

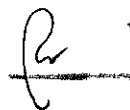
FIFTEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
First Regular Session )

OFFICE C- 10 OCT 12 P5:15

SENATE

S. B. No. 2566

RECEIVED BY



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Introduced by Senator FRANKLIN M. DRILON

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### EXPLANATORY NOTE

The State, recognizing the role of Government-Owned or Controlled Corporations (GOCCs) as mechanisms in delivering essential services to the public at the least cost to the State and promoting economic development, has established a significant number of GOCCs over the years.

However, contrary to their mandate to be economically and financially viable, the existing GOCCs currently account for a very substantial portion of the annual expenditures of the State in the form of subsidy, without providing substantial additional income and revenues for the Government.

The management, coordination and monitoring of the performance of GOCCs currently undertaken by the various Departments and Government Agencies to which they are attached do not sufficiently ensure that GOCCs, in the performance of the purposes for which they were established, likewise achieve fiscal viability and responsibility. It is anticipated that the lack of centralized monitoring and supervision of the management and operations of the GOCCs will further result in the substantial and continued depletion of the State's funds without maximizing the potential of these GOCCs to achieve their mandates under their charters.

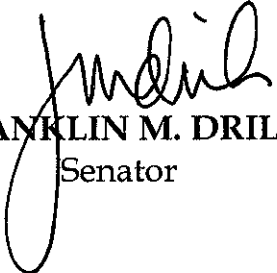
It is thus in the interest of the State that GOCCs operate profitably, effectively deliver the much-needed services to the public, and significantly contribute to national development.

Towards this end, this bill seeks to address the seeming lack of sustained and concerted effort on the part of the State to closely monitor and evaluate the performance of GOCCs by rationalizing their existence and role, and by ensuring the faithful performance of their mandate using the standards of good governance, transparency, accountability and responsibility in fulfilling their duties to the State.

With the passage of this bill, it is anticipated that the Government-Owned or Controlled Corporations will operate profitably and significantly contribute to

the income of the State thereby improving the quality of public services rendered and substantially contribute to national development.

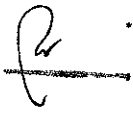
In view of the foregoing, the urgent passage of the proposed measure is requested.



FRANKLIN M. DRILON  
Senator

10 OCT 12 P5:15

SENATE

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Introduced by Senator FRANKLIN M. DRILON

**AN ACT TO PROMOTE FINANCIAL VIABILITY AND FISCAL DISCIPLINE  
IN GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS AND  
TO STRENGTHEN THE ROLE OF THE STATE IN ITS GOVERNANCE AND  
MANAGEMENT TO MAKE THEM MORE RESPONSIVE TO THE NEEDS  
OF PUBLIC INTEREST AND FOR OTHER PURPOSES**

*Be it enacted by the Senate and House of Representatives of the Philippines in Congress  
assembled:*

**CHAPTER I**

**General Provisions**

**SECTION 1.** *Short Title.* – This Act shall be known as the “GOCC  
Governance Act of 2010.”

**SECTION 2.** *Declaration of Policy.* – The State recognizes the potential of  
Government-Owned or Controlled Corporations as significant tools for economic  
development. It is thus the policy of the State to promote the growth of the  
Government-Owned or Controlled Corporations by ensuring that their  
operations are consistent with national development policies and programs.

Towards this end, the State shall ensure that:

- (a) The governance of Government-Owned or Controlled Corporations is  
carried out in a transparent, responsible and accountable manner and  
with the utmost degree of professionalism and effectiveness;

1 (b) A reporting system, which will require the periodic disclosure and  
2 examination of the operations and management of the Government-  
3 Owned or Controlled Corporations, their assets and finances, revenues  
4 and expenditures is enforced;

5  
6 (c) The governing board of every Government-Owned or Controlled  
7 Corporation shall be competent to carry out its functions, fully  
8 accountable to the State as its fiduciary, and act in the best interest of the  
9 State;

10  
11 (d) Reasonable, justifiable and appropriate remuneration schemes are  
12 adopted for the officers and employees of Government-Owned or  
13 Controlled Corporations to prevent or deter the granting of  
14 unconscionable and excessive remuneration packages;

15  
16 (e) There is a clear separation between the regulatory and proprietary  
17 activities of Government-Owned or Controlled Corporations, in order to  
18 achieve a level playing field with corporations in the private sector  
19 performing similar commercial activities for the public.

