



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

Legal Opinion (LO) No.:	2021-11
Date:	29 October 2021

ATTY. FRANCIS LOUIE OCAMPO

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Subject: **REQUEST FOR LEGAL OPINION ON THE
CLARIFICATION OF THE CONCEPT
“OFFERING” MICROINSURANCE VS.
INFORMATION DISSEMINATION**

Dear Atty. Ocampo:

This has reference to the letter dated 03 August 2021 from RAFI Microfinance, Inc. (RAFI MFI) requesting this Commission pertaining to the above subject.

As stated in said correspondence, RAFI MFI is a non-stock, non-profit organization that provides financial services to the poor and low-income individuals engaged in microenterprise business. It was also averred that RAFI MFI includes to its clients or borrowers with microinsurance products in partnership with authorized entities licensed by this Commission to engage in insurance business and that these entities offer microinsurance products and with a duly licensed third-party insurance broker.

It was also stated that pursuant to the Microfinance NGOs Act to provide access to appropriate financial services to the poor, RAFI MFI bundled microinsurance products to its microfinance products. The type of microinsurance products that the client must avail depends on the microfinance loan that they are availing and the payment to the premium are then automatically deducted from the loaned amount.

It was further stated that microinsurance brochures are made available at its branches along with forms and other material, and should the client have further questions pertaining to the micro-insurance product, the same is forwarded to the brokers. Also, once the client had insurance claim, the client will submit its requirement to RAFI MFI and the latter will forward the same to the brokers for submission to the Insurance company.

With that, RAFI MFI seeks clarification and contented that it is only acting as a distribution channel and is not offering microinsurance products. RMF further emphasized that under Insurance Commission's Circular Letter No. 2015-54, general

agents and broker may employ innovative distributive mechanisms or services such as the use of retail outlets and electronic platforms or make institutional arrangements with entities, organizations, and companies to distribute micro-insurance products and services. Further, RAFI MFI cited Insurance Commission Circular 2016-64 as it defines a distribution channel and the list of delegable activities to such distribution channels such as information dissemination, providing forms, facilitates premium payment acceptance, and claims assistance which are within the services RAFI MFI provides.

RAFI MFI also stressed, among others, that merely disseminating information regarding the existence of microinsurance product cannot be considered as an act of "offering insurance products". It averred that under IC Circular Letter No. 2016-64, "information dissemination" is defined as the act of bringing micro risk protection product concepts or services to the public's attention by any form of media, such as print, broadcast, digital/mobile or others while "offering or solicitation" is defined as systematic attempt to persuade the purchase of micro risk protection product/service. As stated by RAFI MFI, they can only be considered merely disseminating information as they only provide brochures containing information about the micro-insurance products available.

THE LEGAL INQUIRIES

From the foregoing, RAFI MFI adduced the following two (2) legal inquiries:

1. Whether or not dissemination of information with regard to the existence of microinsurance is considered an act of "offering insurance products; and
2. Whether or not RAFI MFI is considered to be "offering" micro-insurance products.

THE INSURANCE COMMISSION'S OPINION

After a careful and meticulous evaluation of the matters involved, this Commission's legal opinion to the issues are as follows:

I. DISSEMINATION OF INFORMATION IS NOT CONSIDERED AS AN ACT OF "OFFERING" INSURANCE PRODUCTS

This Commission opines that one of the functions of a microinsurance intermediary is to either sell, solicit or offer microinsurance products.

For purposes of dissecting the peculiar acts relative to the distribution of microinsurance products, this Commission opines that the term "offer" can be used interchangeably with the term "solicitation" as this word is the term more appropriate from insurance brokers. Further and as defined by Circular Letter No. 2016-64 dated 19 December 2016 with the subject "*ADOPTION AND IMPLEMENTATION OF MICROINSURANCE DISTRIBUTION CHANNELS REGULATORY FRAMEWORK*", the term "selling or solicitation" is "*the systematic attempt to persuade the purchase of a micro risk protection product/service which concurrently includes:*

- ✓ *Making or proposing to make, as micro risk protection provider, any micro risk protection contract;*
- ✓ *Explaining the features, terms and conditions of micro risk protection products and concepts related to life-cycle risks, business risks, etc.;*
- ✓ *Handling of customer questions and objections; and*
- ✓ *Performing other similar activities necessary to complete the sale.”¹(emphasis supplied)*

On the other hand, “information dissemination” is defined by the same aforementioned circular as “*the act of bringing micro risk protection product concepts, products, or services to the public’s attention by any form of media such as print, broadcast, digital/mobile or others.*”²

As can be gleaned therefrom, selling, or soliciting cannot be the same as information dissemination for the following reasons:

1. Solicitation or selling as defined therein requires the concurrence of certain acts while in information dissemination does not.
2. Solicitation or selling aims to persuade would-be-buyers of various microinsurance products to avail these products. On the other hand, in information dissemination the act of bringing various microinsurance products, concepts or services to the public’s attention by any form mentioned therein is sufficient for it to within the purview of said term.

In view of the foregoing, information dissemination with regard to the existence of a microinsurance product **cannot** be considered as offering insurance products.

II. RAFI MFI IS NOT CONSIDERED TO BE “OFFERING” MICRO INSURANCE PRODUCTS

As to the other activities performed by RAFI MFI such as bundling microinsurance products with its microfinance loans and automatic deduction of payment of premium for such microinsurance product, the same cannot be considered as offering microinsurance products for the main reason that none of the acts in the definition of the term selling or solicitation were present from the narrations from said correspondence which would show or is indicative that RAFI MFI attempts to systematically persuade the purchase of a microinsurance product that concurrently includes making or proposing to make a microinsurance product or service, explaining the features of a microinsurance product, handling customer questions and performing other similar activities **necessary to complete the sale.**

Further, the microinsurance products are bundled from either of the two microinsurance providers, depending on the product needed by RAFI MFI’s clients. Being bundled with RAFI MFI’s programs or products, this dispenses the need to systematically attempt to persuade a would-be-buyer considering that these are already included in its programs or products. This also dispenses the need to make or

¹ Insurance Commission Circular Letter No. 2016-65, par. 22

² Id.

propose to make a microinsurance product or service. Further, the other concurrent acts are also non-existent considering that the assertion in RAFI MFI's correspondence categorically indicates that that if there will be any further questions with regard to these matters, such inquiry is forwarded to its third-party insurance broker.

Clearly, none of the acts from the definition of the term selling or solicitation were present.

Therefore, since the acts of RAFI do not constitute selling or solicitation of microinsurance products, the acts of RAFI cannot be considered as offering microinsurance products.

IN VIEW OF THE FOREGOING, this Commission's opinion is that:

1. Dissemination of information is not considered as an act of "offering insurance products"; and
2. RAFI MFI cannot be considered as offering microinsurance products.

Kindly take note that this 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.

Please be guided accordingly.



DENNIS B. FUNA
Insurance Commissioner

