



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



Insurance Commission Ruling ("ICR") No.:	2023-01
Date:	6 January 2023

**MR. RENATO A. VERGEL DE DIOS**  
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**SUBJECT: Request for Reconsideration of Insurance Commission ("ICR") Ruling No. 2020-01 as Regards Group Credit Life Insurance for Borrowers of a Life Insurance Company**

Dear Mr. Vergel De Dios:

This refers to your request for reconsideration of Insurance Commission Ruling ("ICR") No. 2020-01, which provides that BDO Life Assurance Company, Inc. ("BDO Life") cannot issue a Group Credit Master Policy that will cover its loan borrowers, with BDO Life itself as the policyholder, pursuant to Circular Letter ("CL") No. 2017-57 ("*Guidelines on Group Insurance of Both Life and Non-Life Insurance Companies*"), as amended by CL No. 2019-52.

### **I. ANTECEDENTS**

In a letter dated 6 May 2019, BDO Life sought this Commission's approval to enter into an agreement with BDO Leasing and Finance, Inc. ("BDOLF"), an affiliate of the BDO Group, for the purchase of BDO's mortgage loans receivables, without recourse.

This Commission replied to the request on 29 August 2019, interposing no objection to the requested transaction with the caveat that the subject purchase of mortgage loans shall at all times be in accordance with the Insurance Code of the Philippines, as amended by Republic Act No. 10607 ("*Amended Insurance Code*") and other relevant circular letters, including but not limited to CL No. 2018-73 on "*Guidelines on Investments in Purchase of Accounts and/or Loans Receivables*".

Subsequently, on 21 January 2020, BDO Life requested this Commission's confirmation on the matter of said insurer issuing a Group Credit Master Policy, with BDO Life itself as policyholder, to provide continuing insurance coverage for the outstanding loan balances of borrowers under BDOLF, whose loans were assumed by BDO Life pursuant to its purchase agreement with BDOLF.

Acting on the request, this Commission issued ICR No. 2020-01 on 31 January 2020, which provides, in part, viz:

*“Please be advised that IC Circular Letter (CL) No. 2017-57, ‘Guidelines on Group Insurance of Both Life and Non-life Insurance Companies’, **contemplates a situation wherein the insurer and the policyholder are separate entities**. The only exception thereto is Section 2.3 of IC CL No. 2017-57, as amended by IC CL No. 2019-52, which provides that insurance companies may act as the policyholder for its employees or agents, subject to the conditions enumerated therein.*

*In the present case, the group in question does not constitute employees or agents of BDO Life but, instead, constitutes borrowers or debtors of BDO Life. Hence, pursuant to IC CL No. 2017-57, as amended by IC CL No. 2019-52, BDO Life cannot issue a Group Credit Master Policy that will cover its loan borrowers with BDO Life as the policyholder.” [Emphasis supplied.]*

In its letter dated 19 July 2021, BDO Life sought reconsideration of ICR No. 2020-01 based on the following grounds:

1. There are no explicit provisions in CL No. 2017-57, as amended by CL No. 2019-52, which provide that under a group policy, the insurer and the policyholder should be two (2) separate entities. Neither does the said Circular Letter expressly prohibit an arrangement where, under a group policy, the insurer and the policyholder are one and the same entity; and
2. There is no express provision in CL No. 2017-57, as amended by CL No. 2019-52, stating that the insurer and the policyholder in a group policy can be the same entity exclusively when the insured group consists of employees and agents of the insurer.

## II. ISSUE

The issue subject of the request for reconsideration and is now for resolution is thus: **Can an insurer issue a group credit insurance policy unto itself, as policyholder, to provide continuing insurance coverage for its mortgage loan borrowers?**

## III. RULING

After taking a second hard look on ICR No. 2020-01, this Commission hereby **RECONSIDERS** and **SETS ASIDE** the same.

### *A. Dichotomy Between Insurer and Insured*

In its most basic sense, a contract of insurance, which includes a group credit life insurance policy, is *“an agreement whereby one undertakes for a consideration to indemnify another against loss, damage or liability arising from an unknown or contingent event.”<sup>1</sup>*

Under this basic definition, there are two (2) parties to an insurance contract:

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<sup>1</sup> Insurance Code of the Philippines, as amended by Republic Act No. 10607; Section 2 (a).

- a. The **insured**, who pays a consideration (i.e., insurance premium) in exchange for being indemnified against loss, damage or liability arising from an unknown or contingent event; and
- b. The **insurer**, who, for a consideration (i.e., insurance premium), undertakes to indemnify the insured against such loss, damage, or liability.

The proposed arrangement subject of BDO Life's request for reconsideration does not violate the statutory dichotomy between an insurer and an insured.