20  
21 **SECTION 3. *Definition of Terms.* -**

22  
23 (a) "Affiliate" refers to a corporation fifty percent (50%) or less of the voting  
24 stock of which is owned or controlled, directly or indirectly, by the  
25 Government-Owned or Controlled Corporation.

26  
27 (b) "Appointive Director" - refers to:

28 a. In the case of Chartered Government-Owned or Controlled  
29 Corporations, all members of its Board of Directors/Trustees who  
30 are not *ex officio* members thereof; and

31 b. In the case of Non-chartered Government-Owned or Controlled  
32 Corporation, members of its Board of Directors/Trustees whom the  
33 State is entitled to nominate, to the extent of its percentage  
34 shareholdings in such Government-Owned or Controlled  
35 Corporation.

- 1 (c) "Board of Directors/Trustees" or "Board" refers to the governing body  
2 that exercises the corporate powers of a Government-Owned or  
3 Controlled Corporation.
- 4
- 5 (d) "Charter Statement" refers to a statement of the Government-Owned or  
6 Controlled Corporation's vision, mission and core values.
- 7
- 8 (e) "Chartered GOCC" refers to a Government-Owned or Controlled  
9 Corporation, including Government Financial Institutions, created and  
10 vested with functions by a special law.
- 11
- 12 (f) "Chief Executive Officer" refers to the President or the General Manager  
13 or the Administrator of a Government-Owned or Controlled  
14 Corporation.
- 15
- 16 (g) "Corporate Governance" refers to a set of principles and standards  
17 derived from law, regulation and proper corporate practices that enables  
18 the corporation to attract financial and human capital, perform  
19 efficiently, thereby generating long-term and desirable economic value  
20 for the State.
- 21
- 22 (h) "Department" refers to an executive department created by law for the  
23 functional distribution of the work of the President.
- 24
- 25 (i) "Fit and Proper Rule" refers to the standard for determining whether a  
26 member of the Board of Directors/Trustees or Chief Executive Officer  
27 is fit and proper to hold a position in a Government-Owned or Controlled  
28 Corporation, which shall include but not be limited to, standards on  
29 integrity, experience, education, training, and competence.
- 30
- 31 (j) "Government Agency" refers to any of the various units of the  
32 Government of the Republic of the Philippines, including a department,  
33 bureau, office, instrumentality, or Government-Owned or Controlled  
34 Corporation, or a local government or a distinct unit therein.
- 35

- 1 (k) "Government-Owned or Controlled Corporation (GOCC)" refers to any  
2 agency organized as a stock or non-stock corporation, vested with  
3 functions relating to public needs whether governmental or proprietary  
4 in nature, and owned by the Government of the Republic of the  
5 Philippines directly or through its instrumentalities either wholly, or,  
6 where applicable as in the case of stock corporations, to the extent of at  
7 least fifty-one percent (51%) of its capital stock.  
8
- 9 (l) "Non-chartered GOCC" refers to a GOCC organized and operating  
10 under Batas Pambansa Bilang 68, or The Corporation Code of the  
11 Philippines.  
12
- 13 (m) "Officer" refers to the corporate officer entrusted to manage the day to  
14 day operations of the GOCC as provided in its charter or by-laws, such  
15 as the Chief Executive Officer, President, Vice President, General  
16 Manager, Treasurer, and Corporate Secretary;  
17
- 18 (n) "Performance Scorecards" refers to a governance and management tool  
19 consisting of a set of measures, targets and initiatives that facilitate the  
20 achievement of breakthrough results and performance through the  
21 effective and efficient monitoring and coordination of the strategic  
22 objectives of the GOCC.  
23
- 24 (o) "President" refers to the President of the Republic of the Philippines.  
25
- 26 (p) "Related Corporation" refers to a subsidiary or affiliate of a GOCC;  
27
- 28 (q) "Secretary" refers to the person vested with the authority and  
29 responsibility for the exercise of the mandate of the Department, for the  
30 discharge of its powers and functions, and who shall have supervision  
31 and control of the Department.  
32
- 33 (r) "Strategy Map" refers to an integrated set of strategic choices or  
34 objectives drawn by the governing body, the successful execution of  
35 which results in the achievement of the GOCC's vision in relation to its

mission or purpose for having been created.

