

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

JUL 30 P2:40

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SENATE
S. No. 211

Introduced by Senator S. R. Osmena III

EXPLANATORY NOTE

The Philippines' gross domestic savings as a percentage of Gross Domestic Product is projected by the Asian Development Bank at 19.5% in 2003. This has risen somewhat from 18% in 1996, but still trails behind Singapore's 45.7%, Malaysia's 41%, Thailand's 25.5%, Republic of Korea's 31%, HongKong's 34.7% and Taiwan's 25.5%.

This bill proposes to establish the regulatory framework for investment companies or mutual funds operating in the Philippines as a way of improving the country's savings rate. Mutual funds facilitate the pooling of middle- to low-income savers' funds, allowing them to access the country's capital markets and lending them the expertise needed to evaluate financial risks and participate in the profits of such risk taking.

From the unregulated heyday for the 1950's, Philippine mutual funds shifted to the highly restrictive tenor of Republic Act No. 2629 (the Investment Company Act of 1960), which was a reaction of the 1950's fiasco. The industry lay dormant throughout the 1970s especially when the Securities and Exchange Commission suspended the licensing of new mutual funds. In 1989, the SEC tried, albeit unsuccessfully, to revive the industry through the issuance of Implementing Rules and Regulations for R.A. 2629.

The proposed provisions of this bill aims to put up mechanisms that would safeguard the public interest, while allowing some flexibilities to allow the growth of investment companies. This bill seeks to democratize economic opportunities in our financial market by paving the way for the development of investment companies or mutual funds in the Philippines. Then middle income savers will develop access to the country's capital markets, and the economy will benefit from an expanded capital base.

In view of the foregoing, early passage of this bill is earnestly requested.

S. Osmena III
SERGIO OSMEÑA III
Senator

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OFFICE OF THE SECRETARY

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Introduced by Senator S. R. Osmena III

REVISED INVESTMENT COMPANY ACT

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

1 SEC.1. **Short Title.** -- This Act may be cited as the "**Revised Investment**
2 **Company Act**".

3 SEC. 2. **Declaration of Policy.** - It is the declared policy of the State to foster
4 and promote a fair, orderly and efficient capital market in order to provide the private
5 and public sectors with access to funds that are vital to the development of the national
6 economy. An important component in implementing this policy is to provide a
7 favorable framework in which investment companies can operate to facilitate the flow of
8 investment capital from sources within the country and abroad, and to broaden
9 participation in securities ownership by Filipinos so that a greater number are able to
10 share in economic growth.

11 It is recognized, however, that an investment company, by its nature, brings
12 together large concentrations of funds from the public which are entrusted for
13 investment to the management of others. This condition inherently presents an
14 increased threat of involvement of unsuitable persons in the conduct of investment
15 companies, and for self-dealing, conflicts of interest, inadequate disclosure and other
16 unsound, inequitable or abusive practices by those who manage or are otherwise
17 affiliated with them.

18 The purpose of this Act, accordingly, is to establish a comprehensive scheme of

1 regulation to permit investment companies to serve their role in the capital formation
2 process, and at the same time seek to prevent abuses and protect the interests of the
3 public who are investors in such companies.

4 SEC. 3. **Definitions.**- When used in this Act, unless the context otherwise
5 requires

6 a) "Affiliated person" of another person means (1) any person directly or indirectly
7 owning, controlling or holding with power to vote, ten per centum (10%) or more of the
8 outstanding voting securities of such other person; (2) any person ten per centum
9 (10%) or more of whose outstanding voting securities are directly or indirectly owned,
10 controlled, or held with power to vote, by such other person; (3) any person directly or
11 indirectly controlling, controlled by, or under common control with, such other person;
12 (4) any officer, director, partner, copartner, or employee of such other person; and (5) if
13 such other person is an investment company, any investment adviser thereof or
14 investment company manager thereof.

15 b) "Bank" means (1) a banking institution organized under the laws of the
16 Philippines, or (2) any other banking institution or trust company, doing business under
17 the laws of the Philippines, engaged in the lending of funds obtained from the public
18 through the receipt of deposits of any kind and duly authorized to operate as such by
19 the Monetary Board of the *Bangko Sentral Ng Pilipinas*.

20 c) "Broker" means any person engaged in the business of effecting transactions in
21 securities for the account of others, but does not include a bank or any person solely by
22 reason of the fact that such person is an underwriter for one or more investment
23 companies.

24 d) "Commission" means the Securities and Exchange Commission.

25 e) "Common stock" of a registered investment company means the one class of
26 shares which is permitted under this Act to be issued by such company, and which
27 must possess exclusive voting rights.

28 f) "Company" means a corporation, a registered partnership, trust, or an

1 association lawfully transacting business in the Philippines.

2 g) "Control" means the power to exercise a controlling influence over the
3 management or policies of a company through the beneficial ownership either directly
4 or through one or more controlled companies, of more than thirty per centum (30%) of
5 the voting securities of such company. Any person who does not so own more than
6 thirty per centum (30%) of the voting securities of any company shall be presumed not
7 to control such company. A natural person shall be presumed not to be a controlled
8 person within the meaning of this Act. Any such presumption may be rebutted by
9 evidence satisfactory to the Commission, by order of the Commission either on its own
10 motion or on application by an interested person.

11 h) "Convicted" includes a verdict, judgment, or plea of guilty, if such verdict,
12 judgment or plea has not been reversed, set aside, or withdrawn, whether or not
13 sentence has been imposed.

14 i) "Corporation Code" means the Corporation Code of the Philippines, B.P. 68,
15 enacted on May 1, 1980, as may be amended from time to time.

16 j) "Dealer" means any person regularly engaged in the business of buying and
17 selling securities for his own account, through a broker or otherwise. The term
18 excludes banks, insurance companies, or investment companies, or any person insofar
19 as he is engaged in investing, reinvesting, or trading in securities, or in owning or
20 holding securities, for his own account, either individually or in some fiduciary capacity,
21 but not as a part of regular business.

22 k) "Director" means any director of a corporation or any person performing similar
23 functions with respect to any organization.

24 l) "Exchange" means any organization, association, or group of persons which
25 constitutes, maintains, or provides a market place or facilities for bringing together
26 purchasers and sellers of securities or for otherwise performing the functions commonly
27 performed by a stock exchange as that term is generally understood with respect to
28 securities. The term includes the market place and the market facilities maintained by

1 such exchange.

2 m) "Government security" means any security issued or guaranteed as to principal
3 or interest by the Republic of the Philippines, or by a person controlled or supervised
4 by and acting as an instrumentality of the Government of the Republic of the Philippines
5 pursuant to authority granted by the Congress of the Philippines; or any certificate of
6 deposit for any of the foregoing.

7 n) "Insurance Company" means a company which is organized for the primary and
8 predominant business of writing insurance or reinsuring risks underwritten by
9 insurance companies, and which is subject to supervision by the Insurance
10 Commission; or any receiver or similar official or any liquidating agent for such a
11 company, in his capacity as such.

12 o) "Investment Adviser" means any person who, regularly furnishes advice or
13 recommends investment decisions with regard to the securities portfolio of an
14 investment company pursuant to an advisory contract with such investment company or
15 investment company manager.

16 p) "Investment House" means any enterprise which engages in the underwriting of
17 securities of other corporations as defined in section two of the Investment Houses
18 Law, P.D. No. 129, as may be amended from time to time, and is registered pursuant to
19 said law.

20 q) "Investment Company Manager" means a person engaged in the business of
21 managing the investment assets of an investment company or engaged in the business
22 of providing administrative and ancillary services for such company.

23 r) "Investment Management Contract" means a contract between an investment
24 company and an investment company manager, on which basis the latter manages
25 the investment of the assets of, and/or provides administrative and ancillary services for
26 such investment company.

27 s) "Issuer" means any person who issues or proposes to issue any security or has
28 outstanding any security which it has issued.

1 t) "Lend" includes a purchase coupled with an agreement by the vendor to
2 repurchase; "borrow" includes a sale coupled with an agreement by the vendee to
3 resell.

4 u) "Majority-owned subsidiary" of a person means a company fifty per centum
5 (50%) or more of the outstanding voting securities of which are owned by such person.

6 v) "Net asset value" means the value of all assets less all liabilities of an
7 investment company as determined in accordance with this Act and the rules and
8 regulations thereunder, and with supplemental application of generally accepted
9 accounting principles and practices uniformly applied.

10 w) "Person" means a natural person, a company or other juridical entity.

11 x) "Promoter" of a company or a proposed company means a person who is
12 initiating or directing, or has within one year initiated or directed, the organization of
13 such company, acting alone or in concert with other persons.

14 y) "Redeemable security" means any security, other than short-term paper, under
15 the terms of which the holder is entitled to receive approximately his proportionate
16 share of the issuer's current net assets, or the cash equivalent thereof, upon its
17 presentation to the issuer or to a person designated by the issuer.

18 z) "Reorganization" means (1) a reorganization under the supervision of a court of
19 competent jurisdiction; (2) a merger or consolidation; (3) a sale of seventy-five per
20 centum (75%) or more in value of the assets of a company; (4) a restatement of the
21 capital of a company, or an exchange of securities issued by a company for any of its
22 own outstanding securities; (5) a voluntary dissolution or liquidation of a company; (6) a
23 re-capitalization or other procedure or transaction which has for its purpose the
24 alteration, modification, or elimination of any of the rights, preferences, or privileges of
25 any class of securities issued by a company, as provided in its charter or other
26 instrument creating or defining such rights, preferences, and privileges; (7) an
27 exchange of securities issued by another company or companies, preliminary to and for
28 the purpose of effecting or consummating any of the foregoing; or (8) any exchange of

1 securities by a company which is not an investment company for securities issued by a
2 company which is a registered investment company.

3 aa)"Revised Securities Act" means B.P. 178, enacted July 27, 1981, as may be
4 amended from time to time.

5 bb)"Sale", "sell" "offer to sell" or "offer for sale" includes every contract of sale or
6 disposition of, attempt or offer to dispose of, or solicitation of an offer to buy, a security
7 or interest in security, for value. Any such security given or delivered with, or as a
8 bonus on account of, any purchase of securities or any other thing, shall be
9 conclusively presumed to constitute a part of the subject of such purchase and to have
10 been sold for value.

11 cc)"Sales load" includes: (1) the fees and expenses for sales and promotional
12 activities that are charged in connection with the sale of a security issued by an
13 investment company, and deducted from the payment received from a purchaser on the
14 selling price at which the security was sold to the public; (2) promotional or sales fees
15 paid by an investment company in connection with a specific sale of its securities to an
16 investor; and (3) any fee deducted from redemption proceeds to an investor on account
17 of sales or promotional activities; provided that any tax paid or payable on the issuance,
18 purchase, sale or redemption of the securities of the investment company, such as the
19 value added tax, shall not be considered part of the sales load.