Notably, Section 4.2. of CL No. 2017-57, as later amended by CL No. 2019-52, expressly recognizes that "[i]n an affinity group, the **individual group members shall be treated as the insured** and the group organizer or entity will be the holder of the group policy".<sup>2</sup> [Emphasis supplied.] As the insured under the proposed Group Credit Master Policy, the individual group members shall remain as having the undertaking to pay insurance premiums despite BDO Life, as insurer, is named as the policyholder thereunder.

Corollary to the discussion, Section 8 of the Amended Insurance Code provides that:

*"Section 8. Unless the policy otherwise provides, where a mortgagor of property effects insurance in his own name providing that the loss shall be payable to the mortgagee, or assigns a policy of insurance to a mortgagee, **the insurance is deemed to be upon the interest of the mortgagor, who does not cease to be a party to the original contract, x x x.**" [Emphasis supplied.]*

Applying said provision by analogy, the Group Credit Master Policy sought to be issued shall be deemed upon the interest of the individual group members thereunder. Said members, i.e., mortgage loan debtors, do not cease to be a collective party to the original insurance contract as insured despite the loss being payable to BDO Life as "mortgagee", having assumed said role under the mortgage loans receivables purchase agreement it had entered with BDOLF.

#### *B. Historical Context*

This Commission recognizes that, prior to the advent of CL Nos. 2017-57 and 2019-52, some insurance companies had groups of mortgage loan borrowers that were covered by mortgage redemption insurance ("MRI") issued by the same creditor-insurance companies.

The creditor-debtor relationship between said insurance companies and their respective mortgage loan borrowers presented (and, in the case of BDO Life, presents) a **genuine protection need**, from both the creditor and debtor's viewpoints, to hedge against risks that can be appropriately covered by group credit life insurance, e.g., an MRI.

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<sup>2</sup> CL No. 2017-57, Section 4.2.

Accordingly, to construe CL Nos. 2017-57 and 2019-52 as restricting insurance companies from issuing group credit life insurance to its own mortgage loan borrowers will necessarily be misplaced, as will be later discussed in detail.

Otherwise, this will result in a commercially absurd situation where an insurer will have to approach another (third-party) insurer—a competitor—to provide the necessary creditor’s insurance coverage when it is able and not precluded by law to do so.

### *C. Absence of Legal Impediment*

After due consideration, there is no express provision under the Amended Insurance Code proscribing the issuance by an insurer of a group insurance policy unto itself as the creditor-policyholder of its mortgage loan debtors.

While Section 234 (k)<sup>3</sup> of the same Code provides for an insurer’s obligation to furnish to the policyholder for delivery to each debtor a form that contains a statement that the life of the debtor is insured under a group policy and that any death benefit paid thereunder by reason of his death shall be applied to reduce or extinguish indebtedness, **the same Code does not explicitly provide that said insurer and policyholder shall be two (2) separate entities.** Material under said provision is the act of delivery of said form to the debtor, i.e., the insured group member, which act may be undertaken by the insurer itself in a case where said insurer and the policyholder constitutes one and the same entity.

As correctly pointed out by BDO Life, there is likewise no explicit provision in CL No. 2017-57, as amended by CL No. 2019-52, which provides that under a group policy, the insurer and the policyholder shall be two (2) separate entities. Neither does it expressly prohibit an arrangement where, under a group policy, the insurer and the policyholder are one and the same entity.

While Section 2 of CL No. 2017-57<sup>4</sup> identifies groups that are not eligible under group policies, the ineligibility essentially attaches to the insurable groups and not the insurer. As Section 2.2. of the same Circular<sup>5</sup> prohibits **insurance AGENTS** or **insurance BROKERS** (N.B.: **not** insurance companies) from being policyholders, except when the covered members are its employees, it does not expressly prohibit

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<sup>3</sup> “(k) In the case of a policy issued to a creditor to insure debtors of such creditor, a provision that the insurer will furnish to the policyholder for delivery to each debtor insured under the policy a form which will contain a statement that the life of the debtor is insured under the policy and that any death benefit paid thereunder by reason of his death shall be applied to reduce or extinguish indebtedness. x x x”

<sup>4</sup> **“Section 2. Groups Not Eligible Under Group Insurance**

2.1. No group should be formed with the main purpose of availing insurance. There should be a clear and evident relationship between the member and the policyholder for services other than insurance.

2.2. No group policy shall be issued with the insurance agent or insurance broker as policyholder, except when the covered members are its employees.”