- (s) 'Subsidiary' refers to a corporation more than fifty percent (50%) of the voting stock of which is owned or controlled, directly or indirectly through one or more intermediaries, by the GOCC.

**SECTION 4. Coverage.** - This Act shall be applicable to all GOCCs regardless of classification but shall exclude the Bangko Sentral ng Pilipinas being a constitutionally-mandated agency.

## CHAPTER II

### **The Governance Council for Government-Owned or Controlled Corporations ("GCG")**

**SECTION. 5. Creation of the Governance Council for Government-Owned or Controlled Corporations.** - There is hereby created an advisory, monitoring, recommendatory, and policy-enforcing body to be known as the Governance Council for Government-Owned or Controlled Corporations, hereinafter referred to as the GCG, which shall be attached to the Office of the President. The GCG shall have the following powers and functions:

- a) Adopt within ninety (90) days from its constitution, an ownership and operations manual governing GOCCs. Said manual shall be consistent with the Medium Term Philippine Development Plan and shall include:
  - a. Objectives of State ownership;
  - b. Role of national government in the governance of GOCCs;
  - c. Modes of implementation of the ownership policy;
  - d. Guidelines on the monitoring of the operations of all GOCCs including their Related Corporations. These shall include Strategy Maps, Charter Statements, Performance Commitments and such other mechanisms.
  - e. The roles, relationships and responsibilities of the State, the Government Agencies to which the GOCC is attached, and the GOCC;
  - f. Disclosure and transparency requirements;

- g. Code of Ethics of Directors and Officers ;
- h. Creation of board committees and similar oversight bodies;
- i. Integrated corporate reporting system;
- j. Statement of the social responsibilities of the GOCC; and
- k. Such other matters as the GCG may deem proper to include in the ownership policy.

b) Identify the necessary skills and qualifications required for Appointive Directors and recommend to the President a shortlist of suitable and qualified candidates for Appointive Directors;

c) Conduct periodic study, evaluation and assessment of the performance of the GOCCs, receive, and in appropriate cases, require reports on the operations and management of the GOCCs, including but not limited to the management of the assets and finances of the GOCCs;

d) Evaluate the performance and determine the relevance of the GOCC, and recommend to the President the reorganization, merging, streamlining, abolition or privatization of a GOCC. For this purpose, the GCG shall be guided by the following:

1. The functions or purpose for which the GOCC was created are no longer relevant to the State or no longer consistent with the national development policy of the State;
2. The GOCC's functions or purpose duplicate or unnecessarily overlap with functions, programs, activities or projects already provided by a Government Agency; or
3. The GOCC is not producing the desired outcomes, or no longer achieving the objectives and purposes for which it was originally designed and implemented, and/or not cost efficient and does not generate the level of social, physical and economic returns vis-à-vis the resource inputs.

Upon determination by the GCG that it is to the best interest of the State that a GOCC should be reorganized, merged, streamlined, abolished, or



1 privatized, it shall make its recommendation to the President. The  
2 President may, upon confirmation of the findings of the GCG, order the  
3 reorganization, merging, streamlining, abolition or privatization of such  
4 GOCC.

5  
6 Any such reorganization, merger, streamlining, abolition or privatization  
7 must be completed on or before June 30, 2015.

8  
9 e) Conduct compensation studies, develop and recommend to the President  
10 a competitive compensation and remuneration system which shall attract  
11 and retain talent, at the same time allowing the GOCC to be financially  
12 sound and sustainable;

13  
14 f) Provide technical advice and assistance to the Government Agencies to  
15 which the GOCCs are attached in setting performance objectives and  
16 targets for the GOCCs and in monitoring GOCCs performance vis-a-vis  
17 set objectives and targets;

18  
19 g) Coordinate and monitor the operations of GOCCs, ensuring alignment  
20 and consistency with the national development policies and programs. It  
21 shall meet at least quarterly to:

- 22  
23 1) Review Strategy Maps and Performance Scorecards of all GOCCs;  
24 2) Review and assess existing performance-related policies including the  
25 compensation/remuneration of Board of Directors/Trustees and  
26 Officers and recommend appropriate revisions and actions;  
27 3) Prepare performance reports of the GOCCs for submission to the  
28 President.

