



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



Legal Opinion No:	2023-17
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ATTY. ACE DEVINO A. CUSTODIO
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SUBJECT: Query on Policy Delivery via E-mail in relation to the Cooling-Off Period

Dear **Atty. Custodio**:

This refers to your email received by the Insurance Commission (IC) on 24 May 2023, regarding the delivery of the policy document via electronic mail (email) in relation to the cooling-off period.

From the email, the inquiry is particularly worded as follows:

"I would like to make an inquiry regarding [the] delivery of insurance policy via [email] in relation to the cooling-off period. Can the receipt of an email sent by the company containing the insurance policy (e-policy) to the email address provided by the client, regardless of the reply or acknowledgement of the client of said email, be considered as receipt of the insurance policy for purposes of counting the cooling-off period?"

After careful evaluation, the IC finds that the date of delivery of the email containing the e-policy, even without acknowledgement of receipt from the policy owner, may be considered the reckoning date of the cooling-off period provided that: the policy owner agreed to such mode of delivery and an appropriate disclaimer is explicitly provided in the email.

In the absence of any proof that the policy owner previously agreed to the delivery of the policy document through email, the e-policy received by the policy owner cannot

be considered “delivered and received.” Hence, the email will not trigger the start of the cooling-off period without the reply or acknowledgment of the policy owner.

In this case, BDO Life’s policy states:

“Cooling-off Period

This Policy may be cancelled by the Policy Owner’s written request to the Company within 15 days after receipt of the policy document. The policy document is considered delivered to and received by the Policy Owner on the date indicated in the Policy Acknowledgment Receipt.”

As a contract, insurance contracts are governed by the general principles of contracts under the Civil Code.¹ And according to the autonomy characteristic of contracts, the **contracting parties may establish** such stipulations, clauses, terms and conditions as they may deem convenient, provided they are not contrary to law, morals, good customs, public order, or public policy.²

Here, the policy stipulates that “[the] [p]olicy may be cancelled by the [policy owner] x x x within 15 days after receipt of the policy document. The policy document is considered delivered to and received by the [p]olicy [o]wner on the date indicated in the Policy Acknowledgment Receipt.” However, the stipulations—as well as facts provided in the inquiry—lack any indication whether the mode of delivery had been initially agreed upon by BDO Life and the policy owner.

In the absence of such agreement, BDO Life cannot enforce the constructive receipt of the policy through email. The application of such rule is premised on the policy owner being informed of and in agreement with the mode of delivery, as the policy owner cannot be expected to know how he or she will receive the policy other than the customary and usual way of receiving it through hard copy.

This makes no difference when the policy owner provides an email address without knowing the specific purpose for which the disclosure is intended. For instance, an applicant fills out an insurance application form and provides his or her email address under the contract information section. In this scenario, there is no consent by the would-be policy owner to email delivery of the policy because the purpose for which the information is collected differs from the intended use.³

Meanwhile, once the mode of delivery has been agreed upon by BDO Life and the policy owner, BDO Life is allowed to put measures to prohibit any parties from disputing the validity of, or refusing to acknowledge legitimate communications or transactions and ensure the legality and enforceability of transactions conducted online.⁴

¹ Civil Code, Article 2011. See also *Perez v. Court of Appeals*, G.R. No. 112329, 28 January 2000; Emphasis supplied.

² *Id.*, Art. 1306. See also *Industrial Personnel and Management Services, Inc. vs. Country Bankers Insurance Corporation*, 883 SCRA 404, G.R. No. 194126, 17 October 2018.

³ See Republic Act No. 10173, § 16(b)(2).

⁴ Circular Letter No. 2014-47, entitled “*Guidelines on Electronic Commerce of Insurance Products*,” § 8.9.

In sending an e-policy, BDO Life uses an email template containing the following disclaimer:

Once you receive this email containing your e-Policy, using the email account designated in your consent form (My Dream List) and application form, kindly reply back to confirm your receipt of this email and your e-Policy. We shall consider the date when we receive your reply as the date of delivery to and receipt by you of your e-Policy, which shall trigger the start of your 15-day "Cooling-Off" period. **Should the Company fail to receive your reply within 15 days from receipt of this email, we shall consider the date of delivery of this email as the date of delivery to and receipt by you of your e-Policy, with this email being considered as your Policy Acknowledgement Receipt**, which shall trigger the start of your 15-day "Cooling-Off" period.⁵

The above disclaimer can be considered BDO Life's measure to ensure the enforceability of its communications made online. And pursuant to this disclaimer, the failure of the policy owner to reply to BDO Life's correspondence amounts to the acknowledgment of said email; hence, the email's date of receipt marks the start of the counting of the cooling-off period.

Nevertheless, while BDO Life puts an appropriate disclaimer in its email correspondence, BDO Life nevertheless failed to show that the policy owner agreed with the email delivery of the policy. Therefore, the client is not bound with such disclaimer; consequently, the cooling-off period will not run without his or her reply or acknowledgment.

Please note that the above opinion rendered by the IC 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 IC in other cases whether for similar or dissimilar circumstances.

For your information and guidance.

Very truly yours,


REYNALDO A. REGALADO
Insurance Commissioner



⁵ Emphasis ours.