20 dd)"Security means any note, check, stock, treasury stock, bond, debenture,
21 evidence of indebtedness, certificate of interest or participation in any profit-sharing
22 agreement, collateral-trust certificate, pre-organization certificate or subscription,
23 transferable share, investment contract, voting trust certificate, certificate of deposit for
24 a security, fractional undivided interest in oil, gas or other mineral rights, commercial
25 papers, any option or privilege on any security (including a certificate of deposit), or, in
26 general, any interest or instrument commonly known as "security" or any certificate of
27 interest or participation in, temporary or interim certificate for, receipt for, guarantee of,
28 or warrant or right to subscribe to or purchase, any of the foregoing.

1 ee) "Short-term paper" means any note, draft, bill of exchange, or banker's
2 acceptance payable on demand or having maturity at the time of issuance of one year
3 or less, exclusive of days of grace, or any renewal thereof payable on demand or
4 having maturity likewise limited; and such other classes of securities, of commercial
5 rather than an investment character, as the Commission may designate by rules and
6 regulations.

7 ff) "Underwriter" means any person who has purchased or sells any security from
8 an issuer in connection with the distribution of any security or who participates directly
9 or indirectly in any such undertaking. The term shall not include a person whose
10 interest is limited to a commission from an underwriter or dealer within the usual and
11 customary distributor's or seller's commission. As used in this paragraph the term
12 "issuer" shall include, in addition to an issuer, any person directly or indirectly
13 controlling or controlled by the issuer, or any person under direct or indirect common
14 control with the issuer. Such person shall cease to be an underwriter in respect of such
15 securities or the issuer thereof when the distribution of the securities in respect of which
16 any person is an underwriter is completed.

17 Under this Act, "underwriter of or for any investment company or of any security
18 issued by such a company", means any underwriter who as principal, purchases from
19 such company, or has the right (whether absolute or conditional) pursuant to contract to
20 purchase any such security for distribution from such company from time to time, or
21 who as agent for such company sells or has the right to sell any such security to a
22 dealer or to the public or both. The term does not include a dealer who purchases
23 from such company through the underwriter acting as agent for such company.

24 gg) "Unit Investment Trust" means an investment company which 1) is organized
25 under a trust indenture, contract or custodianship or agency or similar instrument; 2)
26 does not have a board of directors, and 3) issues only redeemable securities each of
27 which represents an undivided interest in a unit of specified securities, but does not
28 include a voting trust.

1 hh)"Value" with respect to an investment company, in each case as of such time
2 prescribed by this Act or the rules of the Commission, means: (1) with respect to
3 securities for which market quotations are readily available, the market value of such
4 securities; and (2) with respect to other securities and assets, fair value as determined
5 in good faith by the board of directors. The market value of a security shall be its
6 closing price and if there is no closing price, the average of the last bid and ask price.
7 In the case of an option or other right, the market value shall be the daily mark-to-
8 market price, if available.

9 ii)"Voting security" means any security presently entitling the owner or holder
10 thereof to vote for the election of directors of a company.

11 jj)"Wholly-owned subsidiary" of a person means a company ninety-five per centum
12 or more of the outstanding voting securities of which are owned by such person, or by
13 a company.

14 No provision of this Act shall apply to, or be deemed to include, the Philippines or
15 any political subdivision thereof, or any agency, authority, or instrumentality of any one
16 or more of the foregoing, or any corporation which is wholly-owned directly or indirectly
17 by any one or more of the foregoing, or any officer, agent, or employee of any of the
18 foregoing acting as such in the course of his official duty, unless such provision makes
19 specific reference thereto.

20 SEC. 4. **Definition of Investment Company.** - (a) (1) When used in this Act
21 "investment company" means any issuer which is or holds itself out as being engaged
22 primarily, or proposes to engage primarily, in the business of investing, reinvesting, or
23 trading in securities; (2) An issuer shall be deemed to be primarily engaged or
24 proposing to engage primarily in the business of investing in securities if it owns or
25 proposes to acquire securities (other than Government securities, securities of majority-
26 owned subsidiaries that are not investment companies, and those issued by any
27 employees' stock, bonus, pension, or profit sharing plan or fund) having a value
28 exceeding forty per centum (40%) of such issuer's unconsolidated total assets

1 (exclusive of Government securities and cash items); (3) For purposes of this section,
2 the value of securities owned at the end of the last fiscal quarter means (i) with respect
3 to securities for which market quotations are readily available, the market value of such
4 securities; and (ii) with respect to other securities, the fair value thereof as determined
5 in good faith by the board of directors. The market value of a security shall be its
6 closing price and if there is no closing price, the average of the last bid and ask price.
7 In the case of an option or other right, the market value shall be the daily mark-to-
8 market price, if available. The value of securities acquired after the end of the last fiscal
9 quarter shall be the cost thereof.

10 (b) Notwithstanding subsection (a) of this Section, none of the following persons
11 is an investment company subject to regulation under this Act:

12 (1) any issuer whose outstanding securities (other than short-term paper) are
13 beneficially owned by not more than fifty (50) persons, and which is not presently
14 making or intends to make a public offering of its securities. For purposes of this
15 paragraph, beneficial ownership by a company shall be deemed to be beneficial
16 ownership by one person; except that, if such company owns twenty-five per
17 centum (25%) or more of the outstanding voting securities of the issuer, the
18 beneficial ownership shall be deemed to be that of the holders of such company's
19 outstanding securities (other than short-term paper);

20 (2) any bank engaged in the conduct of its ordinary business, or any common
21 trust fund administered by a bank for collective investment of funds held by the bank
22 in a fiduciary capacity;

23 (3) any insurance company, or any employees' stock, bonus, pension, or profit
24 sharing plan or fund, engaged in the conduct of its ordinary business;

25 (4) any broker, dealer, or investment house, registered as such with the
26 Commission, primarily engaged in the business of underwriting securities issued by
27 other persons, purchasing and selling securities for its own account, or effecting
28 transactions in securities for the accounts of others;

1 (5) any company that primarily engages in the business of factoring or mortgage
2 banking, by purchasing or otherwise acquiring accounts receivable and similar
3 obligations or making loans in respect of goods or services of a business, or by
4 purchasing or otherwise acquiring mortgages and other liens on or interests in real
5 estate; provided that such company does not engage in the business of issuing
6 redeemable securities;

7 (6) any company organized and operated exclusively for religious, educational,
8 benevolent, fraternal, charitable, or reformatory purposes, no part of the net
9 earnings of which inures to the benefit of any shareholder of such company;

10 (7) any issuer primarily engaged in investing in securities issued by a majority-
11 owned subsidiary or subsidiaries of such issuer, where each such subsidiary is not
12 an investment company;

13 (8) any issuer, all of the outstanding securities of which (other than short term
14 paper and directors' qualifying shares) are beneficially owned, directly or indirectly,
15 by a person excepted by this subparagraph (b) from the definition of investment
16 company; and

17 (9) any issuer or class of issuers that, pursuant to rule or order issued by the
18 Commission, is determined not to be an investment company, or is excepted from
19 the definition thereof as not necessary in the public interest and for the protection of
20 investors.

21 **SEC. 5. Classification of Investment Companies.**- For the purposes of this
22 Act, investment companies are divided into open-end and closed-end companies,
23 defined as follows:

24 (a) "Open-end company" means an investment company commonly known as a
25 mutual fund which is offering for sale or has outstanding any redeemable security of
26 which it is the issuer; and

27 (b) "Closed-end company" means an investment company which is offering for
28 sale or has outstanding securities of which it is the issuer, none of which are

1 redeemable securities.

2 SEC. 6. **Unit Investment Trusts.**--The Commission may permit unit investment
3 trusts to operate in the Philippines pursuant to rules the Commission may prescribe as
4 necessary or appropriate in the public interest and for the protection of investors for the
5 registration and regulation of unit investment trusts and of the public offering of
6 investment trust units.

7 SEC. 7. **Transactions by Investment Companies.**- (a) An investment
8 company organized or otherwise created under the laws of the Philippines is permitted
9 to engage, directly and indirectly, in the following enumerated acts, only if registered
10 under Sec. 25: *Provided* That nothing herein shall be deemed to authorize the
11 investment company to act as underwriter of securities of another person:

12 (1) Offer for sale, sell, or deliver after sale, any security or any interest in a
13 security, whether the issuer of such security is such investment company or another
14 person;

15 (2) Purchase, redeem, retire, or otherwise acquire, or attempt to acquire any
16 security, or any interest in a security, whether the issuer of such security is such
17 investment company or another person;

18 (3) Control any investment company which does any of the acts enumerated in
19 paragraphs (1) and (2) of this Subsection.

20 An investment company, organized and registered as such under this Act, may
21 engage in the acts enumerated in paragraphs (1) and (2) of this subsection (a) without
22 the need of obtaining a separate license as dealer in securities under the Revised
23 Securities Act.

24 (b) No promoter or underwriter for an investment company organized or
25 otherwise created under the laws of the Philippines is permitted to engage in the acts
26 enumerated in paragraphs (1) and (2) of subsection (a) of this section in respect of any
27 security issued by such company, and no such underwriter shall sell or purchase for the
28 account of such company the security of any issuer, unless such company is registered

1 under Sec. 25 of this Act.

2 The provisions of subsections (a) and (b) shall not apply to transactions which
3 are merely incidental to the dissolution of an investment company.

4 (c) An investment company organized or otherwise created under the laws of a
5 foreign country shall comply with the registration requirements of Sec. 25 of this Act
6 before it can make a public offer of its securities in the Philippines. The Commission
7 may, by rule or order, require that a portion of such funds raised from any public offer
8 by a foreign investment company of its securities in the Philippines be invested in the
9 Philippines. The Commission may likewise issue an order imposing such other
10 conditions respecting the offer for sale, sale and delivery after sale, in connection with
11 any such public offering by a foreign investment company of its securities within the
12 Philippines, if it finds that the issuance of such order is necessary or appropriate in the
13 public interest or for the protection of investors.

14 **SEC. 8 *Functions and Activities of Investment Companies.*** - (a) Unless it
15 complies with such rules and orders as the Commission may prescribe as necessary or
16 appropriate in the public interest or for the protection of investors, a registered
17 investment company is not permitted -

18 (1) to purchase any security on margin, except such short-term credits as are
19 necessary for the clearance of transactions;

20 (2) to participate on a joint or a joint and several basis in any trading account in
21 securities, except in connection with an underwriting in which such registered
22 company is a participant; or

23 (3) to effect a short sale of any security, except in connection with an
24 underwriting in which such registered company is a participant.

25 (b) A registered investment company, unless it complies with such rules and
26 orders as the Commission may prescribe as necessary or appropriate in the public
27 interest or for the protection of investors, is not permitted to act as a distributor of
28 securities of which it is the issuer, except through an underwriter.

1 (c) It shall be unlawful for any investment company to -

2 (1) generate funds for promoting the private business or industry of any
3 employee, officer, director, promoter or stockholder thereof;

4 (2) allow any of its employees, officials, directors, organizers, incorporators or
5 stockholders to buy real estate, personal property or any other kind of property and sell
6 the same to the company at a price higher than the procurement cost or sell any
7 property of the Company, or a portion thereof, at a price below the market-value thereof
8 to any of the aforementioned persons.

