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REPUBLIC OF THE PHILIPPINES)
First Regular Session)

SECRET
OFFICE OF THE SECRETARY

10 JUL -1 AM '59

SENATE

S. No. 49

RECEIVED



Introduced by SENATOR EDGARDO J. ANGARA

EXPLANATORY NOTE

The worldwide trend in the regulation of collective investment schemes ("CIS") is to have single law to regulate all types of CIS. Countries such as the United Kingdom, Japan, Australia, Korea and Singapore have adopted this approach. In the Philippines however, investment companies (mutual funds) and unit investment trust funds ("UITFs"), the most common forms of CIS, are still governed by varying laws and regulations. As such, there are differences in regulatory requirements (regulatory arbitrage) and taxation among the different forms of CIS, even though the investment products they offer to the public are essentially the same. It is believed that this regulatory arbitrage gives rise to an uneven playing field which will prove unfavorable to the growth of the industry. More importantly, such regulatory arbitrage will result in uneven levels of protection to the investing public.

This bill proposes to establish a comprehensive regulatory framework for all forms of CIS that seeks to eliminate existing differences in regulatory treatment. This bill also seeks to balance the interests of the investors, 'by incorporating mechanisms that would safeguard the public interest, at the same time recognizing the interests of the other parties involved in the CIS industry, by giving them flexibility to expand their CIS businesses.

With the passage of this bill, it is anticipated that even middle to low income individuals will explore more investment opportunities in CIS, thereby gaining access to the capital markets. The economy, in turn, is expected to benefit greatly from an expanded capital base.

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




EDGARDO J. ANGARA

10 JUL -1 AM 59

SENATE

Senate Bill No. 49

RECEIVED BY 

Introduced by SENATOR EDGARDO J. ANGARA

COLLECTIVE INVESTMENT SCHEMES LAW

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

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TITLE I – GENERAL PROVISIONS

SECTION 1. Short Title - This Law shall be known as the “*Collective Investment Schemes Law*”.

SECTION 2. Declaration of Policy – The policy of the state is to:

- (a) Promote investor protection by applying high governance standards in the establishment, registration, sale, management and operation of collective investment schemes in order to prevent abuse and protect the interests of the investing public, including but not limited to, the setting of standards for the eligibility of persons who establish, sell, manage or operate collective investment schemes; the prevention, disclosure and elimination of all conflicts of interest which may prejudice the investing public; and the provision of independent third party supervision over the operations of collective investment schemes;
- (b) Promote the growth of pooled investments and the development of the capital market by providing a favorable framework for collective investment schemes to facilitate the flow of investment capital from sources within the country and abroad;
- (c) Encourage the participation in the collective investment scheme industry of the best qualified fund managers and investment advisers regardless of origin;
- (d) Broaden participation by Filipinos in ownership of securities and other assets allowed in this Law so that more are able to share in economic growth; and
- (e) Provide equal protection to investors in all similar collective investment schemes, impose the same requirements and provide the same competitive environment for such schemes and the participants therein.

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2 **SECTION 3. Purpose** – The purpose of this Law is to establish a comprehensive
3 regulatory and tax framework to enable collective investment schemes and all the
4 participants therein to play a key role in the development of the capital market in a
5 manner consistent with the policy declared in Section 2 hereof.

6
7 **SECTION 4. Coverage** – This Law shall apply to the establishment, registration,
8 sale, management and operation of all collective investment schemes in the Philippines.

9
10 **SECTION 5. Definitions** – When used in this Law, unless the context otherwise
11 requires:

12 (a) "**Affiliate**" of another person means:

- 13 1. any person directly or indirectly owning, controlling or holding with
14 power to vote, ten per centum (10%) or more of the outstanding voting
15 securities of such other person;
- 16 2. any person ten per centum (10%) or more of whose outstanding voting
17 securities are directly or indirectly owned, controlled, or held with power
18 to vote, by such other person;
- 19 3. any person directly or indirectly controlling, controlled by, or under
20 common control with, such other person;
- 21 4. any officer, director, partner, or employee of such other person; and
- 22 5. if such other person is a corporate CIS, any investment adviser, fund
23 manager, CIS distributor, CIS solicitor and custodian thereof.

24 (b) "**Appropriate regulatory agency**" refers to:

- 25 1. the *Bangko Sentral ng Pilipinas*, in the case of banks, trust entities and
26 other financial institutions supervised by the *Bangko Sentral ng*
27 *Pilipinas*;
- 28 2. the Insurance Commission, in the case of insurance companies and other
29 persons regulated by the Insurance Commission; and
- 30 3. the Securities and Exchange Commission, in the case of investment
31 companies or other persons not under the regulation of the *Bangko*
32 *Sentral ng Pilipinas* or the Insurance Commission.

33 (c) "**Bank**" means an entity engaged in the lending of funds obtained from the
34 public through the receipt of deposits of any kind and duly authorized to operate
35 as a bank by the Monetary Board of the *Bangko Sentral ng Pilipinas*

36 (d) "**Broker**" means any juridical person duly licensed by the appropriate
37 regulatory agency and accredited by the appropriate self regulatory organization
38 to engage in the business of buying and selling securities for the account of

- 1 others, but does not include a bank or any person solely by reason of the fact that
2 such person is a CIS or a distributor of CIS securities.
- 3 (e) "**CIS**" means a collective investment scheme
- 4 (f) "**CIS distributor**" means any stock corporation or broker licensed by the
5 appropriate regulatory agency to engage in the selling of CIS securities.
- 6 (g) "**CIS investor**" means any person who purchases or otherwise invests in CIS
7 securities.
- 8 (h) "**CIS plan**" means the plan for the CIS registered with the Commission in
9 accordance with Sections 24 and 27 hereof.
- 10 (i) "**CIS securities**" means, units of participation or similar interests in a
11 contractual CIS or shares of stock or similar interests in a corporate CIS.
- 12 (j) "**CIS solicitor**" means a natural person who is duly licensed as such [or a
13 broker who is duly accredited] by the appropriate regulatory agency to sell CIS
14 securities.
- 15 (k) "**Collective investment scheme**" shall have the meaning given in Section 6
16 hereof.
- 17 (l) "**Commission**" means the Securities and Exchange Commission.
- 18 (m) "**Common stock**" of a corporation means a class of shares with general voting
19 rights.
- 20 (n) "**Company**" means a corporation, partnership, trust, or an association duly
21 registered with the Commission and lawfully transacting business in the
22 Philippines.
- 23 (o) "**Contractual CIS**" means a CIS:
- 24 1. organized pursuant to a contract, such as a trust indenture, or as part of an
25 insurance contract;
- 26 2. engaged, or holds itself out as being engaged, or proposes to engage, in the
27 business of investing, reinvesting, and/or trading in securities or other
28 investment assets allowed under this Law; and
- 29 3. issues units of participation each of which represents an undivided interest
30 in a pool of investment assets.
- 31 (p) "**Control**" is presumed to exist when the parent owns, directly or indirectly
32 through subsidiaries, more than one half of the voting power of an entity unless,
33 in exceptional circumstances, it can be clearly demonstrated that such ownership
34 does not constitute control. Control also exists even when the parent owns half or
35 less of the voting power of an entity when there is:
- 36 1. power over more than one half of the voting rights by virtue of an
37 agreement with other investors;
- 38 2. power to govern the financial and operating policies of an entity under a

- 1 statute or an agreement;
- 2 3. power to appoint or remove the majority of the members of the board of
- 3 directors or equivalent governing body and control of the entity is by that
- 4 board or body;
- 5 4. power to cast the majority of votes at meetings of the board of directors or
- 6 equivalent governing body and control of the entity is by that board or
- 7 body; or
- 8 5. any other arrangement similar to any of the above.
- 9 (q) "**Convicted**" includes being the subject of a verdict, judgment, or plea of
- 10 guilty in the first instance, if such verdict, judgment or plea has not been
- 11 reversed, set aside, or withdrawn, whether or not sentence has been served.
- 12 (r) "**Corporate CIS**" means a CIS:
- 13 1. organized as a stock corporation;
- 14 2. engaged, or holds itself out as being engaged, or proposes to engage, in
- 15 the business of investing, reinvesting, and/or trading in securities or other
- 16 investment assets allowed under this Law; and
- 17 3. issues common stock each of which represents an undivided interest in a
- 18 pool of investment assets.
- 19 (s) "**Corporation Code**" means the Corporation Code of the Philippines, B.P. 68,
- 20 enacted on May 1, 1980, as may be amended from time to time, or any law
- 21 subsequently enacted in replacement or substitution thereof.
- 22 (t) "**Custodian**" means an entity duly authorized by the Monetary Board to
- 23 engage in the business of safekeeping investment assets, which is appointed and
- 24 acts as the custodian of the investment assets of a CIS pursuant to this Law and
- 25 the relevant regulations of the Monetary Board and/or the Commission.
- 26 (u) "**Dealer**" means any person duly licensed by the appropriate regulatory
- 27 agency and accredited by the appropriate self regulatory organization to buy and
- 28 sell securities for his own account, in the ordinary course of business whether
- 29 through a broker or otherwise. The term excludes banks, insurance companies,
- 30 or CIS, or any person insofar as he is engaged in investing, reinvesting, or
- 31 trading in securities, or in owning or holding securities, for his own account,
- 32 either individually or in some fiduciary capacity, but not as a part of regular
- 33 business.
- 34 (v) "**Director**" means a director of a corporation or any person performing
- 35 similar functions with respect to any organization.
- 36 (w) "**Exchange**" means an organized marketplace or facility duly licensed by the
- 37 Commission that brings together buyers and sellers and executes trades of
- 38 securities and/or commodities.

