. LOPEZ**

Assistant Corporate Secretary  
AXA Philippines  
34th Floor GT Tower International  
6813 Ayala Ave. Cor. H.V. Dela Costa St.  
Makati City.

**SUBJECT: Use of the AXA Trademark by Charter Ping An Insurance Corporation**

**Dear Ms. Lopez:**

This refers to your 13 June 2018 letter seeking this Commission's Legal Opinion on the above-captioned subject.

As presented in your letter, since the acquisition by AXA Philippines (AXA) of Charter Ping An Insurance Corporation (CPAIC) in 2016, aggressive efforts were made to drive awareness about the relationship of both companies. This is made more apparent by the recent Insurance Commission's approval of the co-branding between the two companies. However, according to your letter, this has caused confusion to the public, especially to the policyholders themselves. In view of this, you seek to finally eliminate such confusion by replacing the CPAIC trademark with the AXA trademark. Hence, your request for this Commission's Legal Opinion on the matter.

As your basis, you cited Securities and Exchange Commission (SEC) Memorandum Circular 14, Series of 2017 wherein a tradename may be used by a party other than its owner if said owner consents to such use. You likewise mentioned as basis the existing Trademark Sublicense Agreement between AXA and CPAIC whereby CPAIC is allowed by AXA to use its tradename, among others.

The issue raised herein is whether CPAIC can use the AXA trademark in all its communications, including but not limited to its website, marketing, collaterals, material, letter heads, policy forms, business cards, signage of branches/offices and the like.

After a careful evaluation, this Commission finds in the affirmative based on the grounds as provided hereunder.

In Legal Opinion No. LO-2018-06 (Shared Services Agreement), it was duly noted that CPAIC is a subsidiary and one hundred percent (100%) owned by AXA Philippines (AXA).

Likewise, in the 10 January 2018 letter to AXA relative to its request for Co-Branding with CPAIC, it was also duly noted that although CPAIC is now 100% owned by AXA, both companies have separate and existing licenses to engage in general insurance and life insurance business respectively. Nonetheless, this Commission allowed CPAIC to do such co-branding based on their representation of having a Trademark Sub-license Agreement and that in such co-branding, both companies merely intend to utilize both names in order to strengthen each brand in catering their respective customers.

SEC Memorandum Circular No. 5 Series of 2008 or "Guidelines and Procedures on the Use of Corporate and Partnership Names" states that, to quote:

**xxx**

4. Only one business or trade name may be registered for each corporate or partnership name.

**5. A trade name or trademark registered with the Intellectual Property Office may be used as part of the corporate or partnership name of a party other than its own owner if the latter gives its consent to such use.**

SEC Memorandum Circular No. 5 Series of 2008 was further amended, specifically item number 4, under SEC Memorandum Circular No. 12 Series of 2008, which states that, to quote:

**" 4. Business or trade name which is different from the corporate or partnership name shall be indicated in the Articles of Incorporation or partnership. A company may have more than one business or trade name."**

A much later issuance by the Securities and Exchange Commission (SEC) and as cited in your letter, consolidates the rules on the use of tradename is SEC Memorandum Circular 14, Series of 2017 which basically repeats the above-cited item number 5 of SEC Memorandum Circular No. 5 Series of 2008.

As to the matter of using a corporate name, the Corporation Code provides that, to quote:

No corporate name may be allowed by the Securities and Exchange Commission if the proposed name is identical or deceptively or confusingly similar to that of any existing corporation or to any other name already protected by law or is patently deceptive, confusing or contrary to existing laws. **When a change in the corporate name is approved, the Commission shall issue an amended certificate of incorporation under the amended name<sup>1</sup>.**

Applying the above, it can be concluded that a company may have more than one tradename provided this shall be indicated in their Articles of Incorporation (AOI). Further, it may also be concluded that a tradename may be used by a party other than its owner provided such owner gives its consent to such use.

However, in order to realize the above, CPAIC's AOI and By-laws must be amended in accordance with the Corporation Code. In both cases, the Corporation Code requires a prior favorable recommendation by the proper government agency which in this case is the Insurance Commission<sup>2</sup>.

As it stands, Charter Ping An Insurance Corporation (CPAIC) is now in the process of amending its AOI and By-laws with the Securities and Exchange Commission (SEC) by adding a tradename, among others.

In view of the foregoing, we have no objection with regard to the use by CPAIC of the name of Philippine AXA as its trade name/s.

Be that as it may, please note that CPAIC may only use AXA's tradename **after** CPAIC has complied with the amendment of its AOI and the SEC duly issues the corresponding Certificate of Amendment.

However, please note that the above ruling of the Insurance Commission is without prejudice to the application of pertinent laws, rules and regulations being implemented by other government regulatory agencies.

Further, the opinion rendered by this Commission is based solely on the particular facts disclosed in the query and relevant solely to the particular issues raised therein and shall not be used, in any manner, in the nature of a standing rule binding upon the Commission in other cases whether for similar or dissimilar circumstances.

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<sup>1</sup> Section 18

<sup>2</sup> Sections 16, 17 and 48

Please be guided accordingly.



**DENNIS B. FUNA**  
Insurance Commissioner