29  
30 h) Prepare a semi-annual progress report to be submitted to the President  
31 and the Congress. In its report, the GCG will provide its performance  
32 assessment of the GOCCs and recommend clear and specific actions.  
33 Within one hundred twenty (120) days from the close of the year, the GCG  
34 shall prepare an annual report on the performance of the GOCCs and  
35 submit it to the President and the Congress.

1 i) Review proposals by Government Agencies for the creation of a GOCC or  
2 Related Corporation under the The Corporation Code of the Philippines  
3 (Batas Pambansa Bilang 68) and recommend to the President the approval  
4 or disapproval of the same.

5  
6 j) Review the functions of each of the GOCC and, upon determination that  
7 there is a conflict between the regulatory and commercial functions of a  
8 GOCC, recommend to the President and to the Government Agency to  
9 which such GOCC is attached, a plan of action to ensure that the  
10 commercial functions of the GOCC do not conflict with such regulatory  
11 functions.

12  
13 **SECTION 6.** *Composition of the GCG.* – The GCG shall be composed of five  
14 (5) members with the Secretary of the Department of Budget and Management  
15 (DBM) as *ex officio* Chairman, and the Secretary of the Department of Finance  
16 (DOF) and the Director-General of the National Economic Development  
17 Authority (NEDA) as *ex officio* members, and two (2) representatives from the  
18 private sector as appointive members of the GCG.

19  
20 The two (2) representatives from the private sector shall be appointed by  
21 the President, upon the joint recommendation of the DBM, DOF and the NEDA  
22 from a list of at least four (4) nominees. They must be citizens of the Philippines  
23 with recognized competence in the areas of corporate governance, policy  
24 administration, business management, human resources management, financial  
25 management and other related fields. They shall serve as GCG members for a  
26 term of three (3) years, without reappointment; *Provided*, That of the  
27 representatives from the private sector first appointed, one (1) shall serve for two  
28 years, and one (1) shall serve for three (3) years, and thereafter every  
29 representative so appointed shall serve for three (3) years.

30  
31 **SECTION 7.** *Remuneration of Members of the GCG.* – The members of the  
32 GCG shall not receive any compensation or remuneration for their services as  
33 such, but may receive reasonable *per diems* for actual attendance in meetings of  
34 the GCG and reimbursement for actual and reasonable expenses in relation to the  
35 discharge of their functions or in carrying out the objectives of the GCG; *Provided*,

1 That *per diems* payable to the members of the GCG shall be approved by the  
2 President.

3  
4 **SECTION 8.** *The GCG Secretariat.* – The GCG shall maintain a full-time  
5 technical secretariat in the Office of the President. Within ninety days (90) days  
6 from the effectivity of this Act, the GCG shall present to the President the staffing  
7 requirement, organizational structure and budget requirements of the GCG  
8 Secretariat.

9  
10 **SECTION 9.** *Managing Director.* – The management of the GCG Secretariat  
11 shall be vested in the Managing Director who shall be a citizen of the Philippines  
12 with known integrity, independence and recognized competence in the areas of  
13 corporate governance, policy administration, business management, human  
14 resources management and/or financial management and who has not been  
15 convicted of any act involving violation of the The Corporation Code of the  
16 Philippines, The Securities Regulation Code (Republic Act No. 8799) or any  
17 other offense involving moral turpitude.

18  
19 The Managing Director shall be appointed by the President from a list of  
20 at least five (5) nominees, upon the recommendation of the GCG.

21  
22 The Managing Director shall have the rank of a Cabinet Secretary;  
23 *Provided,* That the Managing Director may receive such allowances and bonuses  
24 as determined by the GCG and approved by the President, giving due  
25 consideration to his overall performance and the performance of the GCG.

26  
27 **SECTION 10.** *Powers and Duties of the Managing Director.* – The Managing  
28 Director shall have the following powers and duties:

- 29  
30 (a) Direct and manage the day-to-day affairs and business of the GCG  
31 Secretariat, subject to the control and supervision of the GCG;  
32 (b) Attend all meetings of the GCG and participate in its deliberations;  
33 (c) With the approval of the GCG, determine the staffing pattern and the  
34 number of personnel of the GCG Secretariat, fix their salaries and other  
35 emoluments, and define their powers and duties.

- 1 (d) With the approval of the GCG, to appoint, remove, suspend, or  
2 otherwise discipline, for cause, any employee of the GCG Secretariat.
- 3 (e) Perform such other duties as may be delegated or assigned to him by  
4 the CGGG from time to time.