- 1 (x) **"Fund manager"** means a juridical person engaged in the business of
2 managing the investment assets of a CIS and/or engaged in the business of
3 providing administrative and ancillary services for such CIS as licensed by the
4 appropriate regulatory agency in accordance with Section 7, and having the
5 duties and responsibilities enumerated in Section 8.
- 6 (y) **"General Banking Law"** means Republic Act No. 8791, as may be amended
7 from time to time, or any law subsequently enacted in replacement or
8 substitution thereof.
- 9 (z) **"Implementing Rules and Regulations"** means the uniform rules and
10 regulations jointly formulated and issued by the appropriate regulatory agencies
11 to implement the provisions of this Law, in accordance with Section 64 hereof.
- 12 (aa) **"Independent auditor"** means the independent external certified public
13 accountant referred to in Section 18 hereof.
- 14 (bb) **"Independent director"** refers to a person other than an officer or employee of
15 the corporation, its affiliates, or any other individual having any relationship with
16 the corporation which would materially interfere with the exercise of
17 independent judgment in carrying out the responsibilities of a director. An
18 independent director shall possess all the qualifications and none of the
19 disqualifications for independent directors as defined in the Securities Regulation
20 Code and its implementing rules.
- 21 (cc) **"Independent oversight body"** refers to the body or entity referred to in
22 Section 52 (b) (2) hereof.
- 23 (dd) **"Insurance Code of the Philippines"** means Presidential Decree No. 1460
24 otherwise known as 'The Insurance Code of 1978', as amended, or any law
25 subsequently enacted in replacement or substitution thereof.
- 26 (ee) **"Insurance company"** means a company engaged in the insurance or
27 reinsurance business and duly issued by the Insurance Commission with a
28 certificate of authority to transact such business, as specifically defined under the
29 Insurance Code of the Philippines.
- 30 (ff) **"Investment adviser"** means any person who regularly advises or
31 recommends investment decisions with regard to the securities or other portfolio
32 of a CIS pursuant to an advisory contract with such CIS through the fund
33 manager or trustee.i
- 34 (gg) **"Investment assets"** means the securities and other assets in which the funds
35 of a CIS may be invested in accordance with Section 39 hereof.
- 36 (hh) **"Investment company"** means the stock corporation organized pursuant to a
37 corporate CIS, which is engaged, or holds itself out as being engaged, or
38 proposes to engage, in the business of investing, reinvesting, and/or trading in

- 1 securities allowed under this Law.
- 2 (ii) **"Investment house"** means any enterprise which engages in the underwriting
3 of securities of other companies, as defined in Section 2 of the Investment
4 Houses Law, Presidential Decree No. 129, as may be amended from time to
5 time, and is registered pursuant to said law.
- 6 (jj) **"Net asset value"** means the value of all assets less all liabilities of a CIS as
7 determined in accordance with generally accepted accounting principles and the
8 provisions of this Law and its implementing rules and regulations.
- 9 (kk) **"Organized Market"** refers to an exchange or an over-the-counter market
10 governed by transparent and binding market conventions on price transparency,
11 trade reporting, market surveillance and fair and orderly conduct/operations of
12 the market.
- 13 (ll) **"Person"** means a natural or juridical person as defined in the Civil Code of
14 the Philippines.
- 15 (mm) **"Redemption"** refers to the liquidation of a CIS security by returning it
16 to the issuer in exchange for its net asset value.
- 17 (nn) **"Registrar"** means the fund manager or trustee or such other person or persons
18 as may from time to time be appointed by the trustee, or the fund manager with
19 the prior approval of the trustee, to perform all or any of the duties and
20 functions of the registrar under Section 23 hereof.
- 21 (oo) **"Sale", "sell" "offer to sell" or "offer for sale"** means every contract of sale
22 or disposition of, attempt or offer to dispose of, or solicitation of an offer to buy
23 a security or property or interest therein, for value. Any such security, property
24 or interest therein, given or delivered with, or as a bonus on account of, any
25 purchase of securities or any other thing, shall be conclusively presumed to
26 constitute a part of the subject of such purchase and to have been sold for value.
- 27 (pp) **"Security"** means any instrument or product defined as such by the Securities
28 Regulation Code and its implementing rules.
- 29 (qq) **"Securities Regulation Code" or "SRC"** means Republic Act No. 8799,
30 enacted on July 17, 2002, as may be amended from time to time.
- 31 (rr) **"Separate account fund"** – means the segregated portfolio of investments
32 established, maintained and invested in by an insurance company for its variable
33 life insurance contracts and accounted for separately and apart from its other
34 investments and accounts, pursuant to the Insurance Code of 1978, as amended
35 (P.D. No. 1460), under which the income, gains and losses (whether or not
36 realized) from, and expenses incurred on the acquisition, disposal and
37 management of assets allocated to such account, are credited to or charged
38 against such account without regard to the other income, gains, losses and other

1 expenses of the insurance company. The Separate Account Fund shall be deemed
2 a contractual CIS, and the units of participation therein shall be deemed as CIS
3 securities, subject to this Law. The assets held in any such separate account shall
4 be applied exclusively for the benefit of the owners or beneficiaries of the
5 variable life insurance contracts.

6 (ss) "**Shareholder**" means a stockholder of a corporate CIS.

7 (tt) "**Trust institution**" – means any bank, investment house or a stock
8 corporation duly authorized by the Monetary Board to engage in trust,
9 investment management and fiduciary business.

10 (uu) "**Trustee**" means a trust institution appointed and acting as the trustee of a
11 contractual CIS pursuant to this Law.

12 (vv) "**Unit Holder**" – means an investor in a contractual CIS.

13 (ww) "**Value**" means the market value or fair value of securities as may be
14 determined in accordance with such rules and regulations as the Commission
15 may prescribe.

16 17 **TITLE II - COLLECTIVE INVESTMENT SCHEMES**

18 19 **Chapter 1 – Nature and Structure of Collective Investment Schemes**

20 21 **SECTION 6. *Collective Investment Schemes* –**

22 (a) A Collective Investment Scheme (CIS) is any arrangement whereby funds
23 are solicited from the investing public for the purpose of investing, re-
24 investing and/or trading in securities or other assets allowed under this
25 Law. All CIS shall be covered by and regulated pursuant to this Law. A
26 CIS may have a corporate structure, such as an investment company, or a
27 contractual structure, such as a unit investment trust fund or similar
28 scheme held by a trust institution or a separate account fund established
29 pursuant to a variable unit linked life insurance policy issued by an
30 insurance company. All CIS shall be governed by and shall comply with
31 the requirements of this Law and the pertinent provisions of the SRC and
32 the pertinent and the pertinent provisions of the SRC.

33 (b) None of the following arrangements shall be deemed a collective
34 investment scheme subject to regulation under this Law:

- 35 1. Any arrangement whereby securities are issued to not more than
36 nineteen (19) beneficial owners within any twelve-month period, and
37 there is no current offering or intention to make a public offering of
38 such securities. For purposes of this paragraph, beneficial ownership

1 by a company shall be deemed to be beneficial ownership by one
2 person; except that, if such company owns twenty-five per centum
3 (25%) or more of the outstanding voting securities of the issuer, the
4 beneficial ownership shall be deemed to be that of the holders of such
5 company's outstanding securities;

6 2. Any insurance company in the conduct of its ordinary business;
7 provided, however, that a separate account fund established by an
8 insurance company shall be deemed a contractual CIS as defined under
9 this Law.

10 3. Any employees' stock, bonus, pension, retirement, provident or profit
11 sharing plan or fund, engaged in the conduct of their ordinary
12 business;

13 4. Any fund which is employed by the trust entity solely as an aid to the
14 administration of existing trust or fiduciary accounts covered by
15 agreements separate from those in connection with the CIS; provided
16 that interests in such fund are not advertised or offered for sale to the
17 general public.

