

**Quisumbing  
Torres.**

Member Firm of Baker & McKenzie International

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# **Improving Access of Overseas Filipino Workers (OFWs) to Life Insurance**

**A policy paper on financial inclusion of OFWs**

**Commissioned by Pru Life UK**  
**DECEMBER 2022**

# Foreword

Pru Life UK fully supports the publication of this policy paper entitled **“Improving Access of Overseas Filipino Workers (OFWs) to Life Insurance.”** Written by leading law firm Quisumbing Torres, this examines the present regulatory framework on cross-border selling of insurance to OFWs and offers recommendations to improve protection coverage among the OFWs and their families.

While considered modern-day heroes for their contribution to the country’s development through their remittance, most OFWs belong to the unserved market segment who need adequate financial protection before, during and after their employment abroad, especially since threats of job displacement and financial instability often challenge them. We witnessed how the COVID-19 pandemic had displaced thousands of OFWs.

Together with the government, we need to do more to help our growing OFW population. The government has already established a mechanism for compulsory insurance coverage for agency-hired OFWs, but this only provides a minimum and transient protection against accident, illness, and death.

The current regulatory policy on cross-border selling of insurance restricting many OFWs from completing their purchase while they are abroad, deprives them of financial security especially when they are back in the Philippines for good. The restriction also prevents them from having adequate access to financial products for their present and future needs. Unless the rules are eased, the OFW population and their families will remain largely financially unsecured.

With the demand for OFWs seen to continue to increase as more host countries open up and recover, it is timely for public and private sectors to review the present regulatory restriction impeding over 1.7 million OFWs from enjoying health and financial protection. We need to find ways to improve their access to insurance products and services to help them and their families get the most out of life.

We trust that this policy paper could offer context and insights to the ongoing discussions and work to determine how best to conduct cross-border selling of insurance to OFWs.

**Eng Teng Wong**

Pru Life UK President & CEO



This policy paper discusses the current Philippine regulations on cross-border selling of insurance, and the impact of the same on the ability of overseas Filipino workers (“OFWs”) to procure risk protection products. It also provides a discussion on the need to revisit and update these regulations in view of recent developments relating to migrant workers programs and financial inclusion plan. We also provide recommendations on certain measures that would allow OFWs effective access to different financial products and services that are appropriately designed, of good quality, and relevant and beneficial to them as Filipinos working abroad.

## I. Overview

The law defines an OFW as a person who is to be engaged, is engaged, or has been engaged in a remunerated activity in a country of which the worker is not a citizen.<sup>1</sup> Statistically, estimated latest figures of the number of OFWs as of 2020 would be about 1.77 million, while their total remittance contributions amounted to PHP 134.77 billion pesos for the year 2020<sup>2</sup>, which accounted for at least 9.6% of the total gross domestic product (“GDP”) of the Philippines in 2020.<sup>3</sup>

Through the years, remittances from OFWs have shown to be a robust factor in the reversal of the current Philippine account from deficits to surplus and subsequent growth of the Philippine economy.<sup>4</sup> These inward remittances have become not only the single most important source of foreign exchange to the Philippine economy but also a significant source of income for recipient families.<sup>5</sup>

<sup>1</sup> Revised POEA Rules and Regulations governing the Recruitment and Employment of Landbased Overseas Filipino Workers of 2016, part I, rule II, item 27.

<sup>2</sup> Philippine Statistics Authority. 2020 Overseas Filipino Workers (Final Results) (7 March 2022). Available at: <https://psa.gov.ph/content/2020-overseas-filipino-workers-final-results#:~:text=The%20number%20of%20Overseas%20Filipinos,2.18%20million%20reported%20in%202019.&text=The%20number%20of%20Overseas%20Contract,from%202.11%20million%20in%202019>.

<sup>3</sup> World Bank. Personal Remittances, received (% of GDP) - Philippines. Available at: [data.worldbank.org/indicator/BX.TRF.PWKR.DT.GD.ZS?locations=PH](https://data.worldbank.org/indicator/BX.TRF.PWKR.DT.GD.ZS?locations=PH).