9 (d) (1) No registered investment company, directly or indirectly, shall--

10 (A) acquire more than three per centum (3%) of the common stock of
11 another investment company; or have more than ten per centum (10%) of its
12 assets invested in shares of other investment companies;

13 (B) acquire more than ten per centum (10%) of the outstanding securities
14 of any one issuer that is not an investment company; or

15 (C) acquire securities of any one issuer having an aggregate value in
16 excess of ten per centum (10%) of the net asset value of such investment
17 company.

18 (2) The Commission may issue such rules, as necessary or appropriate in the
19 public interest or for the protection of investors, that provide for different percentages or
20 further restrictions with respect to investments in other investment companies or the
21 concentration of investments by a registered investment company.

22 **SEC. 9 *Changes in Investment Policy.*** - (a) Unless authorized by the vote of a
23 majority of its outstanding common stock, no registered investment company shall, --

24 (1) Borrow money, issue senior securities, underwrite securities issued by other
25 persons, purchase or sell real estate or commodities or make loans to other
26 persons, except in each case in accordance with the recitals of policy contained in
27 its registration statement in respect thereto;

28 (2) Deviate from its policy in respect of concentration of investments in any

1 particular industry or group of industries as recited in its registration statement, or
2 deviate from any fundamental policy (which includes any investment objectives)
3 recited in its registration statement pursuant to Sec. 25 (d) (3); or

4 (b) Where the change will involve an amendment of the organization papers of
5 the investment company, the pertinent provisions of law on the vote necessary and
6 other requisites to effectuate the same, shall likewise be complied with.

7 (c) Notwithstanding any provision of the Corporation Code to the contrary, a
8 change in investment policy duly authorized by requisite vote of the outstanding
9 common stock shall become effective twenty (20) days after filing with the Commission
10 of an amendment setting forth such policy change to the registration statement and
11 prospectus of the registered investment company, unless the Commission, prior to the
12 lapse of such period, institutes proceedings to disapprove such policy change. The
13 Commission may by order, after hearing, disapprove a policy change if it finds it to be in
14 contravention of the Act or the Commission's rules.

15 (d) The Commission is authorized to issue rules prohibiting any investment policy
16 or conditioning any investment policy of a registered investment company as necessary
17 or appropriate in the public interest and for the protection of investors

18 **SEC. 10. *Distribution, Redemption, and Repurchase of Securities*** - (a) No
19 registered investment company shall sell any redeemable security issued by it to any
20 person except either to or through an underwriter for distribution or at a current public
21 offering price described in the prospectus, and, if such class of security is being
22 currently offered to the public by or through an underwriter, no underwriter of such
23 security and no dealer shall sell any such security to any person except a dealer, an
24 underwriter or the issuer, except at a current public offering price described in the
25 prospectus: *Provided, however,* That nothing in this subsection shall prevent a sale
26 made (i) pursuant to clause (1) or (2) of Sec. 12 (b); (ii) pursuant to an offer made
27 solely to all registered holders of the securities, or of a particular class or series of
28 securities issued by the company proportionate to their holdings or proportionate to any

1 cash distribution made to them by the company (subject to appropriate qualifications
2 designed solely to avoid issuance of fractional securities); or (iii) in accordance with
3 rules and regulations of the Commission made pursuant to Sec. 8 (b); *Provided Further,*
4 That no redemption of any security held by any person affiliated with the investment
5 company manager or underwriter shall be made if the paid-in capital is less than the
6 amount prescribed by Sec. 15 (a)(4).

7 (b) Notwithstanding any provision of the Corporation Code to the contrary or of
8 subsection (a) of this Section, no registered investment company shall suspend the
9 right of redemption or postpone the date of payment or satisfaction upon redemption of
10 any redeemable security in accordance with its terms as appears in its prospectus, for
11 more than seven (7) banking days, or such other period as the Commission by rule may
12 prescribe, after the tender of such security to the company or its agent designated for
13 that purpose for redemption except -

14 (1) for any period (A) during which the Philippine Stock Exchange is closed
15 other than the customary weekend and holiday closing or (B) during which trading
16 on the Philippine Stock Exchange is restricted;

17 (2) for any period during which an emergency exists as a result of which (a)
18 disposal by the company of securities owned by it is not reasonably practicable or
19 (b) it is not reasonably practicable for such company fairly to determine the value of
20 its net assets; or

21 (3) for such other periods as the Commission may by order permit for the
22 protection of security holders of the company.

23 The Commission shall by rules and regulations determine the conditions
24 under which (i) trading shall be deemed to be restricted and (ii) an emergency shall
25 be deemed to exist within the meaning of this subsection.

26 (c) No registered open-end company shall restrict the transferability or
27 negotiability of any security of which it is the issuer except in conformity with the
28 statements with respect thereto contained in its registration statement nor in

1 contravention of such rules and regulations as the Commission may prescribe in the
2 interests of the holders of all of the outstanding securities of such investment company.

3 (d) No registered open-end company shall issue any of its securities (1) for
4 services; or (2) for property other than cash or for securities (including securities of
5 which such registered company is the issuer), except as a dividend or distribution to its
6 security holders or in connection with a reorganization.

7 (e) The provisions of the Corporation Code or any other provision of the said law
8 in conflict with this section, shall not apply to a registered open-end company.

9 (f) The Commission may issue such rules applicable to registered open-end
10 companies, and to underwriters of, and dealers in, the redeemable securities of any
11 registered open-end company, prohibiting the price at which such security is offered
12 and sold to the public from including an excessive sales load as determined by the
13 Commission.

14 SEC. 11. ***Distribution and Repurchase of Securities: Closed-end***
15 ***Companies.*** - (a) No registered closed-end company shall issue any of its securities
16 (1) for services; or (2) for property other than cash or for securities (including securities
17 of which such registered company is the issuer), except as a dividend or distribution to
18 its security holders or in connection with a reorganization.

19 (b) No registered closed-end company shall sell any common stock of which it is
20 the issuer at a price below the current net asset value of such stock, exclusive of any
21 distributing commission or discount (which net asset value shall be determined as of a
22 time within forty-eight (48) hours, excluding Sundays and holidays, next preceding the
23 time of such determination), except (1) in connection with an offering to the holders of
24 its capital stock; (2) with the consent of a majority of its capital stockholders; (3) upon
25 conversion of a convertible security in accordance with its terms;

26 (c) No registered closed-end company shall purchase any securities of which it
27 is the issuer except-

28 (1) on a securities exchange or such other open market as the Commission may

1 designate by rules and regulations or orders; *Provided*, That if such securities are
2 stock, such registered company shall, within the preceding six (6) months, have
3 informed stockholders of its intention to purchase such stock by letter or report
4 addressed to stockholders of such class; or

5 (2) pursuant to tenders, after reasonable opportunity to submit tenders have
6 been given to all holders of securities to be purchased; or

7 (3) under such other circumstances as the Commission may permit by rules and
8 regulations or orders for the protection of investors in order to insure that such
9 purchases are made in a manner or on a basis which does not unfairly discriminate
10 against any holders of the securities to be purchased.

11 SEC. 12. **Offers of Exchange Securities.** - (a) It shall be unlawful for any
12 registered open-end company or any underwriter for such a company to make or cause
13 to be made an offer to the holder of a security of such company or of any other open-
14 end investment company to exchange his security for a security in the same or another
15 such company on any basis other than the relative net asset values of the respective
16 securities to be exchanged, unless the terms of the offer have first been submitted to
17 and approved by the Commission or are in accordance with such rules and regulations
18 as the Commission may have prescribed in respect of such offers which are in effect at
19 the time such offer is made. For the purposes of this Section, (1) an offer by an
20 underwriter means an offer communicated to holders of securities of a class or series
21 but does not include an offer made by such underwriter to individual investors in the
22 course of a retail business conducted by such underwriter, and (2) the net asset value
23 means the net asset value which is in effect for the purpose of determining the price at
24 which the securities, or class or series of securities involved are offered for sale to the
25 public either (A) at the time of the receipt by the offer or of the acceptance of the offer
26 or (B) at such later time as is specified in the offer.

27 (b) The provisions of this section shall not apply to any offer made
28 pursuant to (1) any plan of reorganization, which is submitted to and requires the

1 approval of the holders of at least a majority of the outstanding shares of class or series
2 to which the security being offered belongs; (2) the right of conversion, at the option of
3 the holder, from one class or series into another class or series of securities issued by
4 the same company upon such terms as are specified in the charter, certificate of
5 incorporation, articles of association or by-laws subject to which the securities to be
6 converted were issued or are to be issued.

7 **SEC. 13. *Loans by Investment Companies*** - It shall be unlawful for any
8 registered investment company to lend money or property to any person directly or
9 indirectly, if -

10 (a) the investment policies of such registered company, as recited in its
11 registration statement and reports filed under this Act, do not permit such a loan; or

12 (b) such person controls or is under common control with such registered
13 company; except that the provision of this paragraph shall not apply to any loan from a
14 registered company to a company which owns all of the outstanding securities of such
15 registered company, except director's qualifying shares.

16 **SEC. 14. *Prohibitions Against Guarantee of Obligations by an Investment***
17 ***Company.*** - It shall be unlawful for any investment company to guarantee any
18 obligation of whatever kind or nature.

19 **SEC. 15. *Structure and Capitalization of Investment Companies.*** - (a) Until
20 the Commission shall otherwise, by regulation prescribe, every registered investment
21 company shall -

22 (1) Be organized in the form of a stock corporation.

23 (2) Issue shares of stock consisting solely of common stock.

24 (3) Provide, if an open-end company, in its Articles of Incorporation, and
25 notwithstanding any provision of the Corporation Code to the contrary, that
26 shareholders shall not be entitled to pre-emptive rights.

27 (4) Have, at the time of registration, an initial subscribed and paid-up capital from
28 the promoter of such company, and maintain a paid-up capital which shall remain

1 unimpaired at all times thereafter, of no less than fifty million pesos
2 (P50,000,000.00) or as may otherwise be prescribed by rules or regulations of the
3 Commission. In prescribing the amount of paid-up capital for an investment
4 company, the Commission shall take into account whether a lesser amount is
5 appropriate where the investment company is one of a group of investment
6 companies under management by the same investment company manager.

7 (5) Require that initial paid-up capital not be withdrawn for a period of twelve (12)
8 months following registration, or such other period as the Commission by rule may
9 prescribe.

10 (6) Maintain at all times, if an open-end company, a reserve in liquid or semi-
11 liquid assets, equal to ten per centum (10%) of the total assets of such company, or
12 such other percentage and in such form as the Commission may by rule prescribe.

13 (b) Notwithstanding any provision of the Corporation Code to the contrary, no
14 registered investment company shall be required to have paid-up capital for the
15 issuance of initial or additional shares of common stock in excess of the amount
16 specified in subsections (a) (4) and (5) of this Section.