18 5. Any arrangement whereby an investment house, dealer, or broker,
19 registered as such with the Commission, primarily engaged in the
20 business of underwriting securities issued by other persons, purchases
21 and sells securities for its own account, or effects transactions in
22 securities for the account of others;

23 6. Any arrangement whereby a company primarily engages in the
24 business of factoring or mortgage banking, by purchasing or otherwise
25 acquiring accounts receivable and similar obligations or making loans
26 in respect of goods or services of a business, or by purchasing or
27 otherwise acquiring mortgages and other liens on or interests in real
28 estate; provided that such arrangement does not include the business of
29 issuing redeemable securities;

30 7. Any arrangement organized and operated by an entity exclusively for
31 religious, educational, benevolent, fraternal, charitable, or reformatory
32 purposes, where no part of the net earnings from such arrangement
33 inures to the benefit of any shareholder or member of such entity;

34 8. Any arrangement whereby an issuer is primarily engaged in investing
35 in securities issued by a majority-owned subsidiary or subsidiaries of
36 such issuer, where each such subsidiary is not a CIS; and

37 9. Any other arrangement that, pursuant to rule or order issued by the
38 Commission, is determined not to be a CIS, or is excluded from the

1 definition thereof as not necessary in the public interest and for the
2 protection of investors.

3 (c) A CIS may either be open-end or closed-end, defined as follows:

- 4 1. "Open-end CIS" means a CIS where [redeemable] securities are
5 offered and are redeemable by the CIS; and
- 6 2. "Closed-end CIS" means a CIS where a fixed number of securities are
7 offered in an initial public offering and thereafter may be traded in an
8 organized market as determined by the appropriate regulatory agency
9 in an initial public offering and thereafter may be traded in an initial
10 public offering and thereafter may be traded in an organized market as
11 determined by the appropriate regulatory agency, but may not be
12 redeemed by the CIS. A closed-end CIS shall not be allowed to
13 increase its number of securities.

14 **Chapter 2 – Parties Involved In Collective Investment Schemes**

15 **SECTION 7. *Fund manager***– No company shall act as a fund manager FOR A
16 CIS unless duly licensed by the appropriate regulatory agency, and no company shall be
17 licensed as a fund manager for purposes of this Law, unless:
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19

- 20 (a) It is organized as a stock corporation;
- 21 (b) It has a minimum paid-up capital of not less than one hundred million pesos
22 (P100,000,000.00); *Provided, however,* that the appropriate regulatory agency
23 may prescribe a higher minimum paid-up capital taking into consideration,
24 among other factors:
 - 25 1. the risk-based principles on capital adequacy based on internationally
26 accepted standards; and
 - 27 2. the number and/or of CIS managed;
- 28 (c) At least one-third (1/3) of the entire membership of the Board of Directors of
29 the fund manager shall be independent directors; and
- 30 (d) It has complied with such other requirements as may be prescribed by the
31 appropriate regulatory agency.

32 In licensing a fund manager, the appropriate regulatory agency shall
33 ensure that the requirements under this Law and its implementing rules and
34 regulations are complied with.

35
36 **SECTION 8. *Duties and Responsibilities of the Fund Manager*** - The fund
37 manager shall have the following duties and responsibilities:

- 1 (a) Manage the investment assets of the CIS and perform its functions in
2 accordance with the CIS plan, the provisions of this Law and its implementing
3 rules and regulations for the exclusive interest of the CIS investors;
- 4 (b) Provide copies of financial and other records of CIS investments to the CIS
5 investors, trustee, CIS and auditor;
- 6 (c) Ensure that the fund and the CIS securities are accurately valued or priced;
- 7 (d) Ensure that all payments out of CIS funds, assets and properties are made in
8 accordance with the CIS plan, this Law and its implementing rules and
9 regulations;
- 10 (e) Comply with the instructions of the corporate CIS or the trustee to remedy a
11 breach of the provisions or covenants of the CIS plan, its contract with the
12 corporate CIS or trustee, the provisions of this Law or its implementing rules
13 and regulations;
- 14 (f) Furnish the corporate CIS or the trustee with all contracts and agreements
15 relating to the operation and management of the CIS;
- 16 (g) Report to the corporate CIS or the trustee and the CIS investors results of the
17 CIS operations;
- 18 (h) Call for and attend annual or special meetings of the unit holders of a
19 contractual CIS, or attend meetings of stockholders of a corporate CIS;
- 20 (i) Monitor the activities of the CIS distributors in the sale of the CIS securities;
- 21 (j) Facilitate the redemption of CIS securities;
- 22 (k) Maintain proper accounting records and other records to:
- 23 1. enable a complete and accurate review of the CIS funds, assets and
24 properties; and
- 25 2. ensure that the CIS funds, assets and properties are managed and
26 administered in accordance with the CIS plan, its contract with the
27 corporate CIS or trustee, this Law and its implementing rules and
28 regulations;
- 29 (l) Propose amendments to the CIS plan and secure approval for those
30 amendments which require investor approval in accordance with the
31 provisions of this Law;
- 32 (m) Report to the appropriate regulatory agency, as soon as practicable, any
33 material development or breach of the provisions or covenants of the CIS
34 plan, the provisions of this Law or its implementing rules and regulations,
35 that:
- 36 1. relates to the establishment, distribution, management, operation or
37 dissolution of the CIS, and

1 2. has had or is likely to have a material adverse effect on the interests of
2 the CIS investors; and

3 (n) Such other duties and responsibilities that the appropriate regulatory agency
4 may prescribe.

5

6 **SECTION 9. *Prohibited Acts of the Fund Manager.*** - The fund manager shall

7 not:

8 (a) Purchase securities and investment assets for its own account which may
9 conflict with its obligations as fund manager;

10 (b) Invest CIS funds in any securities, property and assets in which such fund
11 manager or any of its directors, officers, employees and affiliates have a
12 substantial financial interest, subject to such exceptions and/or guidelines as
13 may be prescribed by the Commission;

14 (c) Engage in a business other than the business of managing, administering,
15 marketing and distributing CIS funds and securities, provided that this
16 prohibition shall not apply if the fund manager is the trust department of a
17 bank or a non-bank financial institution;

18 (d) Pay or cause to be paid out of the CIS funds any fees, commissions and other
19 similar expenses that have not been, or exceed what have been, provided for
20 in the CIS plan, this Law and its implementing rules and regulations or any
21 other applicable laws and regulations;

22 (e) Retain any rebate from, or otherwise share in any commission with, any
23 broker or dealer in consideration of transactions or investments of the CIS
24 funds. Accordingly, any rebates or shared commissions shall be for the
25 account of the CIS fund concerned; and

26 (f) Engage in such other acts as may be prohibited by rule or order of the
27 appropriate regulatory agency.

28

29 **SECTION 10. *Fund Management Agreement*** - (a) The agreement between the
30 fund manager and the trustee or the corporate CIS shall contain, among others, provisions
31 pertaining to:

32 1. Extent of services to be rendered;

33 2. Any restrictions or prohibitions regarding the performance of the functions
34 of the fund manager;

35 3. All compensation to be paid thereunder which shall be clearly described in
36 a transparent manner, and which shall be in accordance with such
37 requirements and limitations as the implementing rules and regulations
38 may prescribe;

- 1 4. The term of the engagement and the manner of termination thereof, which
- 2 shall be in accordance with such requirements or limitations as this law
- 3 and its implementing rules and regulations may prescribe;
- 4 5. Reporting requirements to the trustee, corporate CIS, CIS investors and
- 5 the appropriate regulatory agencies; and
- 6 6. Such other terms or conditions as the implementing rules and regulations
- 7 may prescribe.

8 (b) In all cases where the trustee or insurance company functions as a fund
9 manager, the foregoing provisions which should otherwise be contained in the fund
10 management agreement with the fund manager shall be contained in the CIS plan.