<sup>4</sup> Cayetano Paderanga Jr., *The Macroeconomic Impact of Remittances in the Philippines* (2014). Available at: [https://www.bsp.gov.ph/Pages/ABOUT%20THE%20BANK/Events/By%20Year/2014/BSP-UP%20Professorial%20Chair%20Lecture%20Series/BSP\\_4a\\_paderanga\\_paper.pdf](https://www.bsp.gov.ph/Pages/ABOUT%20THE%20BANK/Events/By%20Year/2014/BSP-UP%20Professorial%20Chair%20Lecture%20Series/BSP_4a_paderanga_paper.pdf)

<sup>5</sup> Alvin Ang, Guntur Sugiyarto and Shikha Jha, *Remittances and Household Behavior in the Philippines*, ADB Economics Working Paper Series No. 188 (2009). Available at: <https://www.adb.org/sites/default/files/publication/28401/economics-wp188.pdf>

Prior to the COVID-19 pandemic, inward remittances from OFWs account for as high as 12.8% or at least 1/8 share of the country's total GDP. With several host economies opening up after the slump brought about by the pandemic, it is no surprise that the Social Security System ("**SSS**") recorded an increase of about 11.5% in the total numbers of OFWs as of May 2021 in comparison to the recorded numbers of OFWs for the same period in 2020. Given the substantial inflow of remittances from OFWs to the benefit of the Philippine economy, policies and programs should be geared towards increasing support and protection for OFWs, particularly in respect of financial protection.

As the recent pandemic had forced a lot of these OFWs to return home to the Philippines, the grim situation had revealed the Philippines' lack of preparedness in terms of their repatriation and reintegration into their home country.<sup>6</sup> While the government made efforts to find them employment in the domestic labor market, a lot of these OFW returnees and their families struggled with reduced incomes and majority of their household without regular employment, not to mention the possibility of their predicament sliding back to poverty during the process.<sup>7</sup> It is through these lenses that the Asian Development Bank recommended policy reforms to boost the financial literacy of OFWs about products on savings, investments insurance, and asset accumulation to help with their return migration.

Notwithstanding the foregoing, prevailing regulatory restrictions continue to impede financial inclusion and prevent financial institutions from providing services to underserved and unserved market segments, such as OFWs abroad. Due to these regulatory restrictions, insurance companies in the Philippines are currently prohibited from issuing life insurance to Filipinos who are based overseas at the time of the conclusion of the transaction, which broadly covers OFWs. While the Philippine government, through the Department of Labor and Employment ("**DOLE**"), provides mandatory insurance for all agency-hired OFWs prior to their deployment,<sup>8</sup> the same may not sufficiently cover the risk protection desired by OFWs.

At present, agency-hired OFWs are only entitled to accidental death benefit of USD 15,000.00, natural death benefit of USD 10,000.00, permanent total disablement benefit of USD 7,500.00, subsistence allowance benefit of USD 100.00 per month for a maximum of 6 months, and money claims benefit for three months for every year of employment contract with a maximum of USD 1,000.00 per month. The mandatory insurance likewise entitles them to the actual costs related to their (i) repatriation, whether medical or otherwise, (ii) compassionate visit from a family member in case they are hospitalized or confined, and (iii) medical evacuation.<sup>9</sup>

<sup>6</sup> Jong Woo Kang and Ma. Concepcion Latoja, *COVID-19 and Overseas Filipino Workers: Return Migration and Reintegration into the Home Country - the Philippine Case*, ADB Southeast Asia Working Paper Series No. 21 (2022). Available at: <https://www.adb.org/sites/default/files/publication/767846/sewp-021-covid-19-ofws-return-migration-reintegration.pdf>

<sup>7</sup> *Ibid.*

<sup>8</sup> Rep. Act No. 8042, as amended by Rep. Act No. 10022 (2009), sec. 37-A.

<sup>9</sup> *Ibid.*

The present reality for this market segment is that OFWs only have a limited window of time to avail of life insurance while they are in the Philippines, which could deny them the opportunity of availing insurance at an earlier age for lower premiums. Thus, unless the regulatory restrictions are liberalized, this market segment is at risk of continuing to be left unserved and whose needs unprotected and unmet by insurance companies.