17 (c) The Commission by rule may prescribe such other or additional requirements
18 under subsection (a) of this Section respecting the form, share structure, and level and
19 restrictions on capitalization and reserves, as necessary or appropriate in the public
20 interest or for the protection of investors.

21 (d) No registered investment company or underwriter for such company shall
22 make a public offering of such company's securities unless such company is in
23 compliance with the provisions of this section.

24 SEC. 16 **Debt Structure of Investment Companies.**- (a) A registered
25 investment company shall not incur any indebtedness, through issuance of a debt
26 security or otherwise, unless, immediately after incurring such indebtedness, it has an
27 asset coverage of at least three hundred per centum (300%) for all the borrowings of
28 such company;

1 (b) A registered open-end company shall not issue any debt securities, but is
2 permitted to borrow from a bank. In the event that asset coverage for such borrowings
3 at any time falls below three hundred per centum (300%), such open-end company
4 shall, within three (3) days thereafter, reduce its borrowings to the extent that the asset
5 coverage shall be at least three hundred per centum (300%);

6 (c) A registered closed-end company shall not declare a dividend or distribution
7 on its common stock unless, at the time of such declaration, it has asset coverage of at
8 least three hundred per centum (300%) for all its indebtedness, after deducting the
9 amount of such dividend.

10 SEC. 17. **Dividends** - It shall be unlawful for any investment company to pay any
11 dividend, or make any distribution in the nature of a dividend payment, wholly or partly
12 from any source other than -

13 (a) such company's accumulated undistributed net income, determined in
14 accordance with good accounting practice and including profits or losses realized
15 upon the sale of securities or other properties; or

16 (b) such company's earned surplus so determined for the current or preceding
17 fiscal year; unless such payment is accompanied by a written statement which
18 adequately discloses the source or sources of such payment. The Commission
19 may prescribe the form of such statement by rules and regulations or by order in
20 the public interest and for the protection of investors.

21 It shall likewise be unlawful to advertise such dividends in terms of centavos or
22 pesos per share without also stating the percentage they bear to the par value per
23 share.

24 SEC. 18. **Board of Directors; Election; Term; Vacancies; and Salaries.** -

25 Notwithstanding any provision of the Corporation Code to the contrary -- (a) Not later
26 than ninety (90) days from the effective date of this Act, at least a majority of the board
27 of directors of a registered investment company shall be disinterested persons. For
28 purposes of this Sec. 18, a "disinterested person" is a person who is not an affiliated

1 person of the investment company (other than solely by reason of being a director or as
2 stockholder who does not have control of its voting securities as defined in this Act); not
3 an affiliated person of such company's investment company manager, investment
4 adviser, underwriter, or custodian; not a legal counsel or accountant to such company;
5 not any person who has acted in any such capacity at any time during the past two (2)
6 years; not a person who has had a material business or professional relationship with
7 such investment company during the past two years; not a legal counsel to the
8 investment company manager of such investment company during the past two years;
9 or not the spouse, sibling, parent or child of any of the foregoing persons.

10 (b) No person shall serve as a director of a registered investment company
11 unless elected to that office by the holders of the outstanding voting securities of such
12 company at a meeting of holders of such voting securities duly called for that purpose
13 at least every three (3) years, except that vacancies occurring between such meeting
14 may be filled in any otherwise legal manner if immediately after filling any such vacancy
15 at least two-thirds of the directors then holding office shall have been elected to such
16 office by the holders of the outstanding voting securities of the company at such
17 meeting; *Provided, however,* That a majority of the members of the board of directors of
18 such company shall be residents of the Philippines, unless the Commission by rule may
19 otherwise prescribe.

20 (c) The operational expenses of a registered investment company, including
21 salaries, fees and emoluments received by members of the board of directors from
22 such company, shall not exceed ten per centum (10%) annually of the total funds
23 invested in such company by investors, or such other amount the Commission by rule
24 may prescribe.

25 **SEC. 19. *Investment Managers of Investment Companies; Investment***
26 ***Management and Investment Company Underwriter Contracts. -***

27 (a) No person shall serve as an investment company manager of a registered
28 investment company, or enter into an investment management contract with such

1 company, unless registered with the Commission as an investment company manager.

2 (b) An investment company manager may be registered by filing with the
3 Commission an application for registration in such form and containing such information
4 and documents as the Commission by rule may prescribe. Within sixty (60) days after
5 the filing of such application (or such longer period if the applicant consents), the
6 Commission shall (1) by order grant registration, or (2) institute proceedings to
7 determine whether to deny registration.

8 (c) The Commission may by order, after hearing, deny an application for
9 registration as an investment company manager filed pursuant to subsection (b), or
10 suspend or revoke any such registration, if it finds that-

11 (1) The investment company manager or any affiliated person thereof is subject
12 to any disability enumerated in Sec. 20 (a) of this Act.

13 (2) The investment company manager is not organized in the form of a
14 corporation or such other form as the Commission by rule may prescribe.

15 (3) The investment company manager did not have at the time of filing of its
16 application for registration, or continuously maintain at all times thereafter, an
17 unimpaired net worth, exclusive of revaluation surplus, of at least ten million pesos
18 (P10,000,000.00) or such other amount as the Commission by rule may prescribe.

19 (4) The investment company manager, and any natural persons associated with
20 it, have not satisfied such standards of training, experience, competence and other
21 qualifications that the Commission by rule may prescribe in the public interest and
22 for the protection of investors.

23 (5) The investment company manager has failed to pay the initial or annual fee
24 for registration.

25 (d) No investment company manager shall serve or act in such capacity for a
26 registered investment company except pursuant to a written investment management
27 contract that shall, without limitation, contain the following:

28 (1) a precise description of the services to be provided by the investment

1 company manager, the management fee and other compensation to be paid to the
2 investment company manager and any affiliated person thereunder;

3 (2) the allocation of expenses between the investment company and the
4 investment company manager;

5 (3) a statement of the investment objectives of the investment company and
6 other investment policies (with a designation as to which are deemed fundamental),
7 including concentrations of investments in equity, debt and other instruments, and in
8 securities of issuers in industry groups;

9 (4) a provision providing for termination of such contract at any time by the
10 investment company on not more than sixty days notice to the investment company
11 manager;

12 (5) a prohibition on assignment of such contract, or any functions thereunder,
13 except to a registered investment company manager and only with the consent of
14 the investment company;

15 (6) the conditions, if any, under which the investment company may be
16 liquidated;

17 (7) the period of the contract which shall not be more than two (2) years, subject
18 to renewal upon approval by the Board of Directors of the investment company;

19 (e) No underwriter for a registered open-end company shall offer for sale, sell, or
20 deliver after sale any security for which such company is the issuer except to a
21 registered investment manager and only with the consent of such company, pursuant
22 to a written contract with such company that shall contain a prohibition on assignment.

23 (f) (1) No registered investment company shall initially (A) enter into an
24 investment management contract; or (B) in the case of an open-end company enter
25 into a contract with an underwriter; or (C) renew an investment management contract
26 or such contract with the underwriter, unless such contract in each case is approved by
27 the vote of a majority of the board of directors of such company, which vote shall
28 consist of a majority of directors who are disinterested persons as defined in Sec. 18 of

1 this Act.

2 (2) No investment management contract and in the case of an open end
3 company, no contract with an underwriter, shall be terminated except (A) by the vote
4 of a majority of the board of directors, which vote shall consist of a majority of
5 directors who are disinterested persons, or (B) by vote of a majority of the
6 outstanding common stockholders of such company.

7 (3) No registered investment company shall approve (A) an increase in the
8 management fee and other compensation provided under the investment management
9 contract with such company, (B) an assignment of the investment management
10 contract, or any advisory functions thereunder, or (C) a new investment management
11 contract following termination by such company of an existing investment management
12 contract, except by vote of a majority of the outstanding common stockholders of such
13 company.

14 **SEC. 20. *Ineligibility of Certain Affiliated Persons and Underwriters.*** - (a) It
15 shall be unlawful for any of the following persons to serve or act in the capacity of
16 officer, employee, director, investment company manager, investment adviser,
17 underwriter or custodian of any registered investment company:

18 (1) Any person who has been convicted by a competent judicial or administrative
19 body of any crime, after trial, or upon plea of guilty, involving the purchase or sale of
20 any security, or proprietary or non-proprietary membership certificate, commodity
21 futures contract, pre-need plan, pension plan, or life plan, or out of such person's
22 conduct as underwriter, broker, dealer, investment company manager, investment
23 company, investment adviser, futures commission merchant, commodity trading
24 advisor, floor broker, bank, investment house, insurance company, real estate
25 broker or as an affiliated person, salesman, or other employee of any of the
26 foregoing;

27 (2) Any person who, by reason of any misconduct, after hearing or trial, or upon
28 consent, is permanently or temporarily enjoined by order, judgment, or decree of the

1 Commission or any court or other administrative body of competent jurisdiction from
2 acting as an underwriter, broker, dealer, investment company, investment company
3 manager, investment adviser, futures commission merchant, commodity trading
4 advisor, floor broker, bank, investment house, insurance company, real estate
5 broker or as an affiliated person, salesman, or other employee of any of the
6 foregoing, or from engaging in or continuing any conduct or practice in connection
7 with any such activity or willfully violating laws governing securities, commodities,
8 banking, insurance or real estate activities; or is subject to a currently effective order
9 of the Commission or other competent judicial or administrative body refusing,
10 revoking, or suspending any registration, license or permit under this Act, the rules
11 and regulations promulgated thereunder, any other law administered by the
12 Commission, or otherwise required to engage in any activity involving securities,
13 commodities, banking, insurance or real estate; or is subject to a currently effective
14 order of a self-regulatory organization suspending or expelling him from membership
15 or participation therein or from association with a member or participant thereof.

16 (3) Any person convicted judicially or administratively of an offense involving
17 moral turpitude or involving fraud, or embezzlement, theft, estafa, counterfeiting,
18 misappropriation, forgery, bribery, false oath, or perjury, or other fraudulent acts or
19 transactions;

20 (4) Any person found by the Commission or other competent judicial or
21 administrative body to have willfully violated, or willfully aided, abetted, counseled,
22 commanded, induced, or procured the violation of any provision of this Act, the
23 Revised Securities Act, or any other laws administered by the Commission and any
24 Commission rules or orders thereunder, or who has filed a materially false or
25 misleading application, report or registration statement with the Commission
26 required to be filed under this Act, the Revised Securities Act, or other laws
27 administered by the Commission or any rules or order thereunder;

28 (5) Any person judicially declared to be insolvent, a spendthrift or incapacitated

1 to contract;

2 (6) Any person found guilty by a foreign court or equivalent financial regulatory
3 authority of the acts or violations similar to any of the acts or misconduct
4 enumerated in paragraphs (1) to (5) above;

5 (7) A company, any affiliated person of which is ineligible, by reason of
6 paragraphs (1) to (5), to serve or act in the foregoing capacities.

