



Legal Opinion (LO) No.:	2021 - 04
Date:	14 January 2021

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**SUBJECT: Request for Legal Opinion on Geographical Limitation
 in Accordance with IC Circular Letter No. 2020-109**

Dear Atty. Kohchet-Chua:

This refers to your request for legal opinion dated 7 January 2021 on the subject, particularly seeking clarification on the interpretation of Section 2 of Circular Letter No. 2020-109 dated 26 November 2020, which provides that, to wit:

“2. Geographical Limitation. – Insurers shall *only insure persons and/or risks situated within the Philippines*. Remote Selling Initiatives may not be utilized in cross-border selling. Accordingly, insurers shall adopt measures to ensure *that no cross-border selling shall occur at the time of conduct of the sale*.” [Emphasis supplied.]

This Commission hereby quotes the pertinent portion of the subject request hereunder, viz:

“Given the foregoing, we seek your guidance on the following queries:

- 1. Troo has previously catered to the needs of real estate buyers for a Mortgage Redemption Insurance (MRI) in partnership with banks, i.e., buyers who purchase real estate on loan with the banks also purchase MRI from Troo to ensure the payment of these loans in case an untoward event takes place that prevents the buyers from paying their loans.*

A portion of these buyers are Overseas Filipino Workers (OFW) who come home to the Philippines, purchase real estate and MRI, and then return abroad for their work. It is worthy to note that:

- a. *The sale process, from application to approval of their MRI applications, is commenced and completed when the clients are in the Philippines. Hence, no cross-border selling is taking place;*
- b. *There is an expectancy for these clients to return to the Philippines, as they reside abroad only for work purposes.*

Given the geographical limitation, specifically the first sentence on '[i]nsurers shall only insure persons and/or risks situated within the Philippines,' is Troo now prohibited from catering to the OFW market or other clients similarly situated?

2. *Assuming the answer to Question #1 above is in the affirmative, Troo seeks guidance on how to treat the previously issued insurance policies, specifically:*
 - a. *For policies renewable on a yearly basis, do we outright reject these applications upon renewal for being violative of the geographical limitation provision?*
 - b. *For policies not renewable on a yearly basis, i.e., remain effective for a certain number of years or until the insured reaches a certain age, are we now mandated to terminate these insurance policies?*
3. *Does the geographical limitation also apply to all types of insurance products and not just MRI or other group life products, such as traditional insurance products and variable unit-linked (VUL) products? Similar to item 1 as discussed, OFWs also purchase traditional insurance products or VUL products from our company when there are [sic] on temporary holiday here in the country or just before they are deployed abroad."*

As regards the first (1st) question on whether your company, or any life insurer for that matter, is "prohibited from catering to the OFW market or other clients similarly situated," the same should be answered in the **negative**.

This Commission hereby clarifies that, in the case of life insurance, the phrase "***persons x x x situated within the Philippines***" used in Circular Letter No. 2020-109 may also be construed as referring to persons who are **permanent residents of the Philippines, even if the same are gainfully employed outside the Philippines.** [Emphasis supplied.]

Accordingly, the sale of life insurance products to OFWs or similarly situated clientele who are permanent residents of the Philippines, even if the same are gainfully employed outside the Philippines, shall not be considered as "cross-border selling", which is prohibited under CL No. 2020-109.

Considering that the first (1st) question was answered in the negative, this Commission finds no need to address the second (2nd) item and its sub-questions.

As regards the third (3rd) question on whether the Geographical Limitation provision under Section 2 of CL No. 2020-109 applies “to all types of insurance products and not just MRI or other group life products, such as traditional insurance products and variable unit-linked (VUL) products”, the same should be answered in the **affirmative**. It should be stressed that Section 1 of the same Circular Letter pertains to “**products, regardless of amount of premium payable on the policy sold**” without making any distinction as regards the nature or type of said insurance “products”.

Note that this legal opinion is based solely on the particular facts disclosed in the request 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.

For your information and guidance.

Very truly yours,



DENNIS B. FUNA
Insurance Commissioner