## II. Current Regulatory Framework

The business of insurance in the Philippines is a highly regulated commercial activity in the country, and is imbued with public interest.<sup>10</sup>

An insurance company doing business in the Philippines must have a license from the Insurance Commission “**IC**” and is subject to the regulation and supervision of the IC. In issuing insurance policies, the Amended Insurance Code “**AIC**” provides:

Section 232. No policy, certificate or contract of insurance shall be issued or delivered within the Philippines unless in the form previously approved by the Commissioner, and no application form shall be used with, and no rider, clause, warranty or endorsement shall be attached to, printed or stamped upon such policy, certificate or contract unless the form of such application, rider, clause, warranty or endorsement has been approved by the Commissioner. [underscoring applied]

Further, the AIC also regulates the solicitation and procurement of insurance products in the Philippines through insurance intermediaries, thus:

Section 307. No person shall act as an insurance agent or as an insurance broker in the solicitation or procurement of applications for insurance, or receive for services in obtaining insurance, any commission or other compensation from any insurance company doing business in the Philippines, or any agent thereof, without first procuring a license so to act from the Commissioner, which must be renewed every three (3) years thereafter. [underscoring applied]

With regard to digital distribution of insurance products, the IC has issued Circular Letter (“**CL**”) 2014-47 issued by the IC, as amended by CL 2016-15, CL 2016-60, CL 2018-07 and CL 2019-21, to provide for the guidelines on electronic commerce of insurance products (“**IC E-Commerce Guidelines**”).

<sup>10</sup>

*Manila Bankers Life Insurance Corporation vs. Cresencia Aban, G.R. No. 175666, 29 July 2013.*

It is worthy to note that the requirements under the AIC were issued from the perspective of regulating insurance business in the Philippines, as well as issuance of insurance products in the Philippines, primarily for the protection of the consumers and the public in general. Further, the AIC does not expressly deal with nor contain any express prohibition against the sale of insurance products via remote or digital channels to Filipinos temporarily based outside the Philippines (such as OFWs). The IC E-Commerce Guidelines likewise do not impose any similar restriction in this regard.

Recently, the IC issued CL 2020-109 or the Guidelines on Institutionalization of Remote Selling Initiatives as a Permanent Mode of Selling Insurance Products. These guidelines allow life and non-life insurance companies to utilize remote selling initiatives in the sale of their products, regardless of amount of premium payable on the policy sold. However, the guidelines (i) impose a restriction that prevent remote selling initiatives from being utilized in cross-border selling of insurance products, and (ii) require insurers to adopt measures to ensure that no cross-border selling will occur at the time of conduct of sale.

The IC, in its Legal Opinion No. 2021-06 issued to Paramount Life and General Insurance Corporation, has denied the request to allow the issuance of life insurance to Filipinos who are based overseas at the time of the conclusion of the transaction on the basis that (i) the authority granted by the IC to insurance companies pertains exclusively to the authority to do business in the Philippines, which does not include the authority to do business abroad, (ii) the sale of insurance products outside the Philippines is subject to licensing and product approval requirements of the country where such insurance products are being sold, and (iii) under CL 2020-109, utilization of remote selling initiatives in cross-border selling is specifically prohibited.

On a related matter, the IC interceded no objection in the launching of the Elsa Care app by the Insular Life Assurance Co. Ltd. in partnership with Madrid-based Elsa Care Technologies, Inc. (**“Elsa Care”**).<sup>11</sup> Based on IC Ruling No. 2021-07, Elsa Care hosts an e-commerce platform, which is accessible to its members comprising of Filipinos residing or working in Spain. Through Elsa Care, Overseas Filipino members may sponsor the purchase of InLife Prime Care for their families and loved ones in the Philippines. The IC ruled that the proposed partnership does not constitute cross-border selling, which is prohibited under CL 2020-109 considering that the OFW member cannot purchase the life insurance by himself from the platform, nor can he purchase the life insurance of the owner-insured online because of a geo-location lock feature which limits the e-commerce within the Philippines.

<sup>11</sup> Insurance Commission Ruling No. 2021-07.