7 (b) Any person who is ineligible, by reason of Subsection (a) of this Section, to
8 serve or act in the capacities enumerated in such subsection, may file with the
9 Commission an application for an exemption from the provisions of such subsection.
10 The Commission shall by order grant such application, either unconditionally or on an
11 appropriate temporary or other conditional basis, if it is established that the prohibitions
12 of such subsection, as applied to such person, are unduly or disproportionately severe
13 or that the conduct of such person has been such as not to make it against the public
14 interest or protection of investors to grant such application.

15 **SEC. 21. *Affiliations of Directors, Officers and Employees.*** - (a) No
16 registered investment company shall -

17 (1) Have as director, officer or employee any broker or dealer, or any affiliated
18 person of a broker or dealer;

19 (2) Use as underwriter of securities issued by it any director, officer or
20 employee of such registered company or any person of which any such director,
21 officer or employee is an affiliated person; or

22 (3) Have as director, officer or employee any affiliated person of an investment
23 house. For the purpose of this paragraph, a person shall not be deemed an
24 affiliated person of an investment house solely by reason of his being an affiliated
25 person of any of the following: (A) a company all of whose outstanding securities
26 (other than short-term paper, securities representing bank loans and directors
27 qualifying shares) are, or after such acquisition will be owned by one or more
28 registered investment companies; and (B) a company which is primarily engaged in

1 the business of underwriting and distributing securities issued by other persons,
2 selling securities to customers, or any one or more of such or related activities, and
3 whose gross income is normally derived principally from such business or related
4 activities.

5 (b) No registered investment company shall have a majority of its board of
6 directors consisting of persons who are officers or directors of any one bank.

7 (c) If by reason of the death, disqualification, or *bona fide* resignation of any
8 director or directors, the requirements of the foregoing provisions of this section in
9 respect to directors shall not be met by a registered investment company, the operation
10 of such provision shall be suspended as to such registered company for a period of
11 thirty (30) days if the vacancy or vacancies may be filled by action of the board of
12 directors, and for a period of sixty (60) days if a vote of stockholders is required to fill
13 the vacancy or vacancies, or for such longer period as the Commission may prescribe,
14 by rules and regulations upon its own motion or by order upon application, as not
15 inconsistent with the protection of investors.

16 (d) No registered investment company shall knowingly purchase or otherwise
17 acquire, during the existence of any underwriting or selling syndicate, any security
18 (except a security of which such company is the issuer) an underwriter of which is an
19 officer, director, investment company manager, investment adviser, or employee of
20 such registered company, or is a person (other than a company of the character
21 described in paragraphs (A) and (B) of Subsection (a) (3) of which any such officer,
22 director, investment company manager, investment adviser, or employee is an
23 affiliated person) unless in acquiring such security such registered company is itself
24 acting as an underwriter for the issuer. The Commission, by rules and regulations upon
25 its own motion or by order upon application, may conditionally or unconditionally
26 exempt any transaction or classes of transactions from any of the provisions of this
27 subsection, if and to the extent that such exemption is consistent with the protection of
28 investors.

1 SEC. 22. ***Prohibited Transactions of Certain Affiliated Persons and***

2 ***Underwriters.*** - (a) It shall be unlawful for any affiliated person or promoter of or
3 underwriter for a registered investment company (other than a company of the
4 character prescribed in Sec. 21 (a)(3)) or any affiliated person of such a person,
5 promoter, or underwriter, acting as principal (1) to knowingly sell any security or
6 other property to such registered company or to any company controlled by such
7 registered company, unless such sale involves solely (A) securities of which the buyer
8 is the issuer, or (B) securities of which the seller is the issuer and which are part of a
9 general offering to the holders of a class of its securities;

10 (2) to knowingly purchase from such registered company, or from any company
11 controlled by such registered company, any security or other property (except
12 securities of which the seller is the issuer); or

13 (3) to borrow money or other property from such registered company or from any
14 company controlled by such registered company (unless the borrower is controlled by
15 the lender) except as permitted in Sec. 20 (b).

16 (b) Notwithstanding Subsection (a), any person may file with the Commission an
17 application for an order exempting a proposed transaction of the applicant from one or
18 more provisions of said subsection. The Commission shall grant such application and
19 such order of exemption if evidence establishes that-

20 (1) the terms of the proposed transaction, including the consideration to be paid
21 or received, are reasonable and fair and do not involve overreaching on the part of
22 any person concerned;

23 (2) the proposed transaction is consistent with the policy of each registered
24 investment company concerned, as recited in its registration statement and reports
25 filed under this Act; and

26 (3) the proposed transaction is consistent with the general purposes of this Act.

27 (c) Notwithstanding subsection (a), a person may, in the ordinary course of
28 business, sell to or purchase merchandise from any company or may enter into a

1 lessor-lessee relationship with any person and furnish the services incident thereto.

2 (d) It shall be unlawful for any affiliated person of, or underwriter for a registered
3 investment company (other than a company of the character described in Sec. 21 (a)(3)
4) or any affiliated person of such a person or underwriter, acting as principal to effect
5 any transaction in which such registered company, or a company controlled by such
6 registered company, is a joint or a joint and several participant with such person,
7 underwriter, or affiliated person, in contravention of such rules and regulations as the
8 Commission may prescribe for the purpose of limiting or preventing participation by
9 such registered or controlled company on a basis different from or less advantageous
10 than that of such other participant. Nothing contained in this subsection shall be
11 deemed to preclude any affiliated person from acting as manager of any underwriting
12 syndicate or other group in which such registered or controlled company is a participant
13 and receiving compensation therefor.

14 (e) It shall be unlawful for any affiliated person of a registered investment
15 company, or any affiliated person of such person-

16 (1) acting as agent, to accept from any source any compensation for the
17 purchase or sale of any property to or for such registered company or any controlled
18 company thereof other than a regular salary or wages from such registered company,
19 and except in the course of such person's business as an underwriter or broker; or

20 (2) acting as broker, in connection with the sale of securities to or by such
21 registered company or any controlled company thereof, to receive from any source a
22 commission, fee, or other remuneration for affecting such transaction which exceeds
23 (A) the usual customary broker's commission if the sale is effected on a securities
24 exchange, or (B) two per centum (2%) of the sales price if the sale is effected in
25 connection with a secondary distribution of such securities, or (C) one per centum (1%)
26 of the purchase or sale price of such securities if the sale is otherwise effected unless
27 the Commission shall, by rules and regulations or order in the public interest and
28 consistent with the protection of investors, permit a larger commission.

1 (f) Every registered investment company shall place and maintain its securities
2 and similar investments in the custody of a bank or such other categories of persons
3 as the Commission by rule may designate as qualifying to act as a custodian, which in
4 every case shall satisfy the requirements prescribed for custodians in rules, regulations
5 or orders issued by the Commission.

6 (g) The Commission is authorized to require by rules and regulations or orders
7 for the protection of investors that any officer and employee of a registered investment
8 company who may singly, or jointly with others, have access to securities or funds of
9 any registered company, either directly or through authority to draw upon such funds or
10 to direct generally the disposition of such securities, be bonded by a reputable fidelity
11 insurance company against larceny and embezzlement in such reasonable minimum
12 amounts as the Commission may prescribe.

13 (h) Neither the charter, certificate of incorporation, articles of association, nor the
14 by-laws of any registered investment company, nor any other instrument pursuant to
15 which such a company is organized or administered, shall contain any provision which
16 protects or purports to protect any director or officer of such company against any
17 liability to the company or to its security holders to which he would otherwise be subject
18 by reason of willful misfeasance, bad faith, gross negligence or reckless disregard of
19 the duties involved in the conduct of his office.

20 (i) No contract or agreement under which any person undertakes to act as
21 investment company manager or investment adviser of, or underwriter for, a registered
22 investment company shall contain any provision which protects or purports to protect
23 such person against any liability to such company or its security holders to which he
24 would otherwise be subject by reason of willful misfeasance, bad faith, or gross
25 negligence in the performance of his duties, or by reason of his reckless disregard of
26 his obligations and duties under such contract or agreement.

27 **SEC. 23. Proxies; Voting Trust.** - (a) Every solicitation of a proxy,
28 consent, or authorization with respect to any security of a registered investment

1 company shall be conducted in compliance with such rules and regulations as the
2 Commission may prescribe under this Act and the Revised Securities Act to regulate
3 such solicitations. Notwithstanding any provision of the Corporation Code to the
4 contrary: (i) a proxy, consent or authorization that is solicited with respect to any
5 security of a registered investment company shall not be valid for any matter requiring
6 shareholder approval under subsections (a) and (b) of SEC 9, and under subsections
7 (f)(2) and (f)(3) of SEC. 19, unless it has been solicited expressly for the meeting at
8 which such matter is to be acted upon (in the case of a proxy), or for action on such
9 matter without a meeting (in the case of a consent or authorization), and (ii) no proxy
10 shall be valid and effective for a period longer than two (2) years. No solicitation of a
11 proxy or consent shall be made by means of a proxy statement, form of proxy or
12 consent, notice of meeting or other communication, written or oral, which is materially
13 false or misleading, or which fails to disclose material facts necessary to correct any
14 statement in an earlier communication made with respect to the solicitation of proxy or
15 consent for the same meeting or subject matter, which has become false or misleading.

16 (b) It shall be unlawful for any registered investment company or affiliated
17 person thereof, any issuer of a voting-trust certificate relating to any security of a
18 registered investment company, or any underwriter of such a certificate to offer for
19 sale, sell, or deliver after sale, in connection with a public offering, any such voting-trust
20 certificate.

21 **SEC. 24. *Reorganization Plans, Reports by Commission.***- (a) Any person
22 who solicits or permits the use of his name to solicit any proxy, consent, authorization,
23 power of attorney, ratification, deposit, or dissent in respect to any plan of
24 reorganization of any registered investment company shall within twenty-four (24) hours
25 after the commencement of any such solicitation, file with, or mail to, the Commission
26 for its information, a copy of such plan and any deposit agreement relating thereto, if or
27 to the extent that such documents shall not already have been filed with the
28 Commission.

1 (b) No plan for the reorganization of a registered investment company shall be
2 carried out without the prior approval of the Commission.

3 .SEC. 25. **Registration Requirements for Investment Companies.** - (a) Any
4 investment company organized or otherwise created under the laws of the Philippines
5 may register for purposes of this Act by filing with the Commission an application for
6 registration under oath in such form as the Commission by rule may prescribe. The
7 application shall contain the following information and documents and such other
8 information as the Commission by rule may prescribe:

9 (1) The names, addresses and business experience for the last five years, of the
10 promoters, directors and officers of the investment company;

11 (2) The name, address and business experience for the last five years of the
12 proposed investment company manager, investment adviser, underwriter, and any
13 affiliated persons thereof;

14 (3) The name and address of the proposed custodian;

15 (4) A statement whether any of the persons referred to in paragraphs (1), (2) or
16 (3) are subject to any disability enumerated in Sec. 20 (a) of this Act;

17 (5) The Articles of Incorporation and By-Laws of the investment company;

18 (6) The proposed investment management contract, custodian agreement and in
19 the case of an open-end company, the proposed contract with any underwriter;

20 (7) Evidence that the investment company is or, when registered, will be in
21 compliance with the structural and capital requirements set forth in Sec. 15 of this
22 Act.