5

6 **SECTION 11. *Compensation and Position Classification System.*** – The GCG,  
7 after conducting a compensation study, shall develop a Compensation and  
8 Position Classification System which shall consist of classes of positions grouped  
9 into such categories as the GCG may determine, subject to the approval of the  
10 President.

11

12 All positions in the Position Classification System, as determined by the  
13 GCG and as approved by the President, shall be allocated to their proper  
14 position titles and salary grades in accordance with an Index of Occupational  
15 Services, Position Titles and Salary Grades of the Compensation and Position  
16 Classification System, which shall be prepared by the GCG and approved by the  
17 President.

18

19 The GCG may recommend, subject to the approval of the President,  
20 additional allowances or bonuses for certain position titles, giving due  
21 consideration to the necessity for such allowances and the good performance of  
22 the GOCC.

23

24 The following principles shall govern the Compensation and Position  
25 Classification System:

- 26
- 27 (a) All GOCC personnel shall be paid just and equitable wages. Pay  
28 distinctions shall take into consideration work distinctions; *Provided,*  
29 That the ratio of compensation between those occupying higher ranks  
30 and those at lower ranks should be maintained at equitable levels,  
31 giving due consideration to higher percentage of increases to lower  
32 level positions and lower percentage increases to higher level positions.
- 33 (b) Basic compensation for all personnel in the GOCC shall generally be  
34 comparable with those in the private sector doing comparable work,  
35 and must be in accordance with prevailing laws on minimum wages;

The total compensation provided for GOCC personnel shall be maintained at a reasonable level with due regard to the national budget;

(c) A review of the GOCC compensation rates, taking into account the performance of the GOCC, its overall contribution to the national economy and the possible erosion in purchasing power due to inflation and other factors, shall be conducted periodically.

The Compensation and Position Classification System to be developed and recommended by the GCG and as approved by the President shall apply to all positions, on full or part-time basis, now existing or hereafter created in the GOCC; *Provided*, That in no case shall there be any diminution in the salaries of incumbent employees of GOCCs who are covered by Republic Act No. 6758, as amended, upon the implementation of the Compensation and Position Classification System for GOCCs.

No GOCC shall be exempt from the coverage of the Compensation and Position Classification System developed by the GCG under this Act.

## CHAPTER III

### Reorganization of GOCCs

**SECTION 12.** *Number of Directors/Trustees.* - The present number of Directors/Trustees provided in the charter of the GOCCs shall be maintained, but in no case shall the total number of Directors/Trustees exceed nine (9) members.

**SECTION 13.** *Appointment of the Board of Directors/Trustees of GOCCs.* – An Appointive Director shall be appointed by the President of the Philippines from a shortlist prepared by the GCG.

The GCG shall formulate its rules and criteria in the selection and nomination of prospective appointees; *Provided, however,* That all nominees included in the list submitted by the GCG to the President shall meet the Fit and

1 Proper test as defined under this Act and such other qualifications which the  
2 GCG may determine taking into consideration the unique requirements of each  
3 GOCC. No person who is not included in the shortlist prepared by the GCG  
4 may become an Appointive Director; *Provided, That* the GCG shall ensure that  
5 the shortlist shall exceed by at least fifty percent (50%) of the number of  
6 directors/trustees to be appointed; *Provided, further, That* in the event that the  
7 President does not see fit to appoint any of the nominees included in the  
8 shortlist, he shall ask the GCG to submit additional nominees.

9  
10 **SECTION 14. *Term of Office.*** – The charters of each GOCCs to the contrary  
11 notwithstanding, the term of office of each Appointive Director shall be one (1)  
12 year. An Appointive Director may be nominated by the GCG for re-appointment  
13 by the President only if he/she obtains a performance score of above average or  
14 its equivalent or higher in the immediately preceding year of his/her tenure as  
15 Appointive Director based on the performance criteria for Appointive Directors  
16 for the GOCC. Of the Appointive Directors first appointed under this Act, at  
17 least one third (1/3) shall serve for three (3) years; at least one third (1/3) for two  
18 (2) years and the remaining Appointive Directors shall serve for one (1) year.  
19 Thereafter, every Appointive Director so appointed shall serve for one (1) year.