11
12 **SECTION 11. *The Trustee*** – Only a trust institution shall act as a trustee of a
13 CIS. In authorizing a trust institution to engage in CIS activities, the Monetary Board
14 shall ensure that all relevant requirements under this Law or implementing rules and
15 regulations shall be complied with. The following, in addition to those prescribed under
16 existing laws and regulations, shall be the duties and responsibilities of a trustee of a CIS:

- 17 (a) Monitor the activities of the CIS distributors in the sale and/or redemption of
- 18 the CIS units and ensure that the provisions of any marketing document
- 19 relating to the sale or offer for sale of the CIS securities do not contain any
- 20 matter which is inconsistent with the provisions of the CIS plan, this Law and
- 21 its implementing rules and regulations;
- 22 (b) Ensure that the management and investments of the CIS funds by the fund
- 23 manager are in accordance with the CIS plan;
- 24 (c) Ensure that the fund manager remedies any breach of the CIS plan or the
- 25 terms of its appointment as fund manager, or any contravention of the
- 26 provisions of this Law or its implementing rules and regulations;
- 27 (d) Appoint an independent third-party custodian;
- 28 (e) Ensure that CIS funds, assets and properties are clearly identified and held
- 29 separately from its own properties and other properties held in trust;
- 30 (f) Ensure that all payments out of CIS funds, assets and properties are made in
- 31 accordance with the CIS plan, this Law and its implementing rules and
- 32 regulations;
- 33 (g) Monitor the existence of conflict of interest situations and address the same
- 34 for the best interests of the CIS investors;
- 35 (h) Report to the Commission and the appropriate regulatory agency, as soon as
- 36 practicable, any material development or breach of the provisions or
- 37 covenants of the CIS plan, the provisions of this Law or its implementing
- 38 rules and regulations that:

1. relates to the establishment, operation or dissolution of the CIS, and
2. has had or is likely to have a material adverse effect on the interests of the CIS investors;

- (i) Call for annual or special meetings of the CIS investors in the event the fund manager fails or refuses to do so;
- (j) Propose amendments to the CIS plan and secure approval for those amendments which require investor approval in accordance with the provisions of this Law; and
- (k) Such other duties and responsibilities that the Commission may prescribe.

SECTION 12. Corporate CIS – (a) No company shall act as a corporate CIS unless duly licensed by the Commission, and no company shall be licensed as a corporate CIS for purposes of this Law, unless it shall:

1. Be organized in the form of a stock corporation;
 2. Issue shares of stock consisting solely of common stock;
 3. Provide in its articles of incorporation that shareholders shall not be entitled to pre-emptive rights;
 4. Have, at the time of registration, an initial subscribed and paid-up capital of at least fifty million pesos (P50,000,000.00) provided, however, that the Commission may prescribe a higher paid-up capital. The Commission may prescribe a lower minimum paid-up capital for any subsequent corporate CIS that is established and managed by the same fund manager;
 5. Maintain unimpaired its initial paid-up capital for a period of twelve (12) months following its registration with the Commission as a corporate CIS, or such other period as the Commission may prescribe; and
 6. Maintain at all times, if an open-end company, a reserve in liquid or semi-liquid assets, equal to at least ten per centum (10%) of the total assets of such company, or such other percentage and in such form as the Commission may prescribe.
- (b) Notwithstanding any provision of the Corporation Code to the contrary, no corporate CIS shall be required to comply with the minimum subscribed and paid-up capital relative to an increase in its authorized capital stock.
- (c) The incorporators of a corporate CIS shall, at incorporation, fully pay in cash their respective subscriptions.
- (d) The Commission may prescribe such other or additional requirements under subsection (a) of this section respecting the form, share structure, and level of restrictions on capitalization and reserves, as necessary or appropriate in the

1 public interest or for the protection of investors.

2 (e) At least one-third (1/3) of the entire membership of the board of directors of a
3 corporate CIS shall be independent directors.

4
5 **SECTION 13. Custodian** – Only entities duly licensed by the Monetary Board
6 may act as custodian of assets of a CIS. Unless otherwise authorized by the appropriate
7 regulatory authority taking into account the interest of the investing public, all CIS must
8 appoint an independent third party custodian which shall have custody of the investment
9 assets of the CIS. The following, in addition to those prescribed under existing laws and
10 regulations, shall be the duties and responsibilities of a custodian:

11 (a) Hold the property of a CIS in accordance with its agreement with the trustee
12 or the corporate CIS; and

13 (b) Such other duties and responsibilities that the Monetary Board may prescribe,
14 which shall include:

- 15 1. Earmarking, segregation and hypothecation of the investment assets of the
16 CIS; and
- 17 2. Provisions for periodic or other inspections by employees and agents of
18 the Monetary Board.

19
20 **SECTION 14. Appointment of Custodian** – The agreement between the
21 custodian and the corporate CIS or the trustee of a contractual CIS shall contain, among
22 others, provisions pertaining to:

- 23 1. Extent of services to be rendered by the custodian;
- 24 2. Fees, remuneration and other expenses of the custodian;
- 25 3. Any restrictions or prohibitions regarding the performance by the
26 custodian of its functions; and
- 27 4. Reporting requirements of the custodian.

28
29 **SECTION 15. CIS Distributor** – (a) No entity shall be licensed as a distributor of
30 CIS securities, unless:

- 31 1. It is organized as a stock corporation;
- 32 2. It has a minimum paid-up capital of not less than ten million pesos
33 (P10,000,000.00), or such higher capitalization to be prescribed by the
34 appropriate regulatory agency taking into consideration (i) the risk-based
35 principles on capital adequacy based on internationally accepted
36 standards, and (ii) the number and/or value of CIS distributed; and
- 37 3. It has complied with such other requirements as may be prescribed by the
38 appropriate regulatory agency.

1 (b) For purposes of this Law, the following juridical persons may be licensed as a
2 CIS distributor by the appropriate regulatory agency, provided that the requirements
3 under this section and the implementing rules and regulations are complied with:

- 4 1. Any fund manager;
- 5 2. Any investment house;
- 6 3. Any bank, financial institution or trust institution under the supervision of the
7 *Bangko Sentral ng Pilipinas*;
- 8 4. Any insurance broker under the supervision of the Insurance Commission;
- 9 5. Stockbrokers duly accredited by the Commission; and.
- 10 6. Other persons as may be hereinafter allowed by the Commission.

11 (c) A corporate CIS is not permitted to act as a distributor of securities of which it
12 is the issuer, unless it complies with such rules and orders as the appropriate regulatory
13 agency may prescribe as necessary or appropriate in the public interest or for the
14 protection of investors.

15 (d) Whenever a fund manager and/or its affiliate shall act as a CIS distributor of
16 the CIS of which it is the fund manager, and whenever a trustee and/or its affiliate shall
17 act as a CIS distributor of the CIS of which it is the trustee, the prior written consent of
18 the appropriate regulatory agency shall be secured.

19 (e) The CIS distributor shall be principally responsible for marketing, distributing
20 and selling CIS securities. It shall perform such other duties and responsibilities as the
21 implementing rules and regulations may prescribe.

22
23 **SECTION 16. *Marketing and Distribution Agreement*** – (a) The agreement
24 between the CIS distributor and the corporate CIS or the trustee of a contractual CIS shall
25 contain, among others, provisions pertaining to:

- 26 1. Extent of services to be rendered by the CIS distributor;
- 27 2. Fees, remuneration and other expenses of the CIS distributor;
- 28 3. Any restrictions or prohibitions regarding the performance of the functions
29 by the CIS distributor;
- 30 4. Undertaking to employ or appoint only CIS solicitors duly licensed by the
31 Commission; and
- 32 5. Reporting requirements.

33
34 (b) In all cases where the trustee or insurance company functions as a CIS
35 distributor, the foregoing provisions which should otherwise be contained in the
36 marketing and distribution agreement with the CIS shall be contained in the CIS plan.

37

1 **SECTION 17. CIS Solicitor** – No person shall be allowed to solicit, sell or offer
2 to sell CIS securities unless duly licensed by the appropriate regulatory agency after
3 compliance with such requirements and standards for eligibility as may prescribed in This
4 law and its implementing rules and regulations.

5
6 **SECTION 18. Accountants and Auditors.**- (a) The financial statements of every
7 corporate CIS, fund manager and contractual CIS shall be audited and certified by an
8 independent auditor duly accredited by the appropriate regulatory agency.

9 (b) The following, in addition to those prescribed under existing laws and
10 regulations, shall be the duties and responsibilities of the independent auditor:

- 11 1. Report to the Board of Directors or Trustee of the CIS any irregularity or
12 undesirable practice in the operation of the CIS which has come to its
13 knowledge. Any material finding shall be reported by the independent
14 auditor to the appropriate regulatory agency;
- 15 2. Report to the appropriate regulatory agency non-compliance by the fund
16 manager and trustee with its contractual and regulatory requirements; and
- 17 3. Report to the appropriate regulatory agency whether the internal control
18 and audit structures in the operation of the CIS are at an acceptable level.