<sup>5</sup> *Ibid.*



an insurance company from being a policyholder. While Section 2.3.<sup>6</sup>, as introduced by CL No. 2019-52, introduced guidelines for the issuance of employer group policies by an insurer for its employees or agents, **the same guidelines only specifically apply to employer group policies issued by an insurer, without mentioning its applicability to affinity group policies issued by insurers.** With reference to said Section 2.3., BDO Life is thus correct when it argued that *“there is no express provision in CL No. 2017-57, as amended by CL No. 2019-52, stating that the insurer and the policyholder in a group policy can be the same entity **exclusively when the insured group consists of employees and agents of the insurer.**”*

In context, the entirety of Section 2 of CL No. 2017-57, as amended by CL No. 2019-52, was intended to prevent certain enterprising brokers or insurance companies from selling to individuals at group insurance rates and at minimal underwriting by forming insurable groups where a broker, agent, or insurance company is the policyholder but the nature of the group, or the reason for its formation, is nebulous other than for the purpose of acquiring group insurance coverage. As earlier discussed, said provision could not have been intended to proscribe insurance companies from issuing group credit life insurance to its own mortgage loan borrowers, especially that there is a **genuine protection need** between said parties under the circumstances.

Accordingly, the absence in the Insurance Code of the Philippines of any express provision that maintains that an insurer and policyholder shall be two (2) separate entities, or that an insurer and policyholder cannot be one and the same entity, when taken together with the absence of the same explicit provisions in both CL Nos. 2017-57 and 2019-52, cannot then be taken collectively as prohibiting an insurer of a group from issuing a group insurance policy unto itself as creditor of its mortgage loan debtors, especially that there is a valid underpinning commercial reason for its issuance.

#### *D. On Seeming “Conflict of Interest”*

This Commission recognizes that it may be argued that allowing BDO Life to simultaneously be the policyholder and insurer may compromise its faithful performance of its obligations under Sections 3.1. and 3.2. of CL No. 2017-57 as a policyholder. On the one hand, as policyholder, BDO Life is obliged to act on behalf of loan borrowers in negotiating the terms of the Group Credit Master Policy and assist in the filing of claims on behalf of the insured group members. On the other hand, BDO Life, in its capacity as insurer, is called upon to act on claims filed by the same

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<sup>6</sup> “Section 2.3. Notwithstanding Section 2.2., insurance companies may act as the policyholder for its employees or agents, subject to the following conditions:

- a. Insurance products must be specifically approved by the Insurance Commission for this purpose;
- b. Submitted insurance product will not be subjected to any expeditious approval process;
- c. Insurance companies must submit to the Insurance Commission a group policy provision in favor of its employees; and,
- d. The group policy contract must contain a stipulation pour autrui or a stipulation in favor of the members that reads as:

*‘This Group Policy Contract is being issued in favor of the covered employee who shall have all the rights to bring any direct action against the Insurance Company for any damage suffered by him/her.’*

members. It may thus be argued that the situation seemingly creates a “*conflict of interest*”.

As regards the obligations of a policyholder under group insurance policies, CL No. 2017-57 provides, in part, to wit:

**“Section 3. Obligations of the Policyholders**

3.1. *The policyholder has the following obligations:*

a) *To contract with insurance company for the coverage of individual members under a group policy taking into consideration the best interest of its members;*

b) *To negotiate for a reasonable premium which its members may partially or fully pay;*

x x x

i) *To support individual insured or beneficiary in the filing of cases relevant to the non-payment of claims;*

x x x

3.2. *Insurers shall communicate the provision of Section 3.1 to the policyholders during the negotiation or preparation of the group policy or immediately after the issuance of the policy.”*

After careful consideration, however, this Commission finds nothing inconsistent in the performance by BDO Life of its obligations as policyholder despite being the insurer under the premises. The seeming “*conflict of interest*” is more apparent than real.

As earlier discussed, the group insurance contract is not essentially one that is between the insurer and policyholder, but between the insurer and insured, i.e., the insured group members. Accordingly, it cannot be said that the insurer is contracting with itself. The separate identities of the insurer and insured under the premises are sufficiently clear, in line with Section 2 (a) of the Amended Insurance Code<sup>7</sup>.

In terms of the policyholder obligation of negotiating premiums in behalf of insured members<sup>8</sup>, it will be in the best interest of BDO Life to secure the most reasonable premiums (as well as the best terms and conditions of the group policy<sup>9</sup>) for its insured group members if only to retain said specific market segment. It should be emphasized that, in reality, BDO Life’s mortgage loan debtors, as an insurable affinity group, are not precluded from getting insurance coverage elsewhere if the terms and conditions presented to them by BDO Life, including the premiums therefor, are less advantageous than what they can secure from another insurer.

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<sup>7</sup> *Supra*, note 1.