20  
21 Appointment to any vacancy shall be only for the unexpired term of the  
22 predecessor. The appointment of a director to fill such vacancy shall be in  
23 accordance with the manner provided in Section 13 of this Act.

24  
25 Any provision of law to the contrary notwithstanding, all incumbent  
26 CEOs and members of the Board of GOCCs shall, upon approval of this Act,  
27 have a term of office until July 1, 2011 or until their successors shall have been  
28 appointed, or unless sooner replaced by the President.

29  
30 **SECTION 15. *The Chief Executive Officer of the GOCC.*** – The Chief  
31 Executive Officer (CEO) or the highest-ranking officer provided in the charters of  
32 the GOCCs, shall be elected annually by the members of the Board from among  
33 its ranks. The CEO shall be subject to the disciplinary powers of the Board and  
34 may be removed by the Board for cause.

**SECTION 16.** *Requisites for the Creation of a new GOCC or Related Corporation Under The Corporation Code.* - A Government Agency seeking to establish a GOCC or Related Corporation under The Corporation Code of the Philippines shall, before registering the same with the Securities and Exchange Commission (SEC), first obtain the approval of the President for the creation of such GOCC or Related Corporation. The Securities and Exchange Commission (SEC) shall not register the articles of incorporation and by-laws of a proposed GOCC or Related Corporation, unless the application for registration is accompanied by an endorsement from the GCG stating that the President has approved the same.

## CHAPTER IV

### Board of Directors/Trustees/Officers

## Of Government-Owned or Controlled Corporations

**SECTION 17.** *Coverage.* - The duties, obligations, responsibilities and standards of care provided under this Chapter shall be applicable to all members of the Board of Directors/Trustees and Officers of GOCCs now existing or hereafter created. These duties, obligations, responsibilities shall be in addition to the powers and functions provided in the individual charters or articles of incorporation and by-laws of their respective GOCCs.

**SECTION 18.** *Fiduciary Duties of the Board and Officers.* – As fiduciaries of the State, members of the Board of Directors/Trustees and the Officers of GOCCs have the legal obligation and duty to always act in the best interest of the GOCC, with utmost good faith in all its dealings with the property and monies of the GOCC.

The members of the Board and Officers of GOCCs shall:

1. Act with utmost and undivided loyalty to the GOCC;
2. Act with due care, extraordinary diligence, skill and good faith in the conduct of the business of the GOCC;
3. Avoid conflicts of interest and declare any interest they may have in any particular matter before the Board;

- 1       4. Apply sound business principles to ensure the financial soundness of the
- 2       GOCC;
- 3       5. Elect and/or employ only Officers who are fit and proper to hold such
- 4       office with due regard to their qualifications, competence, experience, and
- 5       integrity.

6

7       Where a member of the Board or an Officer, by virtue of his office,

8       acquires or receives for himself a benefit or profit, of whatever kind or nature

9       including but not limited to the acquisition of shares in corporations where the

10      GOCC has an interest, using the properties of the GOCC for their own benefit,

11      receiving commission on contracts from the GOCC's assets, or taking advantage

12      of corporate opportunities of the GOCC, all such profits or benefits shall be

13      subject to restitution under Section 24 of this Act, without prejudice to any

14      administrative, civil or criminal action against members of the Board of

15      Directors/Trustees or Officers. This provision shall be applicable

16      notwithstanding the fact that such member of the Board or Officer risked his

17      own funds in the venture.

18

19       **SECTION 19.** *Trustee Relation to the Properties, Interests and Monies of the*

20      GOCC. – Except for the *per diem* received for actual attendance in board meetings

21      and the reimbursement for actual and reasonable transportation expenses and

22      bonuses within the limits authorized by the GCG, any and all realized profits

23      and/or benefits, including, but not limited to the share in the profits, bonuses of

24      members of the Board or Officers in excess of that authorized by the GCG, stock

25      options, dividends and other similar offers or grants from corporations where

26      the GOCC is a stockholder or investor, and any benefit from the performance of

27      members of the Board or Officers of the Corporation acting for and in behalf of

28      the GOCC in dealing with its properties, investments in other corporations,

29      management of subsidiaries and other interest, are to be held in trust by such

30      member of the Board or Officer for the GOCC they represent.