23 (b) (1) Within sixty (60) days after the filing of such application for registration (or
24 such longer period if the applicant consents) the Commission shall (A) by order, grant
25 registration, or (B) institute proceedings to determine whether to deny registration.

26 (2) The order of the Commission granting registration shall become effective
27 after publication thereof, at the expense of the registrant, once in each of two
28 consecutive weeks in two newspapers of general circulation in the Philippines.

1 (c) The Commission may by order, after hearing, deny an application for
2 registration as an investment company filed pursuant to subsection (a) of this Section if
3 it finds that -

4 (1) The investment company made or caused to be made a materially false or
5 misleading statement in its application for registration, or omitted to state in such
6 application a material fact which was required to be stated therein;

7 (2) The investment company, any affiliated person thereof, the investment
8 company manager, investment adviser, underwriter, promoter or custodian is not in
9 compliance with the provisions of the Act or the rules of the Commission thereunder,
10 or in the case of an affiliated person would be subject to a disability enumerated in
11 Sec. 20 (a) of this Act if such company was a registered investment company; or

12 (3) The investment company has not paid the registration fee prescribed by the
13 Commission.

14 (d) No later than forty-five (45) days after the grant of registration, the investment
15 company shall file with the Commission a registration statement pursuant to the
16 Revised Securities Act and the rules of the Commission thereunder appertaining to the
17 registration statements and public offerings of securities, except that, instead of the
18 information and documents required by Sec. 8 of said Act, such investment company
19 shall file a registration statement (which shall include a prospectus) containing the
20 following information and documents and such other information and documents as the
21 Commission by rule may prescribe:

22 (1) A statement set forth on the outside front cover page of the prospectus in
23 bold letters as follows:

24 "These securities have not been approved or disapproved by the
25 Securities and Exchange Commission nor has the Commission passed
26 upon the accuracy or adequacy of this prospectus. Any representation
27 to the contrary is a criminal offense.";

28 (2) A description of the investment company and its classification;

1 (3) The fundamental investment policies of the investment company, which shall
2 include its investment objectives, investment concentration by issuer or industry
3 group, liquidity standards, and portfolio mix and other investment policies;

4 (4) Terms and pricing of the common stock to be offered by the investment
5 company, sales load, minimum purchase requirements, income distribution policy
6 and procedures in the purchase and sale of such securities;

7 (5) In the case of redeemable securities, the method and basis of computation of
8 net asset value; manner and method of redemption, authorized redemption centers
9 and redemption charges, if any;

10 (6) The names and business experience for the past five (5) years and
11 compensation of the directors and officers of the investment company, including
12 past and present affiliations, and extent of participation or ownership in the common
13 stock or debt securities issued or to be issued by the investment company;

14 (7) The names, business experience, affiliations, principal responsibilities, and
15 fees and other compensation to be paid to the investment company manager,
16 investment adviser, underwriter, selling agents, custodian and independent auditor
17 of the investment company;

18 (8) Audited financial statements for the last fiscal year (if applicable) and for the
19 quarter ending as of a date not earlier than ninety (90) days from the date of the
20 filing of the registration statement;

21 (9) Schedule of investments indicating issuer, cost and market value;

22 (10) Risk factors; and

23 (11) The maximum sales load.

24 (e) No registered investment company shall circulate or distribute any
25 advertisement unless the advertisement has been filed with the Commission at least ten
26 (10) days prior to its proposed use. The Commission is authorized to adopt rules
27 governing the content, format and use of advertising material, and may limit, restrict or
28 require revision of advertising material if it finds such material to be materially

1 misleading, or not in accordance with the provisions of this Act or of any rules governing
2 the content, format and use thereof. If within ten (10) days after filing of any
3 advertising material the Commission initiates proceedings to determine whether to limit,
4 restrict or revise such material, said material may not be used during the pendency of
5 such proceeding. For purposes of this subsection (e), the terms "advertising" and
6 "advertising material" shall include any notice, circular, letter or other written
7 communication addressed to more than one person, or any notice or announcement in
8 any publication or by radio or television intended to promote or induce the sale of
9 securities of an investment company.

10 (f) *The Commission, in the exercise of its sound judgment and discretion, shall*
11 *have power to limit the registration of investment companies to such number as the*
12 *investment opportunities then obtaining would permit, and to allow the registration of*
13 *new investment companies only when the conditions warrant it.*

14 (g) If it appears to the Commission that a registered investment company has
15 failed to file the registration statement required by this section or a report required
16 pursuant to Sec. 26 (a), or (b) of this Act, has filed such registration statement or report
17 but omitted therefrom material facts required to be stated therein, or has filed such a
18 registration statement or report in violation of Sec. 33 (b), the Commission shall notify
19 such company by registered mail of the failure to file such registration statement or
20 reports, or of the respects in which such registration or report appears to be materially
21 incomplete or misleading, as the case may be, and shall fix a date (in no event earlier
22 than thirty (30) days after the mailing of such notice) prior to which such company may
23 file such registration statement or report or correct the same. If such registration
24 statement or report is not filed or corrected within the time so fixed by the Commission
25 or any extension thereof, the Commission, after appropriate notice and opportunity for
26 hearing, upon such conditions and with such exemptions as it deems appropriate for
27 the protection of investors, may by order, suspend the registration of such company
28 until such statement or report is filed or corrected, or may, by order, revoke such

1 registration, if the evidence finds that such suspension or revocation is in the public
2 interest.

3 (h) The Commission may by order, after hearing, suspend, revoke or condition
4 the registration of an investment company if it finds that the investment company were
5 not duly registered according to the rules of the Commission, its application for
6 registration would be subject to denial under Subsection (c).

7 (i) Whenever the Commission, on its own motion or upon application, finds that a
8 registered investment company has ceased to be an investment company, it shall so
9 declare by order and upon the taking effect of such order, the registration of such
10 company shall cease to be in effect. If necessary for the protection of investors, an
11 order under this subsection may be made upon appropriate conditions.

12 **SEC. 26 Reportorial Requirements for Investment Companies and**
13 **Affiliated Persons.** - (a) Every registered investment company shall transmit to its
14 stockholders, and shall file under oath with the Commission within ten (10) days after
15 such transmission, a semi-annual and annual report containing the following:

16 (1) a balance sheet, income statement, statement of changes in operations and
17 statement of surplus for the period covered by the report, including a statement of
18 the aggregate value of investments as of the balance sheet date. The income
19 statement shall be itemized with respect to each category of income and expense
20 representing more than five per centum (5%) of total income or expense, and the
21 statement of surplus shall be itemized with respect to each charge or credit to the
22 surplus account representing more than five per centum (5%) of the total charges or
23 credits for such period. These financial statements shall (A) be prepared in
24 accordance with generally accepted accounting principles and practices uniformly
25 applied and pursuant to such rules as the Commission may prescribe respecting
26 financial statement presentation and disclosure, and (B) in the case of the annual
27 report be audited and certified by independent certified public accountants whose
28 opinion shall state that such independent accountants have verified the securities

1 owned, either by actual examination, or by receipt of a certificate from the custodian,
2 as the Commission by rule may prescribe.

3 (2) a list showing the amount and value of securities owned on the date of the
4 balance sheet.

5 (3) a statement of the aggregate remuneration paid by such company during the
6 period covered by the report to each affiliated person of such company.

7 (4) a statement of the aggregate peso amounts of purchases and sales of
8 investment securities, other than Government securities, made during the period
9 covered by the report.

10 (5) a description of transactions between the investment company and any
11 affiliated person thereof during the period covered by the report.

12 (6) a summary of financial information on a per share basis, and a statement
13 showing the calculation of net asset value per share with comparisons to the same
14 period in the three (3) preceding fiscal years, and the total investment return per
15 share; and

16 (7) such other information as the Commission by rule may prescribe.

17 *Provided, That,* if in the judgment of the Commission any item required under this
18 subsection is inapplicable or inappropriate to any specified type of investment
19 company, the Commission may by rule permit, in lieu thereof, the inclusion of such item
20 of a comparable character as it may deem applicable to such type of investment
21 company.

22 (b) Every registered investment company shall file with the Commission such
23 other information and documents the Commission by rule may require to keep
24 reasonably current in the registration statement of such company filed pursuant to Sec.
25 25 of this Act.

26 (c) Every person who is directly or indirectly the beneficial owner of more than
27 ten per centum (10%) of any class of outstanding securities (other than short-term
28 paper) of which a registered closed-end company is the issuer, or who is an officer,

1 director, investment company manager, affiliated person of an investment company
2 manager of such company, investment adviser, or affiliated person of an investment
3 adviser of such a company shall be subject to the same duties and liabilities as those
4 imposed by the Revised Securities Act upon certain beneficial owners, directors, and
5 officers in respect to their transactions in certain equity securities.

6 **SEC. 27. *Destruction and Falsification of Reports and Records.*** -(a) It shall
7 be unlawful for any person, except as permitted by rule, regulation, or order of the
8 Commission, to willfully destroy, mutilate, or alter any account, book, or other document
9 the preservation of which has been required pursuant to Sec. 29 (a).

10 (b) It shall be unlawful for any person to make any untrue statement of a
11 material fact in any registration statement, application, report, account, record, or other
12 document filed or transmitted pursuant to this Act or the keeping of which is required
13 pursuant to Sec. 28 (a). It shall be unlawful for any person so filing, transmitting, or
14 keeping any such documents to omit to state therein any fact necessary in order to
15 prevent the statements made therein, in the light of the circumstances under which they
16 were made, from being materially misleading. For the purposes of this subsection, any
17 part of any such document which is signed or certified by an accountant or auditor in
18 his capacity as such shall be deemed to be made, filed, transmitted, or kept by such
19 accountant or auditor, as well as by the person filing, transmitting, or keeping the
20 complete document.

21 **SEC. 28. *Unlawful Representations and Names-*** It shall be unlawful for any
22 registered investment company hereafter to adopt as a part of the name or title of such
23 company, or of any security of which it is the issuer, any word or words which the
24 Commission finds and by order declares to be deceptive or misleading. The
25 Commission is authorized to deny the registration of an investment company using
26 such name or title.

27 **SEC. 29. *Accounts and Records*** - (a) Every registered investment company,
28 and every investment company manager, investment adviser, and underwriter of such

1 company shall maintain and preserve such accounts, books and other documents
2 constituting the records of such company or pertaining to actions or transactions by, for
3 or on behalf of such company, for a period of five (5) years, the most recent three (3)
4 years in a readily accessible place, or for such other periods as the Commission by rule
5 may prescribe.

6 (b) All accounts, books, and other records maintained and preserved pursuant to
7 subsection (a) shall be open to periodic or special examination and copying by the
8 Commission during regular business hours.

