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11 July 2014

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ATTY. FLORENCIO P. GABRIEL JR.
Executive Vice President
**PHILIPPINE EXPORT-IMPORT
CREDIT AGENCY (PHILEXIM)**
17TH Flr., Citibank Tower, Valero Street
Salcedo Village, Makati City

RE: OIC PRESIDENT AND CEO OF PHILEXIM

Dear Atty. Gabriel,

This refers to your letters to the Governance Commission dated 23 June and 01 July 2014¹ requesting for clarifications on the “designation by the Board of Directors of an Officer-Next-In-Rank as the temporary/acting OIC of a GOCC upon the resignation of its President & CEO, in accordance with GCG Memorandum Circular No. 2012-09.” Specifically, you raised the following:

1. Can the Board designated OIC, an Officer-Next-In-Rank to the CEO, be considered for purposes of determining a quorum in any Board or Board Level Committee meeting;
2. Can he be a member of the Board-level Committees previously occupied by the former President & CEO;
3. Can his vote be counted in coming up with a decision or resolution; and
4. Clarification on the meaning of clause in GCG MC No. 2012-09, stating that “The Officer-Next-in-Rank designated as the Temporary/Acting OIC may only serve for the unexpired term of the CEO he/she replaced.

We write to inform you about the Governance Commission’s position on the issues raised in your letter.

**OIC’S ATTENDANCE IN MEETINGS FOR PURPOSES OF QUORUM
AND MEMBERSHIP IN BOARD-LEVEL COMMITTEES**

An OIC “enjoys limited powers which are confined to functions of administration and ensuring that the office continues its usual activities.”² Accordingly, GCG Memorandum Circular No. 2012-09³ stressed that an Officer-Next-In-Rank who is designated as the OIC of a corporation “shall not be considered part of the GOCC Board, as he/she was never appointed by the President of the Philippines under the authority of R.A. No. 10149.”

¹ Officially received by the Governance Commission on 25 June and 01 July 2014, respectively.

² CSC Resolution No. 000778, 24 March 2000.

³ *The Chief Executive Officer.*

[Signature]

An Officer-Next-In-Rank who is designated as the OIC may attend Board meetings as CEO but not as a member of the Board. His attendance may not be counted for purposes of determining a quorum. In any event, this should not be a concern for PHILEXIM since eight (8) of the nine (9) seats are presently filled.

Since the OIC is not considered part of the Board, lacking the necessary Presidential appointment and acting only within the bounds of his/her designation, he/she cannot be a member of Board-level committees previously occupied by the former President & CEO.

POWER OF THE OIC TO VOTE ON DECISION-MAKING MATTERS

Under P.D. No. 1080,⁴ as amended by R.A. No. 8494,⁵ as well as Section 3(c) of R.A. No. 10149, the corporate powers of the PHILEXIM shall be exercised by its Board of Directors.

The Officer-Next-In-Rank designated OIC, not being a member of the Board, may not be considered in the process of voting and decision-making, as the same may only be exercised by the Board Members.

TERM OF OFFICE OF THE OIC

GCG M.C. No. 2012-09 provides that the OIC may "only serve for the unexpired term of the CEO he/she replaced." The designation of an Officer-Next-In-Rank as OIC is only an exception to the general rule that the OIC should be a member of the Governing Board, it should only apply in extraordinary circumstances and the designation should only be in a temporary/acting capacity. If the Officer-Next-In-Rank was designated as OIC before 30 June 2014, he or she will need a new designation after the said date in order to continue serving as OIC until a new CEO is appointed and elected for the term beginning 01 July 2014 and ending on 30 June 2015.

FOR YOUR INFORMATION AND GUIDANCE.

Very truly yours,


ATTY. RYBIGAIL L. LAO
Director IV

⁴ Revising Presidential Decree No. 550 Creating the Philippine Foreign Loan Guarantee Corporation so it will now be entitled The Philippine Export and Foreign Loan Guarantee Corporation.

⁵ An Act Further Amending Presidential Decree No. 1080, as amended, by Reorganizing and Renaming the Philippine Export and Foreign Loan Guarantee Corporation, Expanding its Primary Purposes, and for Other Purposes.