31

32       **SECTION 20.** *Care, Diligence and Skill in the Conduct of the Business of the*

33      GOCC. – The members of the Board and the Officers must exercise extraordinary

34      diligence in the conduct of the business and in dealing with the properties of the



1 GOCC. Such degree of diligence requires using the utmost diligence of very  
2 cautious person with due regard for all the circumstances.

3  
4 **SECTION 21.** *Fit and Proper.* – All members of the Board and the Chief  
5 Executive Officer shall be qualified by the “fit and proper” test to be determined  
6 by the GCG in consultation and coordination with the relevant government  
7 agencies to which the GOCC is attached and approved by the President.

8  
9 To maintain the quality of management of the GOCCs, the GCG, in  
10 coordination with the relevant Government Agencies, shall, subject to the  
11 approval of the President, prescribe, pass upon and review the qualifications and  
12 disqualifications of individuals appointed as directors or elected as officers of the  
13 GOCC and shall disqualify those found unfit.

14  
15 In determining whether an individual is fit and proper to hold the  
16 position of a director or officer of the GOCC, due regard shall be given to his  
17 integrity, experience, education, training and competence.

18  
19 **SECTION 22.** *Power of Board of Directors/Trustees to Discipline, Remove*  
20 *Officers of GOCC.* – Subject to existing civil service laws, rules and regulations, the  
21 Board shall have the authority to discipline the Chief Executive Officer, or order  
22 his removal from office, upon a majority vote of the members of the Board who  
23 actually took part in the investigation and deliberation.

24  
25 **SECTION 23.** *Limits to Per Diems, Allowances and Bonuses.* – The charters  
26 of each of the GOCCs to the contrary notwithstanding, the members of the Board  
27 of Directors/Trustees of the GOCCs shall not receive any compensation nor be  
28 entitled to retirement benefits as such directors. They shall, however, be entitled  
29 to reasonable *per diems*; *Provided*, That the same is authorized under the charter of  
30 the GOCC; *Provided, further*, That such Directors/Trustees may be entitled to  
31 bonuses equivalent to not more than two (2) months salary of the CEO of the  
32 GOCC, based on their individual and the GOCC’s performance; *Provided, finally*,  
33 That any bonus in excess of this limit shall be subject to the approval of the  
34 President.

1 In case of GOCCs organized solely for the promotion of social welfare and  
2 the common good without regard to profit, the total yearly *per diems*, allowances  
3 and bonuses in the aggregate which the members of the Board of such GOCCs  
4 may receive shall be determined by the President based on the achievement by  
5 such GOCC of its performance targets.

6  
7 **SECTION 24. *Restitution.***— Upon the determination and report of the  
8 Commission on Audit (COA) that properties or monies belonging to the GOCC  
9 are in the possession of a member of the Board or Officer without authority, or  
10 that profits are earned by the member of the Board or Officer in violation of  
11 his/her fiduciary duty, or the aggregate *per diems*, allowances and bonuses  
12 received in a particular year are in excess of the limits provided under this Act,  
13 the member of the Board or Officer receiving such properties or monies shall  
14 return the same to the GOCC.

## 15 16 **CHAPTER V**

### 17 **Miscellaneous Provisions**

18  
19 **SECTION 25. *Appropriations.*** – The amount of TEN MILLION PESOS  
20 (P10,000,000.00) is hereby initially appropriated for the creation and operations  
21 of the GCG, to be sourced from the Contingent Fund of the President.  
22 Subsequent appropriations shall be similarly sourced.

23  
24 **SECTION 26. *Suppletory Application of The Corporation Code and Charters of***  
25 *the GOCCs.* – The provisions of The Corporation Code of the Philippines and the  
26 provisions of the charters of the relevant GOCC, insofar as they are not  
27 inconsistent with the provisions of this Act, shall apply suppletorily to GOCCs.

28  
29 **SECTION 27. *Repealing Clause.*** – All laws, executive orders,  
30 administrative orders, rules, regulations, decrees, and other issuances or parts  
31 thereof, which are inconsistent with the provisions of this Act, are hereby  
32 revoked, repealed or modified accordingly.

1       **SECTION 28. *Separability Clause.*** – Should any provision of this Act be  
2 declared unconstitutional, the same shall not affect the validity of the other  
3 provisions of this Act.

4

5       **SECTION 29. *Effectivity.*** – This Act shall take effect after fifteen (15) days  
6 following its publication in the Official Gazette or in two (2) newspapers of  
7 general circulation.

8

9       Approved,