19
20 **SECTION 19. Common Duties and Responsibilities of Parties** – In addition to
21 their specific duties and responsibilities, each of the corporate CIS, fund manager, trustee,
22 CIS distributor, CIS solicitor, and the CIS custodian shall have the following common
23 duties and responsibilities:

- 24 (a) Carry on and manage its business and the CIS in a proper, diligent and
25 efficient manner;
- 26 (b) Observe honesty, due care and diligence, utmost good faith and high
27 standards of integrity;
- 28 (c) Act in the best interests of the CIS investors;
- 29 (d) Establish systems, procedures and processes to be observed by its officers
30 and employees to ensure compliance with this Law and its implementing
31 rules and regulations and to protect the interests of the CIS investors;
- 32 (e) Take responsibility for all actions and omissions of any third party to
33 whom it delegates any of its duties and responsibilities, except for any
34 resulting damage or liability arising from *force majeure* or other similar
35 occurrence beyond the control of such third party;
- 36 (f) Ensure that any person appointed or employed by it is of good repute,
37 having relevant expertise and experience to act in the capacity so
38 appointed or employed;

- 1 (g) Refrain from using its position to gain, directly or indirectly, an advantage
2 for itself or for any other person or to cause detriment to the interests of
3 CIS investors;
- 4 (h) Avoid and eliminate conflicts of interest in the performance of their
5 functions, which may be identified by the appropriate regulatory agency as
6 prejudicial to the interests of the investing public;
- 7 (i) Disclose all conflicts of interest in the performance of their functions; and
8 (j) Comply with orders, rules and regulations as may be prescribed by the
9 appropriate regulatory agency.

10 Any contractual provision which protects or purports to protect the fund manager,
11 corporate CIS, trustee, CIS distributor, CIS solicitor, or CIS custodian against any
12 liability for willful misfeasance, malfeasance, fraud, bad faith, or gross negligence in
13 the performance of their duties shall be void.

14

15 **SECTION 20. *Revocation, Refusal or Suspension of License of the Fund***
16 ***Manager, Corporate CIS, Trustee, Insurance Company, Custodian, CIS Distributor***
17 ***and CIS Solicitor.*** – The licensing or authorization of a fund manager, corporate CIS,
18 trustee, insurance company, custodian, CIS distributor or CIS solicitor to engage in CIS
19 business under this Law may be refused, or any license granted thereunder may be
20 revoked, suspended, or limitations placed thereon by the appropriate regulatory agency if,
21 after due notice and hearing, the appropriate regulatory agency which granted the license
22 determines that the applicant or licensee:

- 23 (a) Has willfully violated any provision of this Law, any rule, regulation or order
24 made hereunder, or any other law administered by the appropriate regulatory
25 agency, or has failed to supervise, with a view to preventing such violation,
26 another person who commits such violation;
- 27 (b) Has willfully made or caused to be made a materially false or misleading
28 statement in any application for license or report filed with the appropriate
29 regulatory agency, or has willfully omitted to state any material fact that is
30 required to be stated therein or necessary to make the statement therein not
31 misleading;
- 32 (c) Has failed to satisfy the qualifications or requirements for licensing prescribed
33 under this Law and its implementing rules and regulations;
- 34 (d) Any of its directors or officers has been convicted by a competent body of an
35 offense involving fraud, embezzlement, counterfeiting, theft, estafa,
36 misappropriation, forgery, bribery, false oath, perjury, or of a violation of
37 securities, commodities, banking, real estate or insurance laws;
- 38 (e) Is enjoined or restrained by a competent body from engaging in securities,

- 1 commodities, banking, real estate, insurance or similar activities;
- 2 (f) Is subject to an order of a competent body refusing, revoking or suspending
3 any license or other permit under this Law, the implementing rules and
4 regulations, any other law or regulation administered by the appropriate
5 regulatory agency or any other governmental authority;
- 6 (g) Has been found by a competent body to have violated any provisions of
7 securities, commodities, banking, real estate or insurance laws, or has aided,
8 abetted, counseled, commanded, induced or procured such violation; or
- 9 (h) Has been judicially declared insolvent.

10 For purposes of this subsection, the term "competent body" shall include
11 a foreign court of competent jurisdiction and a foreign financial regulator.

12

13 **SECTION 21. *Fit and Proper Rule.*** To maintain the quality of management of
14 the CIS and afford better protection to CIS investors, the appropriate regulatory agency
15 shall prescribe or pass upon and review the qualifications and disqualifications of
16 individuals elected or appointed as directors or officers of fund managers, trustees,
17 insurance companies, corporate CIS or CIS distributors and disqualify those found
18 unfit. The appropriate regulatory agency may disqualify, suspend or remove any director
19 or officer who commits or omits an act which render him unfit for the position.

20 In determining whether an individual is fit and proper to hold the position of a
21 director or officer of the fund manager, trustee, insurance company, corporate CIS or CIS
22 distributor, regard shall be given to his integrity, experience, education, training, and
23 competence: Provided, however, that the following persons, and those determined by the
24 appropriate regulatory agency to be unfit, shall in no case be allowed to serve or act in
25 the capacity of officer, director, consultant, of any fund manager, trustee, insurance
26 company, corporate CIS or CIS distributor:

- 27 (a) any person convicted of any crime involving any security or financial product,
28 (b) any person convicted of an offense involving fraud or embezzlement, theft,
29 estafa or other fraudulent acts or transactions;
- 30 (c) any person who, by reason of any misconduct, is enjoined by order, judgment,
31 or decree by any court, quasi-judicial body or administrative agency of
32 competent jurisdiction from acting as a director, officer, employee,
33 consultant, or agent occupying any fiduciary position.
- 34 (d) any person found by the appropriate regulatory agency to have violated, or
35 aided, abetted, counseled, commanded, induced, or procured the violation of
36 this Law, the General Banking Law, the Insurance Code, the Securities
37 Regulation Code, or any related laws and any rules, regulations or orders
38 thereunder;

- 1 (e) any person judicially declared to be insolvent, or incapacitated to contract; and
2 (f) any person found guilty by a foreign court, regulatory authority or government
3 agency of the acts or violations similar to any of the acts or misconduct
4 enumerated in the foregoing paragraphs.

5
6 **Chapter 3 - Provisions applicable to Contractual CIS**

7
8 **SECTION 22. *Establishment of a Contractual CIS.***

- 9 (a) Units of participation in a contractual CIS shall not be sold or offered for
10 sale or distribution within the Philippines without a CIS plan duly filed
11 and approved by the Commission.
- 12 (b) Any fund manager may establish, administer and manage one or more
13 contractual CIS. Such fund manager shall enter into a fund management
14 contract with a trustee or insurance company that is not an affiliate of the
15 fund manager; Provided, that no director and/or officer of the fund
16 manager shall at the same time serve as director and/or officer of the
17 trustee or insurance company;
- 18 (c) In a contractual CIS, the trust agreement shall be between the trustee and
19 the CIS investors, and the insurance contract shall be between the
20 insurance company and policy holders. The trust agreement or the
21 insurance contract, as the case may be, shall define the rights and
22 obligations of the parties.
- 23 (d) Notwithstanding any provision of law to the contrary, the assets of each
24 contractual CIS shall be deemed separate and independent of the assets of
25 the fund manager, trustee and/or insurance company, and shall not be
26 available to the creditors of such fund manager, trustee and/or insurance
27 company in the event of attachment, garnishment, execution, bankruptcy,
28 insolvency or rehabilitation or any form of action or claim against the fund
29 manager, trustee and/or insurance company.
- 30 (e) In case the functions of the fund manager, on the one hand, and the trustee
31 or insurance company, on the other hand, are performed by the same or
32 affiliated entities, there must be an independent oversight body which
33 shall be created pursuant to, and shall perform the oversight duties and
34 responsibilities enumerated in Section 52 [0] (b)(2) hereof.

35
36 **SECTION 23. *Register of CIS Investors*** – An up-to-date register of all CIS
37 investors shall be kept and maintained by or under the control of a registrar, which may
38 be kept and maintained either in written form or by other means which are capable of

1 being reproduced in written form, including, but not limited to, computer records,
2 microfilm, microfiche or electronic recording, as the fund manager shall from time to
3 time determine. There shall be entered into the register such relevant information as may
4 be prescribed by the fund manager or the trustee. Information about CIS investors shall
5 be considered confidential in nature and may not be inquired or looked into except upon
6 order of a court of competent jurisdiction or in the course of examination by the
7 appropriate regulatory agency.

8
9 **SECTION 24. *The Contractual CIS Plan.*** In addition to the matters specified in
10 Section 32, a Contractual CIS shall contain the following matters:

- 11 (a) In cases where the trustee or its affiliate, or insurance company or its affiliate,
12 performs the functions of the fund manager, a description of the independent
13 oversight body, as prescribed under Section 22 (e) of this Law.
14 (b) Initial unit value and the basis thereof; and
15 (c) Basis upon which the CIS may be terminated. The CIS plan shall state the
16 rights of participants in case of termination of the CIS.