In light of the recent issuances of the IC, Philippine insurers are now expressly prohibited from offering or selling insurance to Filipinos overseas, including OFWs temporarily based outside the Philippines. The IC, in its Legal Opinion No. 2021-04 issued to East West Ageas Life Insurance Corporation, made it clear that in case of life insurance, the geographical limitation for insurers to insure persons and/or risks situated within the Philippines under CL2020-109 extends to OFWs who are permanent residents of the Philippines, even if they are gainfully employed outside the Philippines. At present, the current regulatory framework remains to be rigid with regard to cross-border selling of insurance policies because of jurisdictional concerns, enforcement issues, and the inherent complexity in navigating and harmonizing the different laws and trade policies of various countries.

### III. Developments

The Philippines has recently enacted Republic Act No. 11641 otherwise known as the Department of Migrant Workers Act. This new law mandates the development and implementation of a full-cycle and comprehensive national reintegration program for both documented and undocumented OFWs, which shall be embedded in all stages of migration for work beginning from pre-deployment, on-site during employment, and upon return, whether voluntary or involuntary. The reintegration program shall cover the different dimensions of support needed by the OFW such as economic, social, psychosocial, gender-responsive, and cultural, and include promoting access to social protection instruments and financial services.

Further, the Philippine government has been aiming to provide greater financial inclusion among Filipinos. As part of the government's commitment to this plan, the Bangko Sentral ng Pilipinas (“BSP”) released its National Strategy for Financial Inclusion plan for years 2022 up to 2028 with the intention of providing universal access to financial services to all Filipinos.<sup>12</sup> The BSP, in partnership with the Bureau of Internal Revenue, recently launched the Digital Personal Equity and Retirement Account (“PERA”) platform for OFW investors. Through the platform, OFW investors who do not have any taxpayer identification numbers may submit their applications so they can open bank accounts and become eligible to invest in the PERA platform.<sup>13</sup>

These governmental efforts have driven various initiatives related to three key financial services namely, savings, credit and insurance.

<sup>12</sup> Bangko Sentral ng Pilipinas, *National Strategy for Financial Inclusion 2022-2028*. Available at: <https://www.bsp.gov.ph/Pages/InclusiveFinance/NSFI-2022-2028.pdf>

<sup>13</sup> Revenue Memorandum Circular No. 103-2020.

In terms of savings, initiatives such as the Overseas Filipino Bank, a savings bank of Landbank for OFWs which recently took a new form as the first government digital-only branchless bank in the Philippines, have positioned themselves to make financial products and services more accessible and tailored to the needs of OFWs. It also sparked meaningful partnerships among entities in the FinTech industry to provide better remittance options to OFWs.<sup>14</sup> By way of example, GCash has partnered with multiple foreign-based e-wallets platforms such as TNG Wallet<sup>15</sup> and Sendwave<sup>16</sup> to introduce cheaper and faster digital remittance solutions for OFWs abroad.

For credit, the Credit Information Corporation has launched the CIBIApp to enable OFWs receive their credit report and score online, which they may use to prove their creditworthiness and be assessed fairly when availing loans and other financial services.<sup>17</sup>

While there are efforts in the areas of savings and credit, in terms of advocating financial inclusion among OFWs, there is little to no activity towards making insurance, specifically life insurance, more accessible to OFWs abroad. The most recent development in this regard would be the expanded compulsory insurance for returning OFWs and direct hires, which was recently suspended due to the lack of consultation with affected stakeholders. In this connection, only agency-hired OFWs are mandated at this time to be covered by a compulsory insurance policy under Section 37-A of Republic Act No. 8042, as amended by 10022, otherwise known as the Migrant Workers and Overseas Filipinos Act of 1995.

While the cited developments are mere stepping stones towards the financial inclusion for all Filipinos, they are nevertheless rudimentary in strengthening the foundational support of OFWs and their families once they reintegrate back to the Philippines after working abroad. By making these financial services and products available to OFWs while they are abroad, we empower them to manage their finances and reduce their vulnerability to financial distress.<sup>18</sup> We prevent the risk of isolating them from the very market where they intend to return after working abroad, i.e., by according them with the opportunity of being able to return home in peace knowing that they have already planned accordingly for the risk accompanied by their return and the future of their families after their work abroad.