9 **SEC. 30. *Accountants and Auditors.***- (a) The financial statements of every
10 registered investment company, which are required or permitted to be audited by this
11 Act or by rules of the Commission, shall be audited and certified by an independent
12 certified public accountant appointed by such company.

13 (b) Notwithstanding any provision of the Corporation Code to the contrary, a
14 registered investment company shall appoint, remove at any time, and select a
15 successor to fill a vacancy caused by the death, resignation or removal of, any
16 independent certified public accountant, by a majority vote of the board of directors of
17 such company, which majority vote shall be composed of the votes of a majority of
18 directors who are disinterested persons.

19 (c) The term of engagement of an independent certified public accountant shall
20 not exceed two (2) years.

21 **SEC. 31. *Disclosure of Information Filed with Commission; Copies.***- (a)
22 The information contained in any registration statement, application, report, or other
23 document filed with the Commission pursuant to any provision of the Act or of any rule
24 or regulation thereunder (as distinguished from any information or document
25 transmitted to the Commission) shall be made available to the public, unless and except
26 insofar as the Commission, by rules and regulations upon its own motion, or by order
27 upon application, finds that public disclosure is neither necessary nor appropriate in the
28 public interest or for the protection of investors. It shall be unlawful for any officer or

1 employee of the Commission to use for personal benefit, or to disclose to any person
2 other than an official or employee of the Philippine Government, for official use, or for
3 any such official or employee to use for personal benefit, any information contained in
4 any document so filed or transmitted, if such information is not available to the public.

5 (b) Photostatic or other copies of information contained in documents filed with
6 the Commission under this Act and made available to the public shall be furnished any
7 person at such reasonable charge and under such reasonable limitation as the
8 Commission shall prescribe.

9 (c) Notwithstanding anything in subsection (a) of this Section to the contrary, on
10 request from a foreign securities authority of any country whose laws grant a similar
11 reciprocal assistance as herein provided, the Commission may provide assistance in
12 accordance with this subsection, including the disclosure of any information filed or
13 transmitted to the Commission, if the requesting authority states that it is conducting an
14 investigation which it deems necessary to determine whether any person has violated,
15 is violating, or is about to violate any laws relating to securities matters that the
16 requesting authority administers or enforces. Such assistance may be provided without
17 regard to whether the facts stated in the request would also constitute a violation of
18 Philippine law.

19 **SEC. 32. *Civil Liability.*** - (a) Without prejudice to the administrative and penal
20 sanctions imposed by this Act, any director or officer of an investment company, or the
21 investment company manager, investment adviser, underwriter, custodian or any
22 affiliated person of such investment company manager, investment adviser or
23 underwriter, or custodian who unlawfully and willfully diverts the funds, securities and
24 assets of an investment company to his personal use, or who otherwise willfully
25 commits a breach or abuse of trust in respect to the assets of, or transactions with, the
26 investment company shall be liable for damages to the investment company.

27 (b) The civil liability provided under the Revised Securities Act on any person
28 who files any false or misleading registration statement, prospectus or other report shall

1 apply to any person who files any false or misleading registration statement, prospectus
2 or report required to be filed under this Act;

3 (c) Any security holder of an investment company may recover any
4 unreasonable or excessive sales load imposed upon and paid by him in connection with
5 the sale to, or redemption from, him of securities of such investment company.

6 (d) The investment company, or any security holder of such investment company
7 through a derivative suit, may recover any unreasonable or excessive payments by the
8 investment company for management fees, or other compensation for services, or
9 payments of a material nature, made to the investment company manager, investment
10 adviser, underwriter, custodian, or to any affiliated person of any of the foregoing."

11 **SEC. 33. Report of Settlement of Civil Actions.**-(a) Every registered
12 investment company and every affiliated person of such company who is a party
13 defendant to any action or claim by a registered investment company or a security
14 holder thereof in a derivative capacity against an officer, director, investment adviser,
15 investment manager, or promoter of such company for an alleged breach of official
16 duty, shall transmit, unless already transmitted to the Commission, the documents
17 specified in subsection (b) if (1) such action has been compromised or settled and
18 such settlement or compromise has had the approval of a Court having jurisdiction to
19 approve such settlement or compromise; or (2) a final judgment has been entered on
20 the merits of such action.

21 (b) Within thirty (30) days after such settlement or compromise or final judgment,
22 copies of all pleadings and any written record made in such action, together with a
23 statement of the terms of settlement or compromise, if such terms be not included in
24 the record, shall be transmitted to the Commission; and any information contained in
25 any such documents may be used by the Commission in connection with any report or
26 study which may be made by the Commission of lawsuits whether of investment
27 companies or companies generally: *Provided*, That the names of persons involved shall
28 not be disclosed.

1 SEC. 34. ***Injunctions Against Willful Misconduct and Abuse of Trust*** - The
2 Commission is authorized to require a registered investment company to remove or
3 suspend a person serving or acting as officer, director, investment manager, investment
4 adviser, custodian, or promoter, or as underwriter who has been found to have
5 committed, after proper investigation and hearing by said Commission, any willful
6 misconduct or with abuse of trust or any other willful act in reckless disregard of the
7 interests of the investment company.

8 The suspension shall be for such period of time as the Commission, in its
9 discretion, shall deem appropriate.

10 SEC. 35. ***Rules, Regulations, and Orders, General Powers of the***
11 ***Commission.*** -(a) The Commission shall have the authority from time to time to make,
12 issue, amend, and rescind such rules and regulations and such orders as are
13 necessary or appropriate to effectuate the provisions of this Act, including rules and
14 regulations defining accounting, technical, and trade terms used in this Act, and
15 prescribing the form or forms in which information required in registration statements,
16 applications, and reports to the Commission shall be set forth. For the purposes of its
17 rules or regulations the Commission may classify persons, securities, and other
18 matters within its jurisdiction and prescribe different requirements for different classes of
19 persons, securities, or matters.

20 (b) No provision of this Act imposing any liability shall apply to any act done or
21 omitted in good faith in conformity with any rule, regulation, or order of the Commission
22 notwithstanding that such rule, regulation or order may, after such act or omission, be
23 amended or rescinded or be determined by judicial or other authority to be invalid for
24 any reason.

25 (c) The Commission shall have the authority from time to time, by rule or order,
26 to conditionally or unconditionally exempt any person, security or transaction, or class
27 or classes of persons, securities or transactions, from any or all provisions of this Act, if
28 such exemption is necessary or appropriate in the public interest and consistent with

1 the protection of investors.

2 SEC. 36. **Rules and Regulations; Procedure for Issuance.**- The rules and
3 regulations of the Commission under this Act, and amendments thereof, shall be
4 effective upon publication in the manner which the Commission shall prescribe, or upon
5 such later date as may be provided in such rules and regulations.

6 SEC. 37. **Orders; Procedure for Issuance.**- (a) Orders of the Commission
7 under this Act shall be issued only after appropriate notice and opportunity for hearing.
8 Notice to the parties to a proceeding before the Commission shall be given within a
9 reasonable time prior to the hearing by personal service upon each party or by
10 registered mail or confirmed telegraphic notice to the party's last known business
11 address. Notice to interested persons, if any, other than said parties may be given in
12 the same manner.

13 (b) The Commission may provide, by appropriate rules and regulations, that an
14 application verified under oath may be admissible in evidence in a proceeding before
15 the Commission and that the record in such a proceeding may consist, in whole or in
16 part, of such application.

17 (c) In any proceeding before the Commission, the Commission, in accordance
18 with such rules and regulations as it may prescribe, shall admit as a party any
19 interested Government agency, and may admit as a party any representative of
20 interested security holders, or any person whose participation in the proceeding may be
21 in the public interest or for the protection of investors.

22 SEC. 38. **Hearings by the Commission.** - Hearings may be public and may be
23 held before the Commission or any officer or officers of the Commission designated by
24 it, and appropriate records shall be kept. Such hearings shall be in accordance with
25 such applicable rules as the Commission shall promulgate for all proceedings before it.

26 SEC. 39. **Enforcement of this Act.** - (a) The Commission may make such
27 investigations as it deems necessary to determine whether any person has violated or
28 is about to violate any provision of this Act or any rule, regulation, or order thereunder,

1 or to determine whether any action in any Court or any proceeding before the
2 Commission shall be instituted under this Act against a particular person or persons, or
3 with respect to a particular transaction or transactions. The Commission shall permit
4 any person to file with it a statement in writing, under oath or otherwise as the
5 Commission shall determine, as to all the facts and circumstances concerning the
6 matter to be investigated.

7 (b) For the purpose of any investigation or any other proceeding under this Act,
8 the Commission, or any officer thereof designated by it, is empowered to administer
9 oaths and affirmations, subpoena witnesses, compel their attendance, take evidence,
10 and require the production of any books, papers, correspondence, memoranda,
11 contracts, agreements, or other records which are relevant or material to the inquiry.

12 (c) No person shall be excused from attending and testifying or from producing
13 books, papers, correspondence, memoranda, contracts agreements, or other records,
14 and documents before the Commission, or in obedience to the subpoena of the
15 Commission or any officer designated by it, or in any cause of proceeding instituted by
16 the Commission, on the grounds that the testimony or evidence, documentary or
17 otherwise, required of him may tend to incriminate him or subject him to a penalty or
18 forfeiture; but no individual shall be prosecuted or subject to any penalty or forfeiture for
19 or on account of any transaction, matter, or thing concerning which he is compelled to
20 testify or produce evidence, documentary or otherwise, after having claimed his
21 privilege against self-incrimination, except that such individual so testifying shall not be
22 exempt from prosecution and punishment for perjury committed in so testifying.

23 (d) Whenever it shall appear to the Commission that any person has engaged or
24 is about to engage in any act or practice constituting a violation of any provision of this
25 Act or of any rule, regulation, or order thereunder, it may, after proper investigation, and
26 hearing, order such person to desist from committing such act or practice and enforce
27 the same in accordance with its powers under Republic Act Numbered Eleven hundred
28 forty-three and Presidential Decree 902-A, as amended. Upon a showing that such

1 person has engaged or is about to engage in any such act or practice, the Commission
2 may grant a permanent or temporary injunction or decree or restraining order without
3 bond. In any proceeding under this subsection to enforce compliance with this Act, the
4 Commission may, to the extent it deems necessary or appropriate, take exclusive
5 jurisdiction and possession of the investment company or companies involved and the
6 books, records, and assets thereof, wherever located; and shall have jurisdiction to
7 appoint a trustee, who with the approval of the Commission shall have power to
8 dispose of any or all of such assets, subject to terms and conditions as the
9 Commission may prescribe. The Commission may transmit such evidence as may be
10 available concerning any violation of the provisions of this Act or of any rule, regulation,
11 or order thereunder to the Secretary of Justice, who, in his discretion, may institute the
12 appropriate criminal proceedings under this Act.

