



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



Legal Opinion No.:	LO-2018-16
Date:	October 15, 2018

ATTY. MA. PATRICIA E. FORIA
Vice President & Head of Legal & Compliance
Insurance Company of North America
A Chubb Company
24/F Zuellig Bldg., Makati Ave. corner
Paseo de Roxas, Makati City (1226)

**SUBJECT: Request for Legal Opinion on Outsourcing
Arrangement Between: (1) Insurance Company
of North America (a Chubb Company) ("Chubb
Philippines"); and (2) its affiliate PEZA-registered
entity, Chubb Business Services**

Dear Atty. Foria:

This refers to the subject request for legal opinion dated 5 September 2018.

This Commission understands that you are specifically inquiring whether the *Outsourcing Agreement* dated 31 August 2018 is consistent with Republic Act No. 10607, otherwise known as the Amended Insurance Code, and/or rules and regulations issued by this Commission.

Our Opinion

At the onset, note that this Commission has the discretion to refrain from rendering opinions on *"matters which clearly involve the exercise of business discretion or judgment which properly falls within the competence of the management of the entities concerned."* (Section 4 [7]; Circular Letter No. 2017-13, d. 7 March 2017) While this Commission considers the issue of whether or not a particular insurance company has the prerogative to outsource its business functions to a third-party provider as falling under the purview of the provision of the Circular Letter quoted above, this Commission finds it particularly important and instructive to determine whether such outsourcing constitutes the *"doing of an insurance business"* pursuant to Section 2 of the Amended Insurance Code.

According to the Amended Insurance Code, the *"doing of an insurance business"* includes the *"making or proposing to make, as insurer, any insurance contract"* or *"doing or proposing to do any business in substance equivalent to any of the*

foregoing in a manner designed to evade the provisions of this Code." (Section 2 [b] [1] & [4]; Amended Insurance Code)

Thus, if this Commission shall consequently determine by examination and/or other evidence that the outsourcing of business processes of an insurance company results in the "*doing of an insurance business*" by the business process outsourcing ("BPO") provider, then the provisions of Chapter III of the Amended Insurance Code shall be made to apply to said BPO provider. Said Chapter includes the provisions on the licensing and capitalization of insurance companies, among other matters.

Thus, in resolving your request for legal opinion, this Commission passed upon the statement of the services to be provided by Chubb Business Services under the *Outsourcing Agreement*, particularly under Schedule 1 ("Services") thereof.

Upon examination of the documents that you have provided, this Commission found nothing in the provisions of the *Outsourcing Agreement* that indicates that Chubb Business Services is or would be engaged by Chubb Philippines to perform services that amount to the "*doing of an insurance business*" under Section 2 of the Amended Insurance Code. Stated differently, despite the outsourcing of certain business processes by Chubb Philippines to Chubb Business Services, the former remains to be the insurer insofar as regulatory considerations and the general insuring public are concerned.

Accordingly, this Commission shall not encroach on the exercise of business discretion or judgment by Chubb Philippines in retaining Chubb Business Services.

Please note that the opinion rendered by this Commission is based solely on the particular facts disclosed therein and relevant solely to the particular issue 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.

For your information and guidance.

Very truly yours,

DENNIS B. FUNA
Insurance Commissioner