<sup>14</sup> J. Villanueva. *OFBank eyes hiked share in gov't financial inclusion bid* (2021). Available at: [www.pna.gov.ph/articles/1156746](http://www.pna.gov.ph/articles/1156746).

<sup>15</sup> Business World Online. *Gcash, Hong Kong's TNG Wallet team up for money remittance solution* (2022). Available at: [www.bworldonline.com/corporate/2022/03/11/435368/gcash-hong-kongs-tng-wallet-team-up-for-money-remittance-solution/](http://www.bworldonline.com/corporate/2022/03/11/435368/gcash-hong-kongs-tng-wallet-team-up-for-money-remittance-solution/)

<sup>16</sup> Mindanao Times. *Gcash, Sendwave offer zero transaction fees on remittance* (2022). Available at: [www.mindanaotimes.com.ph/2022/08/31/gcash-sendwave-offer-zero-transaction-fees-on-remittance/](http://www.mindanaotimes.com.ph/2022/08/31/gcash-sendwave-offer-zero-transaction-fees-on-remittance/)

<sup>17</sup> Credit Information Corporation. *PRESS Release: CIC issues guidelines for reaccreditation of private credit bureaus* (2021). Available at: [www.creditinfo.gov.ph/press-release-cic-issues-guidelines-reaccreditation-private-credit-bureaus](http://www.creditinfo.gov.ph/press-release-cic-issues-guidelines-reaccreditation-private-credit-bureaus).

<sup>18</sup> ADB Institute. *Financial Inclusion, Education, and Regulation in the Philippines* (2015). Available at: [www.adb.org/sites/default/files/publication/171786/adbi-wp541.pdf](http://www.adb.org/sites/default/files/publication/171786/adbi-wp541.pdf)



## IV. Recommendations

Given the significant number of OFWs and the Philippine government's advocacy of promoting financial inclusion, the peculiar nature and characteristics of the OFW market needs to be taken into consideration in formulating insurance regulatory policies. Thus, there is a need to revisit the blanket prohibition against cross-border selling of insurance under CL 2020-109.

### **1. Ease up rules on cross-border selling of life insurance to OFWs by recognizing reverse solicitation exceptions**

We are of the view that cross-border selling of life insurance to OFWs would be a reasonable exception particularly if the covered risks are likely to be triggered when the OFW has retired and returned to the Philippines. In countries where reverse solicitation is recognized as an exception improve overall competition in the market, Philippine law should similarly allow OFWs within the jurisdiction to avail of this exception and contact their licensed insurers in the Philippines for insurance coverage. To do otherwise would be to deprive OFWs with their freedom to contract and receive their preferred services under Philippine law.

In addition, there is currently no insurance regulatory guidance on reverse solicitation. In other jurisdictions, reverse solicitation is a recognized exception to the licensing and regulatory requirements under the laws of the relevant jurisdiction. In reverse solicitation, the prospective client initiates contact with or approaches the insurance company, without active marketing or solicitation on the part of the insurance company, to procure insurance. The IC may likewise consider taking the same approach in respect of activities undertaken on a reverse solicitation basis, especially with respect to insurance products being availed of by OFWs temporarily outside the Philippines from licensed insurers in the Philippines.

The Financial Inclusion Steering Committee may likewise look into setting up and facilitating an information sharing system, between and among the OFWs, local stakeholders and international partners, to assist in the formulation and implementation of international migration and related policies, such as reverse solicitations, in favor of OFWs.

## 2. Enter into bilateral and/or multilateral agreements for passporting exemptions in OFW-heavy countries

The Philippines may also enter into bilateral and/or multilateral agreements where foreign financial service providers from member parties may be exempted from regulatory rules, as such providers may passport their home-country license into the foreign country to provide limited cross-border services in the foreign jurisdiction.