17
18
19 **Chapter 4 – Provisions Applicable to Corporate CIS**

20
21 **SECTION 25. *Establishment of a Corporate CIS.*** - Shares in a corporate CIS
22 shall not be sold or offered for sale or distribution within the Philippines without a CIS
23 plan duly filed and approved by the Commission.

24
25 **SECTION 26. *Engagement of Fund Manager.*** Corporate CIS shall engage a
26 duly registered fund manager to perform the functions prescribed in Section 8 hereof;
27 Provided, that a majority of the directors of the corporate CIS are not directors, officers
28 or employees of the fund manager; and Provided, further, that no Chairman, Chief
29 Executive officer, President, Chief Operating Officer or equivalent positions may be
30 interlocking but officers with lower rank may be common with prior approval of the
31 appropriate regulatory authority.

32
33 **SECTION 27. *The Corporate CIS plan*** – In addition to the matters specified in
34 Section 32, a corporate CIS Plan shall contain the following matters:

- 35 (a) Par Value of the shares of stock of the corporate CIS;
36 (b) Provision for the external audit of the corporate CIS;
37 (c) The dissolution of the corporate CIS and the rights of shareholders in case
38 of dissolution of the corporate CIS;

- 1 (d) Borrowing of money in accordance with the rules and regulations as may
2 be prescribed by the Commission; and
3 (e) Extension of loans to other persons in accordance with the rules and
4 regulations as may be provided by the Commission.
5

6 **SECTION 28. *Dividends.*** (a) Dividends shall be declared and paid in accordance
7 with the requirements of the Corporation Code and applicable laws and regulations;
8 Provided, that the Commission may prescribe other requirements or restrictions in the
9 declaration and payment of dividends by the corporate CIS as necessary or appropriate in
10 the public interest and for the protection of the investors.

11 (b) Dividend payments shall be accompanied by a written statement which
12 adequately discloses the source or sources of such payment. The Commission may
13 prescribe the form of such statement as necessary or appropriate in the public interest and
14 for the protection of the investors.
15

16 **SECTION 29. *Proxies; Voting Trust.*** The Commission may prescribe rules and
17 regulations for the solicitation of proxies and the issuance and transfer of voting trust
18 certificates in accordance with the requirements of the Corporation Code and applicable
19 laws and regulations; Provided, that the Commission may prescribe other requirements or
20 restrictions as may be necessary or appropriate in the public interest and for the
21 protection of the investors; Provided, further, that no proxies shall be used as a device to
22 control the management of any corporate CIS.
23
24

25 **TITLE III – TAX PROVISIONS**
26

27 **SECTION 30. *Tax Treatment of CIS.*** All CIS shall be subject only to the
28 following national internal revenue taxes:
29

30 **A. *Imposition of Documentary Stamp Tax for CIS.*** - Any original issuance of a
31 document evidencing interest or participation in a CIS Security as defined under Section
32 (5) hereunder shall be subject to documentary stamp tax prescribed under Section 188,
33 Title VII of the National Internal Revenue Code of 1997.
34

35 **B. *Tax on Income or Gross Receipts of CIS.*** - The income or gross receipts from
36 investments or reinvestments of funds received or accrued by any of CIS shall be subject
37 to all applicable taxes imposed under Title II of the National Internal Revenue Code of
38 1997.

1 **C. Tax on Gains Upon Creation, Redemption, Sale, Barter, Exchange or Other**
2 **Disposition of CIS Securities.** - Any gains realized by the investor upon redemption,
3 sale, barter, exchange or other disposition of CIS Securities shall be governed by Section
4 32(B)(7)(h) of the National Internal Revenue Code of 1997.

5
6 The same tax treatment shall apply to gains realized from the transfer of shares of
7 stock in exchange for original issuance of CIS securities.

8
9 **D. DST on the Creation, Redemption, Sale, Barter or Exchange of CIS**
10 **Securities.** The sale, barter, or exchange or other disposition of CIS securities listed and
11 traded through a local stock exchange shall be governed by R.A. 9648. If not listed and
12 traded, It shall be subject to Documentary Stamp Tax as provided under Section 188,
13 Title VII, of the National Internal Revenue Code of 1997.

14
15 The same tax treatment shall apply to the shares of stock transferred or exchanged
16 for the creation or redemption of CIS Securities.

17
18
19 **TITLE IV - REGISTRATION OF CIS PLAN AND OPERATIONS OF CIS**

20
21 **Chapter 1 - Registration, Amendment and Suspension of CIS Plan**

22
23 **SECTION 31. Registration of CIS Plans.** — (a) All CIS must have a CIS plan
24 which should be registered with the Commission before any securities of such CIS can be
25 sold or offered for sale. All CIS plans shall be registered with the Commission by filing a
26 sworn statement with respect to such CIS plan, in such form and containing such
27 information and documents as prescribed by this Law, the implementing rules and
28 regulations or the Commission. The CIS plan shall include any prospectus as required or
29 permitted by the Commission to be delivered to CIS investors. It shall be unlawful for
30 any person to sell or offer for sale CIS securities unless the corresponding CIS plan has
31 been duly registered under this section.

32 (b) The CIS plan shall be signed by the executive officer, principal operating
33 officer, principal financial officer, comptroller, principal accounting officer, corporate
34 secretary or persons performing similar functions of the corporate CIS, or the fund
35 manager, trustee or insurance company in the case of a contractual CIS, accompanied by
36 a duly verified resolution of the board of directors. The written consent of the expert

1 named as having certified any part of the CIS plan or any document used in connection
2 therewith shall also be filed.

3 (c) Upon effectivity of the CIS plan, the corporate CIS, fund manager, trustee or
4 insurance company shall state in every sales material that all registration requirements
5 have been met and that all information are true and correct as represented by the
6 corporate CIS, fund manager, trustee or insurance company or the person making the
7 statement. Any untrue statement of fact or omission to state a material fact required to be
8 stated therein or necessary to make the statement therein not misleading shall constitute
9 fraud.

10 (d) The Commission may refuse the registration of a CIS plan if:

- 11 1. It contains a false or misleading statement;
- 12 2. It omits to state a material fact required to be stated therein or necessary to
13 make the statement therein not misleading;
- 14 3. It does not comply with the requirements of this Law and applicable laws
15 and regulations; or
- 16 4. It is in the public interest to refuse the registration of such CIS plan.

17 (e) If any change occurs in the facts set forth in the CIS plan, the corporate CIS,
18 fund manager, trustee or insurance company shall file an amendment thereto setting forth
19 the change.

20
21 **SECTION 32. *Contents of the CIS Plan.*** The CIS Plan shall contain the
22 following matters:

- 23 (a) Title of the CIS plan. This shall correspond to the product or brand name by
24 which the CIS is proposed to be known and made available to its investors;
- 25 (b) Name of the fund manager;
- 26 (c) A statement of the CIS's investment objectives and policies including
27 limitations, if any, and risk factors in investing in the CIS;
- 28 (d) Investment powers of the fund manager with respect to the CIS, including the
29 character and kind of investments which may be purchased by the CIS;
- 30 (e) Profile of the proposed investors;
- 31 (f) Total value to be issued in case of closed-end CIS;
- 32 (g) Its classification, whether an open-end or closed-end fund;
- 33 (h) Terms and conditions governing the issuance and redemption of CIS
34 securities;
- 35 (i) Provision for the external audit of the CIS;
- 36 (j) Liabilities of the corporate CIS and the fund manager to the unit holders or
37 shareholders;

- 1 (k) Amount of fees, commissions and other charges and expenses to be deducted
2 from the fund, in the case of a contractual CIS, or to be paid by the
3 shareholders, in the case of corporate CIS;
4 (l) Annual meetings of unit/policy holders or shareholders;
5 (m) Public disclosures and reports;
6 (n) plan of distribution of CIS assets in case of dissolution; and
7 (o) Such other matters as the Commission may prescribe.
8

9 A copy of the CIS plan shall be made available to any interested person at the
10 principal office of the fund manager, and the trustee in case of contractual CIS, or
11 insurance company during regular office hours.
12

13 **SECTION 33. *Revocation of Registration or Suspension of Offer and Sale of***
14 ***Securities*** – The Commission may revoke the registration of the CIS plan in accordance
15 with Section 13.1 of the SRC or order the suspension of the offer and sale of the CIS
16 securities in accordance with Section 13.4 of the SRC and their implementing rules and
17 regulations.
18

19 **Chapter 2 – Dealings in CIS Securities**
20

21 **SECTION 34. *Rights and Privileges of CIS Investors.*** Each share of stock of a
22 corporate CIS and each unit of participation of a contractual CIS shall be equal in all
23 respects to every other share or unit belonging to the same class of shares or units.
24

25 **SECTION 35. *Payment for CIS Securities.*** No CIS shall issue any of its
26 securities for services or for property other than cleared funds.
27

28 **SECTION 36. *Distribution, Redemption and Pricing of CIS Securities.*** (a)
29 Unless otherwise allowed in this Law, CIS Securities shall be sold only through a
30 licensed CIS Distributor and by licensed CIS Solicitors. Notwithstanding the pertinent
31 provision of Section 65 of the Corporation Code, CIS Securities may be issued at the net
32 asset value computed in accordance with Section 44.