<sup>8</sup> CL No. 2017-57; Section 3.1. (b), which reads: “b) *To negotiate for a reasonable premium which its members may partially or fully pay;*”

<sup>9</sup> *Id.*, Section 3.1. (a), which reads: “a) *To contract with insurance company for the coverage of individual members under a group policy taking into consideration the best interest of its members;*”

Moreover, in cases where BDO Life must act on insurance claims filed by the members of the mortgage loan debtor group<sup>10</sup>, it should be stressed that said members of the affinity group are not precluded from taking direct action against said insurer either before this Commission or courts of competent jurisdiction in the Philippines in accordance with Section 439 of the Amended Insurance Code. As Section 4.3.(d) of CL No. 2019-52<sup>11</sup> affords the members of the insured group and their respective beneficiaries under employer group policies said remedy of bringing direct action against insurers for the non-payment of claims, there is no cogent reason why debtor-insured group members under affinity group policies should be deprived of the same statutory remedy stated under Section 439 of the Amended Insurance Code.

As regards the other policyholder obligations under Section 3.1. (paragraphs [c] to [g], [j], and [k]<sup>12</sup>) and Section 3.2.<sup>13</sup> of CL No. 2017-57, this Commission likewise finds nothing inconsistent if the same were to be performed by BDO Life as policyholder and, at the same time, insurer. In a case where the insurer and the policyholder

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<sup>10</sup> *Id.*, Section 3.1. (h) & (i), which read:

*"h) To assist the insured person or beneficiary in the processing of claims and submission of documents to the insurer;*

*i) To support the individual insured or beneficiary in the filing of cases relevant to the non-payment of claims;"*

<sup>11</sup> *Supra*, note 6.

<sup>12</sup> "Section 3.1. The policyholder has the following obligations:

x x x

*c) To distribute to the insured members the statement, proof of cover, confirmation or certificate issued by the insurer;*

*d) To make available to the insured for reading or copying the master policy and relevant documents and provide a copy thereof in paper or electronic form in an amount not exceeding the cost of reproduction or delivery;*

*e) To collect from the insured person an amount not higher than the amount of premiums indicated in the policy;*

*f) To faithfully remit to the insurer the amount collected as premium;*

*g) To maintain the list of insured members or documents to prove individual membership or enrollment;*

x x x

*j) To inform the active members of the impending cancellation of the group policy by the insurer upon its receipt of the notice; and*

*k) To inform the covered members of the fact of issuance and important contents of any endorsement or rider issued after the issuance of the group policy which shall be agreed upon by the policyholder and the insurer."*

<sup>13</sup> "3.2. Insurers shall communicate the provision of Section 3.1 to the policyholders during the negotiation or preparation of the group policy or immediately after the issuance of the policy."

constitute one and the same entity, said obligations may be directly performed by said insurer to the insured group members, obviating the need for policyholder intervention.

#### IV. CONCLUSION

Premises considered, this Commission hereby **RECONSIDERS** and **SETS ASIDE** ICR No. 2020-01. Under the circumstances presented in the instant request for reconsideration, this Commission finds that **an insurer can issue a group credit insurance policy unto itself, as policyholder, to provide continuing insurance coverage for its own mortgage loan borrowers** because:

1. In such scenario, the basic statutory dichotomy between insurer and insured under the Amended Insurance Code is preserved, or otherwise not violated;
2. It had been done without legal issue prior to the advent of CL Nos. 2017-57 and 2019-52, considering the genuine protection need between the parties to hedge against risks that can be appropriately covered by group credit life insurance;
3. There is presently no legal impediment under the Amended Insurance Code and CL Nos. 2017-57 and 2019-52 that proscribes the same; and
4. The seeming "*conflict of interest*" in the performance of policyholder obligations by an insurer is more apparent than real, as:
  - a. It will be in the best interest of the insurer to negotiate the most reasonable premiums and best terms and conditions of the group policy, if only to retain the insured group members;
  - b. The insured group members are not deprived of the statutory remedy of bringing direct action against the insurer (without need of policyholder intervention) under the Amended Insurance Code for non-payment of claims; and
  - c. There is nothing inconsistent if the other stated policyholder obligations under Section 3.1., paragraphs (c) to (g), (j), and (k) CL No. 2017-57 were to be directly performed by an insurer, obviating the need for policyholder intervention.

However, this Ruling shall be without prejudice to this Commission's subsequent issuance of a Circular Letter providing for guidelines in the issuance of affinity group policies by an insurer, with itself as policyholder, in favor of its insured affinity group/s.

For your information and guidance.

**DENNIS B. FUNA**  
Insurance Commissioner