In Australia for example, the passport exemption will apply from any licensing requirement if the foreign financial service provider:

- (a.) is incorporated in a relevant specified foreign jurisdiction;
- (b.) holds the requisite license from the relevant specified overseas regulator;
- (c.) has a license or authorization that allows them to carry out the specific activities it intends to perform in Australia;
- (d.) operates as a primary business in the provision of financial services; and
- (e.) provides financial services in Australia to whole clients only.<sup>19</sup>

In the Asia Pacific region, there had been similar projects, such as the Asia Region Funds Passport which is a multilateral framework intended to support development of the Asia region funds management industry through improved market access and regulatory harmonization.<sup>20</sup> The same type of arrangement may be initiated by the Philippines for the insurance industry with countries where there is large distribution of OFWs, for their financial inclusion and protection. In the latest national survey, about 26.6% of the total 1.77 million OFWs are working in Saudi Arabia while other notable countries in the middle east region include United Arab Emirates (14.6%), Kuwait (6.4%) and Qatar (5.4%). For the Asia Pacific region, OFWs are mainly based in Hong Kong (6.3%) and Singapore (5.3%).

The IC may also consider entering into bilateral or multilateral treaties with the abovementioned countries and other countries within the ASEAN economic region to establish guidelines on the conduct of cross-border marketing and selling of life insurance policies by local insurers to OFWs within the jurisdiction of these foreign countries.

<sup>19</sup> Baker McKenzie, *Global Financial Services Regulatory Guide (2021)*. Available at: [https://www.bakermckenzie.com/-/media/files/insight/guides/2021/global\\_fsr\\_guide\\_2021.pdf](https://www.bakermckenzie.com/-/media/files/insight/guides/2021/global_fsr_guide_2021.pdf)

<sup>20</sup> Asia-Pacific Economic Cooperation, *Asia Region Funds Passport*. Available at: <https://fundspassport.apec.org/about-us/about/>

Equipping insurance companies in the Philippines with the ability to use their home-country licenses to market and sell life insurances to OFW returnees may help ensure that OFW returnees and their families are protected from emergencies and untoward events after the OFW's employment abroad. Furthermore, this initiative is in line with Section 17 of the Department of Migrant Workers Act which showed the government's commitment to develop a full-cycle national reintegration program and promote access of OFWs to social protection instruments and financial services.<sup>21</sup> Thus, the government may consider this option as a further means to promote financial inclusion among the unserved market of Filipinos abroad.

### **3. Allow financial education, marketing and selling of life insurance to OFWs and their families through the use of technology**

A recent study conducted on the financial inclusion of OFWs shows that OFWs generally do not have bank accounts or personal insurance, and that they only utilize financial services such as money transfer or credit services for purposes of remittance.<sup>22</sup> The study also noted that since these OFWs have been out of the Philippines for a long time, their knowledge of the locally-offered financial services is very limited.<sup>23</sup> It also highlighted that while OFWs have healthcare coverage through their employers, they do not have life insurance policies that will take care of their families in case of their death or disability.<sup>24</sup> The IC may also consider allowing features in these technology-based applications which will enable OFWs to understand the different insurance products available which match their personal needs, subject to the condition that the initiation of the eligibility checks and coverage application process will commence once they go back to the Philippines.

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<sup>21</sup> Rep. Act No. 11641 (2021v), sec. 17.

<sup>13</sup> Revenue Memorandum Circular No. 103-2020.

## V. Conclusion

Our OFWs comprise an unserved market segment that need financial protection, for themselves and their families, before, during and after their employment abroad. To date, current regulatory framework impedes the financial inclusion in this market. In particular, the current regulatory landscape prevents Filipinos abroad from having effective access to different financial products and services that are appropriately designed, of good quality, and relevant and beneficial to them as Filipinos working abroad.

Insurance regulatory policies should be aligned with the national reintegration program of the Philippine government for OFWs. The public interest which is sought to be protected by Philippine insurance laws and regulations should be inclusive enough to cover OFWs. It is with this that we recommend the easing of the prohibition against cross-border marketing and selling of insurance products to OFWs under CL 2020-109.

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## About Pru Life UK

### A legacy of financial strength

Pru Life UK is the local subsidiary of Prudential plc, an Asia-led portfolio of businesses focused on structural growth markets. It has 19 million life customers in its Asia and Africa businesses and built on a tradition that adheres to the strictest and most prudent insurance standards. This same tradition applies to its operations all over the world, including the Philippines.

### A tradition of innovation

Pru Life UK is the country's pioneer and one of the top providers of investment-linked life insurance. We are dynamic, fast-growing, and innovative – bringing you the benefits of health protection and financial security in an ever-expanding line of life insurance products.