33 (b) CIS investors have the right to surrender their securities for redemption in
34 accordance with the CIS plan. Redemption shall not be suspended except pursuant to the
35 CIS plan as approved by the Commission in the public interest or for the protection of
36 investors. The redemption price of CIS Securities shall be at the applicable price
37 described in the CIS Plan.
38

1 appropriate in the public interest or for the protection of investors, that provide for
2 different percentages or further restrictions with respect to investments in other CIS or
3 the concentration of investments by a CIS.

4
5 **SECTION 40. *Prohibited Acts of CIS.*** –

6 (a) It shall be unlawful for any CIS to -

- 7 i. Purchase any security on margin, except such short-term credits as are
8 necessary for the clearance of transactions;
- 9 ii. Participate on a joint or a joint and several basis in any trading account in
10 securities;
- 11 iii. generate funds for promoting the private business or industry of any
12 employee, officer, director, promoter or stockholder thereof; or
- 13 iv. allow any of its employees, officers, directors, organizers, incorporators or
14 stockholders to sell real estate, personal property or any other kind of
15 property to the CIS at a price higher than the procurement cost or the
16 market value thereof, or sell to any of the aforementioned persons any
17 property of the corporate CIS, or a portion thereof, at a price below the
18 market value thereof.

19 (b) The appropriate regulatory agency may, by rules and regulations prohibit CIS
20 from engaging in such other acts as it may deem necessary or appropriate in the public
21 interest or for the protection of investors, taking into account the policy and purpose of
22 this Law.

23
24 **SECTION 41. *Meetings of CIS Investors.*** (a) Meetings of CIS investors shall be
25 held at least annually. The following matters shall be presented to the CIS investors:

- 26 1. Proposals to change investment policies in the CIS plan which shall
27 require the approval of the CIS investors;
- 28 2. Report to the CIS investors of the engagement or replacement of the fund
29 manager, trustee, CIS distributor, custodian and independent auditors;
- 30 3. Report of the fund manager of the financial condition of the fund and results
31 of its operations; and
- 32 4. Any other matter pertaining to the management and operation of the CIS.

33 (b) CIS investors may attend meetings in person or by proxy. A quorum at meetings
34 shall consist of unit holders or stockholders owning or representing at least ten
35 percentum (10%) of the total number of units in the fund or the outstanding capital
36 stock, respectively, or such other percentage as the Commission may prescribe taking
37 into account the size of the CIS and the number of its CIS investors. At least a

1 majority vote of those present or represented shall be required to constitute a valid act
2 of the CIS investors.

3 (c) The Commission shall prescribe by rule or regulation the requirements for the
4 conduct of meetings.

5
6 **SECTION 42. *Requirements for selling materials and advertisements.*** Sales and
7 marketing documents and advertisements shall be subject to such requirements as the
8 implementing rules and regulations or the Commission may prescribe. All sales and
9 marketing documents, and advertisements shall:

10 (a) Not contain any untrue statement of fact or omit to state any fact that is
11 necessary in order to prevent the statements made, in the light of the
12 circumstances in which they were made, from being misleading;

13 (b) The CIS performance information in advertisements should be calculated and
14 presented from the viewpoint of the average investor to whom the CIS is
15 targeted;

16 (c) All CIS should calculate and present their performance information in
17 advertisements in a substantially similar manner so that CIS investors may (i)
18 make meaningful comparisons among various CIS, and (ii) not be misled by
19 differences in the method of calculation and presentation; and

20 (d) Comply with such other terms and conditions prescribed by the appropriate
21 regulatory agency which are necessary or appropriate in the public interest or
22 for the protection of CIS investors.

23
24 **SECTION 43. *Reports and Financial Statements of CIS.*** (a) Every CIS shall
25 file with the appropriate regulatory agency, if any:

26 1. Such information and documents including financial statements as the
27 implementing rules and regulations and the appropriate regulatory agency
28 may require, to keep reasonably current the information and documents
29 contained in the CIS plan filed under this Law; and

30 2. Copies of every periodic or interim report or similar communication
31 transmitted to the CIS investors.

32 (b) Every CIS shall transmit to its CIS investors, at least annually, reports containing such
33 of the following information and financial statements or their equivalent, as of the latest
34 fiscal year, which reports shall not be misleading in any material respect in the light of
35 the reports required to be filed pursuant to subsection (a):

36 1. a balance sheet accompanied by a statement of the aggregate value of
37 investments on the date of such balance sheet;

- 1 2. a list showing the amounts and values of securities owned on the date of
2 such balance sheet;
- 3 3. a statement of income, for the period covered by the report, which shall be
4 itemized at least with respect to each category of income and expense
5 representing more than five *per centum* (5%) of total income or expense;
- 6 4. a statement of surplus, which shall be itemized at least with respect to each
7 charge or credit to the surplus account which represents more than five *per*
8 *centum* (5%) of the total charges or credits during the period covered by
9 the report;
- 10 5. a statement of the aggregate fees or remuneration paid by the CIS during
11 the period covered by the report to (i) the fund manager, trustee, CIS
12 distributor and independent auditor; and (ii) each director and all officers
13 as regular or special compensation; and
- 14 6. a statement of the aggregate amounts of purchases and sales of investment
15 assets made during the period covered by the report.

16 *Provided*, That the implementing rules and regulations may permit, in lieu of any
17 item required under this subsection which may be inapplicable or inappropriate to any
18 specified type or types of CIS, the inclusion of such item of a comparable character as it
19 may deem applicable or appropriate to such type or types of CIS.

20 *Provided*, further, that the reports and financial statement mentioned above, or
21 such other important information as the appropriate regulatory agency or commission
22 may determine, shall also be posted in the website, publication and/or other mode of
23 information dissemination of the appropriate regulatory agency and the CIS.

24 The appropriate regulatory agencies shall jointly prescribe the forms of the
25 reports and financial statements, or such other important information as the regulatory
26 agency may determine, so that CIS investors may make meaningful comparisons among
27 various CIS, and will not be misled by differences in the method of calculation and
28 presentation.

29
30 **SECTION 44. *Net Asset Value.*** (a) A CIS shall compute and post its net asset
31 value per share/unit at such frequency as may be prescribed by the implementing rules
32 and regulations or the Commission.

33 (b) The computation of the net asset value per share or unit shall be made in
34 accordance with the valuation method prescribed by the implementing rules and
35 regulations or the appropriate regulatory agency and shall be applied consistently.

36
37 **SECTION 45. *Accounts and Records.*** (a) Every CIS, and every fund manager
38 and trustee shall maintain and preserve for such period or periods as the may be

1 prescribed by the implementing rules and regulations, such accounts, books, and other
2 documents as constituting the record forming the basis for financial statements required
3 to be filed pursuant to this Law.

4 (b) All accounts, books and other records required to be maintained and
5 preserved by any person pursuant to subsection (a) shall be subject to examination by the
6 appropriate regulatory agency.

7
8 **SECTION 46. *Management and Trust Fees; Expenses Chargeable to***
9 ***Fund/CIS Investors.*** The Management and Trust fees shall cover the CIS' fair and
10 equitable share of the routine administrative expenses of the fund manager, trustee and/or
11 insurance company such as directors' fees, salaries and wages, supplies, credit
12 investigation, collateral appraisal, security, messengerial and janitorial services,
13 information technology expenses, annual report preparation, supervision fees, regulatory
14 reporting expenses, and internal audit fees. Marketing, advertising, and other publicizing
15 or promotional related expenses shall be for the account of the fund manager, trustee, and
16 insurance company and shall be considered covered by the management or trust fee.

17 However, the fund manager, trustee, and insurance company may charge special
18 or reimbursible expenses from the CIS in case such expenses are (1) necessary to preserve
19 or enhance the value of the CIS, (2) payable to an independent or non-related third party
20 covered by a separate contract, and (3) disclosed to CIS investors. The fund manager,
21 trustee, and insurance company shall secure prior approval of the appropriate regulatory
22 agency for outsourcing services provided under existing regulations of the concerned
23 regulatory agency. No other fees shall be charged to the fund/CIS investors, except in
24 case of a corporate CIS, the directors fees shall be chargeable to the fund.