13 (e) If, after proper notice and hearing, the Commission finds that there is a
14 violation of this Act, its rules, or its orders, or that any registered investment company
15 has made any untrue statement of a material fact in any registration statements,
16 application, report, account, record, or other document required under this Act or its
17 rules to be filed with the Commission, the Commission shall, in its discretion, impose
18 any or all of the following sanctions:

19 (1) Suspension for a period of not more than two (2) years, or revocation of
20 registration as investment company and permit to offer or sell its securities, or other
21 registrations and licenses issued by the Commission under this Act;

22 (2) A fine of not less than one thousand pesos (P1,000.00) nor more than five
23 hundred thousand pesos; (P500,000.00) plus not more than ten thousand pesos
24 (P10,000.00) for each day of continuing violation;

25 (3) Disqualification from being an officer, director, employee, investment
26 company manager, investment adviser, custodian or underwriter;

27 (4) Other penalties within the power of the Commission under existing law.

28 The imposition of the foregoing administrative sanctions shall be without

1 prejudice to the filing of criminal charges against the individuals responsible for the
2 violation.

3 (f) The powers of the Commission under this Section shall be in addition to any
4 other powers granted under existing laws.

5 SEC. 40.. - (a) No investment company doing business within the Philippines or
6 agent thereof shall pay any commission or other compensation to any person for
7 service in obtaining investments in an investment company unless such person holds a
8 certificate of authority issued by the Commission to act as an agent or investment
9 solicitor of such company as hereafter provided. No person shall act as an agent, sub-
10 agent, or investment solicitor in the solicitation or procurement of an investment or
11 application for investment in an investment company or receive for services of
12 obtaining such investments any commission or other compensation from any
13 investment company doing business in the Philippines or from the agent or underwriter
14 thereof, without first getting a certificate of authority so to act from the Commission,
15 which must be renewed annually on the first day of January and not later than the
16 fifteenth day of March. Such certificate shall be issued by the Commission only upon
17 the written application of the person desiring such authority, such application being
18 approved and countersigned by the investment company or its agent or underwriter,
19 and shall be upon a form approved by the Commission; *Provided, however,* That no
20 such certificate of authority shall be issued by the Commission unless the applicant for
21 agent, sub-agent or investment solicitor shall have passed a written examination given
22 for the purpose by the Commission or the said applicant possesses a college degree.
23 The Securities and Exchange Commission shall have the right to refuse to issue and to
24 revoke any such certificate at its discretion.

25 (b) Any person who for compensation solicits or obtains investments on behalf
26 of any investment company or its agents or underwriter or transmits for a person other
27 than himself an investment or application for investment in an investment company or
28 offers or assumes to act as an agent or investment solicitor of an investment company,

1 shall be an investment agent or investment solicitor within the intent of this section and
2 shall thereby become liable to all the duties, requirements, liabilities, and penalties to
3 which such a person is subject.

4 The Commission shall issue such rules and regulations as it may deem
5 necessary for the enforcement and implementation of the provisions of this section
6 forty.

7 SEC. 41. **Fees; Commission Organization; Compensation-** (a) The
8 Commission is authorized to charge and collect fees in such amounts as the
9 Commission shall, by rule or regulation promulgate, for:

10 (1) registering an investment company, *Provided*, That if the securities of the
11 company are likewise registered, the fee shall not exceed one-tenth of one percent
12 of the maximum aggregate price of the securities to be registered; and *Provided*,
13 *Further That*, in the case of an open-end fund, if the fee prescribed is based on the
14 aggregate price of securities actually sold, such fee shall be net of any redemptions
15 made during the same period;

16 (2) every examination of the financial condition of an investment company. The
17 Commission is authorized to conduct such examination as often as may be
18 necessary in the public interest or for the protection of investors;

19 (3) each exemption;

20 (4) every determination granting a right or privilege;

21 (5) each certificate of authority issued to an agent or investment solicitor;

22 (6) each instrument, document, or paper not required to be filed but which an
23 interested party desires to be attached to the records of an investment company.

24 Every right, privilege, exemption or registration under this Act shall be sought
25 from the Commission in the form of a petition for which the corresponding fee herein
26 authorized to be collected shall be paid before any action is taken thereon. The grant
27 or denial of the petition shall be in the form of an order issued by the Commission. No
28 denial, withdrawal or abandonment of the petition shall be a ground for the refund of the

1 fee paid therefor.

2 (b) The Commission shall take charge of the enforcement and implementation of
3 the provisions of this Act. The Commission is authorized to establish a separate
4 department or division to regulate the conduct of investment companies and shall
5 provide such personnel and positions for such department or division to effectively
6 implement and enforce the provisions of this Act.

7 **SEC. 42. *Appropriation; Assessment.*** - The Commission is hereby authorized
8 to spend its income under this Act to carry out the purposes hereof, and to retain not
9 more than ten per centum (10%) of its income herein to defray expenses in the
10 Commission's regulatory and adjudicative functions. Should the Commission's total
11 income under this Act in any year be less than its total expenditures as certified by the
12 Chairman of the Commission, the difference shall be pro-rated among all investment
13 companies in business in such manner as the Commission shall determine, and the
14 Commission is authorized to assess and collect from each of them its corresponding
15 share which shall not exceed one half of one per centum (0.5%) of its net asset value.

16 **SEC. 43. *Association of Investment Companies and Affiliates.***- The
17 Commission may prescribe rules as may be necessary or appropriate in the public
18 interest or for the protection of investors to govern any association of registered
19 investment companies and affiliated persons who are registered under this Act. Upon
20 application of any such association, the Commission may grant such association, a
21 registration as an "investment company association" and, pursuant to rules issued by
22 the Commission, confer authority upon such association to act as a self-regulatory
23 organization for members of the association, including the power to train, administer
24 proficiency examinations, and discipline its members.

25 **SEC. 44. *Investment Company Investors Protection Fund.***--The Commission
26 may establish or facilitate the establishment of an investment company investor
27 protection fund which shall be contributed to by investment companies, investment
28 company underwriters, investment managers and other persons associated with the

1 business activities of investment companies as the Commission may require, for the
2 purpose of compensating investment company investors for financial injury they may
3 suffer due to reasons prescribed by the Commission other than market decline in the
4 investment portfolio of the investment company. The Commission, having due regard
5 for the public interest and the protection of investors, shall regulate, supervise,
6 examine, suspend or otherwise discontinue such funds under rules which the
7 Commission may prescribe.

8 **SEC. 45. *Validity of Contracts.*** - (a) Any condition, stipulation, or provision
9 binding any person to waive compliance with any provision of this Act or with any rule,
10 regulation or order thereunder shall be void.

11 (b) Every contract made in violation of any provision of this Act or of any rule,
12 regulation, or order thereunder, and every contract heretofore or hereafter made, the
13 performance of which involves the violation of, or the continuance of any rule,
14 regulation, or order thereunder, shall be void (1) as regards the rights of any person
15 who, in violation of any such provision, rule, regulation, or order, shall have made or
16 engaged in the performance of any such contract, and (2) as regards the rights of any
17 person who, not being a party to such contract, shall have acquired any right
18 thereunder with actual knowledge of the facts by reason of which the making or
19 performance of such contract was in violation of any such provision, rule, regulation, or
20 order.

21 **SEC. 46. *Procuring Violation of Act; Obstructing Compliance.*** - (a) It shall
22 be unlawful for any person, directly or indirectly, to cause to be done any act or thing
23 through or by means of any other person which it would be unlawful for such person to
24 do under the provisions of this Act or any rule, regulation, or order thereunder.

25 (b) It shall be unlawful for any person without just cause to hinder, delay, or
26 obstruct the making, filing, or keeping of any information, document, report, record, or
27 account required to be made, filed, or kept under any provision of this Act or any rule,
28 regulation, or order thereunder.

1 SEC. 47. *Penalties.*- (a) Whoever steals, unlawfully abstracts, unlawfully and
2 willfully converts to his own use or to the use of another, or embezzles any of the
3 moneys, funds, securities, credits, property or assets of any registered investment
4 company shall be deemed guilty of a crime, and upon conviction thereof shall suffer a
5 fine, imprisonment or other penalties as prescribed in subsection (d) of this Section.

6 (b) Any person who, without just cause, shall fail or refuse to attend and testify or
7 to answer any lawful inquiry or to produce books, papers, correspondence,
8 memoranda, contracts, agreements, or other records, if in his or its powers so to do, in
9 obedience to the subpoena of the Commission, shall be subject to discipline by the
10 Commission as in the case of contempt of court, either by a fine in such reasonable
11 amount as the Commission may determine, or when such failure or refusal is a clear
12 and open defiance of the Commission's order, decision or subpoena, by detention
13 under an arrest order, as may be issued by the Commission at the discretion of the
14 Commission, until such order, decision or subpoena is complied with.

15 (c) Any person or company violating the provisions of Sec. 40 shall upon
16 conviction, be subject to a fine of up to fifty thousand pesos (P50,000.00). Upon the
17 conviction of any person acting as agent, sub-agent, investment solicitor, or broker for
18 the commission of an offense connected with the business of an investment company,
19 the Commission shall immediately revoke the certificate of authority issued to him and
20 no such certificates shall thereafter be issued to such convicted person.

21 (d) Unless otherwise specifically provided elsewhere in this Act, any person who
22 violates any provision of this Act or of any rule, regulation, or order thereunder, or any
23 person who in any registration statement, application, report, account, record, or other
24 document filed or transmitted pursuant to section twenty-seven of this Act makes any
25 untrue statement of facts or omits to state any fact necessary in order to prevent the
26 statements made therein from being materially misleading in the light of the
27 circumstances under which they were made, shall upon conviction suffer a fine not less
28 than five thousand pesos (P5,000.00) nor more than five million pesos (P5,000,000.00),

1 or imprisonment of not less than seven (7) years nor more than twenty one (21) years,
2 or both, in the discretion of the court. If the offender is a corporation, partnership,
3 association or other juridical entity, the fine shall be imposed upon the investment
4 company, or upon the officer or officers of such entity responsible for the violation, or
5 both, and if any such officer is an alien, he shall, in addition to the penalties prescribed,
6 be deported without further proceedings after service of sentence.

7 SEC. 48. **Effect on Existing Law and Repealing Clause.**- The rights and
8 remedies provided by this Act shall be in addition to any and all rights and remedies
9 that may now exist, but no person permitted to maintain a suit for damages under the
10 provisions of this Act shall recover, through satisfaction of judgment in one or more
11 actions, a total amount in excess of his actual damages on account of the act
12 complained of.

13 Republic Act No. 2629 is repealed in its entirety. Violations of the said Act
14 committed prior to the effectivity of this Act shall be punished in accordance with the
15 laws then in force. All laws, Acts, parts of Acts, Rules of Court, Executive Orders, and
16 administrative regulations which are inconsistent with this Act are hereby repealed.

17 SEC. 49 **Separability.** - If any provision of this Act shall be held invalid, the
18 remainder of the Act shall not be affected thereby.

19 SEC. 50. **Effectivity Clause.** - This Act shall take effect fifteen (15) days from
20 the date of its publication in at least two (2) newspapers of general publication in the
21 Philippines.

22 Approved,