



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

Legal Opinion (LO) No.:	2022 - 03
Date:	03 February 2022

ATTY. KELVIN ROY L. DOMINGO

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Subject: **Donations of a Mutual Benefit Association**

Dear **Atty. Domingo**:

This refers to your email on 15 December 2021 seeking for the Insurance Commission's opinion regarding the limitations of power of a corporation to donate in pursuance of corporate social responsibility. More specifically, you sought clarification as to whether a mutual benefit association can make donations to the following: (1) civilians who are victims of calamities who are not in any way related or connected with the business of the association and (2) the agency wherein its members are duly employed and the item to be donated is to be used for the operation of the agency.

Upon careful consideration of the matters raised in your request, hereunder are the Insurance Commission's findings.

Section 403 of the Insurance Code, as amended by Republic Act No. 10607, defines a mutual benefit association as follows:

"Section 403. Any society, association or corporation, without capital stock, formed or organized not for profit but mainly for the purpose of paying sick benefits to members, or of furnishing financial support to members while out of employment, or of paying to relatives of deceased members of fixed or any sum of money, irrespective of whether such aim or purpose is carried out by means of fixed dues or assessments collected regularly from the members, or of providing, by the issuance of certificates of insurance, payment of its members of accident or life insurance benefits out of such fixed and regular dues or assessments, but in no case shall include any society, association, or corporation with such mutual benefit

features and which shall be carried out purely from voluntary contributions collected not regularly and/or no fixed amount from whomsoever may contribute, shall be known as a mutual benefit association within the intent of this Code. x x x”

Meanwhile, Section 408 of the Insurance Code, as amended, provides that:

“Section 408. The constitution or bylaws of a mutual benefit association must distinctly state the purpose for which dues and/or assessments are made and collected and the portion thereof which may be used for expenses.

x x x

A mutual benefit association shall only maintain free and unassigned surplus of not more than twenty percent (20%) of its total liabilities as verified by the Commissioner. **Any amount in excess shall be returned to the members by way of dividends, enhancing the equity value or providing benefits in kind and other relevant services.** In addition, subject to the approval of the Commissioner, a mutual benefit association may allocate a portion for capacity building and research and development such as developing new products and services, upgrading and improving operating systems and equipment and continuing member education.”

While a mutual benefit association is organized primarily for the purpose of providing benefits to its members, **there is no express prohibition insofar as making donations to non-members is concerned, provided that the same is allowed under its charter or bylaws. Similarly, members are not prohibited from opting to donate dividends owing to them and assigning the mutual benefit association to facilitate such donation.**

The foregoing notwithstanding, it is noted that while such donations in pursuance of corporate social responsibility is not expressly prohibited, such donations must not be **in the nature of transacting business as a charitable or benevolent organization.** As set forth in Section 403 of the Insurance Code, as amended:

“Section 403. In no case shall a mutual benefit association be organized and authorized to transact business as a charitable or benevolent organization, and whenever it has this feature as incident to its existence, the corresponding charter provision shall be revised to conform with the provision of this section. Mutual benefit association, already licensed to transact business as such on the date this Code becomes effective, having charitable or benevolent feature shall abandon such incidental purpose upon effectivity of this Code if

they desire to continue operating as such mutual benefit associations."

Nevertheless, please note that **in order to determine whether a mutual benefit association may make donations to non-member civilians who are victims of calamities and to the agency where members are duly employed, it is imperative to first review the mutual benefit association's bylaws and charter, especially with respect to its incidental purposes.**

Please note that the above 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.

For your information and guidance.

Very truly yours,


DENNIS B. FUNA
Insurance Commissioner