25
26 **SECTION 47. *Changes in Investment Policy*** - Proposals to change the
27 investment policies shall be subject to approval by the CIS investors pursuant to Section
28 42 hereof and by the Commission. The fund manager, trustee or insurance company shall
29 disseminate to all CIS investors all material information pertaining to proposals to amend
30 the investment policies and objectives. The Commission shall prescribe by rule or
31 regulation the requirements for changes in investment policies.

32
33 **SECTION 48. *Dissolution*** - (a) The corporate CIS, trustee or insurance company
34 shall cause the dissolution of the CIS whenever any of the following grounds is present:

- 35 1. Dissolution is required by the CIS plan, when the specified conditions or
36 time for dissolution have been met or reached;
- 37 2. Dissolution is agreed upon in a resolution of the CIS investors owning at
38 least two-thirds (2/3) of the outstanding CIS Securities in a CIS at a

1 meeting duly called for the purpose; *Provided, that*, the implementing
2 rules and regulations may prescribe a different percentage interest taking
3 into account the nature and size of the CIS and the number of CIS
4 investors; *Provided, finally*, that there has been prior publication of the
5 notice of time, place and object of the meeting for two (2) consecutive
6 weeks in a newspaper of general circulation in the Philippines;

- 7 3. Dissolution is required by a final and executory order of the court;
- 8 4. Dissolution is ordered by the appropriate regulatory agency for non-
9 compliance with the conditions for the lifting of a suspension or
10 revocation order previously issued; provided that the appropriate
11 regulatory agency or Commission shall not issue an order of dissolution
12 within six months from the issuance of the suspension or revocation order;
13 and
- 14 5. Dissolution is deemed necessary in view of the dissolution or the
15 revocation of the license of the fund manager, trustee or insurance
16 company;

17 *Provided*, that the CIS may not be dissolved whenever:

- 18 (i) The appropriate regulatory agency orders the transfer of the CIS to a
19 willing and qualified fund manager, trustee or insurance company;
- 20 (ii) The dissolution or the loss of license of the trustee, insurance company
21 or fund manager is due to a merger and the surviving company in such
22 merger is also an authorized trustee, insurance company or fund
23 manager, as the case may be; or
- 24 (iii) The new company that is established as a result of the consolidation of
25 trust institutions, insurance companies or fund managers promptly
26 obtains a license to act as trustee, insurance company or fund manager,
27 as the case may be.

28 (b) Upon dissolution, the fund manager, trustee or insurance company shall
29 distribute the CIS assets to the CIS investors as prescribed by the CIS plan and in
30 accordance with the implementing rules and regulations.

31
32 **SECTION 49. *Merger or Consolidation*** – No merger or consolidation of CIS
33 will be authorized by the appropriate regulatory agency or Commission unless the
34 following conditions are met:

- 35 (a) The merger or consolidation plan has been prepared in accordance with the
36 requirements as may be prescribed by the appropriate regulatory agency or
37 Commission; and

1 (b) The merger plan has been approved by the CIS investors owning at least two-
2 thirds (2/3) of the outstanding CIS Securities in each of the CIS to be merged
3 or consolidated in a meeting duly called for the purpose;

4 The implementing rules and regulations shall prescribe the procedures and
5 requirements for merger or consolidation in the public interest and for the protection of
6 investors.

7
8 **TITLE V - SPECIAL RULES GOVERNING ESTABLISHMENT OF**
9 **CONTRACTUAL CIS BY TRUST INSTITUTIONS AND INSURANCE**
10 **COMPANIES**

11
12 **SECTION 50. *Establishment of Contractual CIS by Trust Institutions and***
13 ***Insurance Companies-*** (a) Any trust institution or insurance company may establish a
14 contractual CIS, subject to the following provisions:

15 The trust institution or insurance company may engage the services of a fund
16 manager; Provided, that no director and/or officer of the trust institution or insurance
17 company shall at the same time serve as director and/or officer of the fund manager;
18 Provided, further, that the trust institution or insurance company shall not engage a fund
19 manager which is an affiliate of the trust institution or insurance company, unless it
20 complies with the requirements of paragraph (b) (2) of this Section.

21 (b) The engagement of a fund manager shall not be required in cases where:

- 22 1. In addition to the functions of a trustee prescribed under this Law, the trust
23 institution or insurance company shall comply with and observe the duties,
24 responsibilities and prohibitions of a fund manager under Sections 8 and 9
25 hereof;
- 26 2. The CIS plan provides for the creation of an Independent Oversight Body.
27 The independent oversight body shall be composed of at least three (3)
28 members who shall be appointed in accordance with such rules as the
29 implementing rules and regulations shall prescribe, all of whom shall have
30 the qualifications and none of the disqualifications of an independent
31 director, or may be a juridical entity organized and existing pursuant to the
32 implementing rules and regulations.

33
34 The independent oversight body shall have the following duties and
35 responsibilities:

- 36
37 i. Monitor the activities of the CIS distributors in the sale and/or redemption
38 of the CIS units and ensure that the provisions of any marketing document

- 1 relating to the sale or offer for sale of the CIS units do not contain any
2 matter which is inconsistent with the provisions of the CIS plan, this Law
3 and its implementing rules and regulations;
- 4 ii. Ensure that the management and investments of the CIS funds are in
5 accordance with the CIS plan;
- 6 iii. Ensure that the trust institution or insurance company remedies any breach
7 of the CIS plan or any contravention of the provisions of this Law or its
8 implementing rules and regulations;
- 9 iv. Ensure that CIS funds, assets and properties are clearly identified and
10 held separately from the trust institution's or insurance company's own
11 properties and other properties held in trust;
- 12 v. Ensure that all payments out of CIS funds, assets and properties are made
13 in accordance with the CIS plan, this Law and its implementing rules and
14 regulations;
- 15 vi. Monitor the existence of conflict of interest situations and address the
16 same for the best interests of the CIS investors;
- 17 vii. Instruct the trust institution or insurance company to remedy a breach of
18 the provisions or covenants of the CIS plan, the provisions of this Law or
19 its implementing rules and regulations; and
- 20 viii. Report to the appropriate regulatory agency any breach of the provisions
21 or covenants of the CIS plan, the provisions of this Law or its
22 implementing rules and regulations that (i) relates to the establishment,
23 operation or dissolution of the CIS, and (ii) has had or is likely to have a
24 material adverse effect on the interests of the CIS investors.

25
26
27 **TITLE VI – CIS INVESTORS PROTECTION FUND**

28
29 **SECTION 51. *Establishment of the CIS Investors Protection Fund*** -The
30 Commission shall define the rules and procedures for the creation and management of an
31 investors protection fund, the contribution to which shall be determined as a proportion of
32 the CIS, which shall be segregated from the CIS, for the purpose of compensating
33 investors who suffer material loss in investment due to fraud, gross negligence or
34 mismanagement; Provided that, any contribution to the investor's protection fund shall
35 not be chargeable to the CIS. A CIS that maintains an existing fund for the same purpose
36 shall not be required to make contributions to the CIS investors protection fund; *Provided*
37 *that*, the Commission has determined that the existing fund is of equivalent purpose, and

1 the contributions to such fund are of equivalent value, as that of the CIS investors
2 protection fund established pursuant to this Section.

3
4
5 **TITLE VII – SUPERVISION AND ENFORCEMENT**
6

7 **SECTION 52. Powers and Functions of the Commission and Appropriate**
8 **Regulatory Agencies** - The Commission shall, at all times, act with transparency and
9 dispatch and shall have, among others, the following powers and functions:

- 10 (a) Primary jurisdiction and supervision over the registration, distribution and sale
11 of all CIS securities;
- 12 (b) Approve, amend, renew or deny any license, registration or certificate issued
13 by the Commission under this Law;
- 14 (c) Fix and assess fees and/or charges as it may find reasonable in the exercise of
15 regulation;
- 16 (d) Regulate, supervise and monitor, in coordination with the appropriate
17 regulatory agency, the operations, management and/or activities of all CIS,
18 fund managers, CIS distributors and CIS solicitors to ensure compliance with
19 the provisions of this Law, the implementing rules and regulations and other
20 applicable laws, rules and regulations, including but not limited to the power
21 to revoke or nullify CIS investments which are contrary to existing laws and
22 regulations; and
- 23 (e) Order the refund or return of any monies or investments to CIS investors in
24 appropriate cases or in accordance with such rules and regulations as the
25 Commission may prescribe and in coordination with the appropriate
26 regulatory agency;
- 27 (f) In coordination with the appropriate regulatory agency, issue cease and desist
28 orders to prevent fraud and injury to the investing public;
- 29 (g) Issue *subpoena duces tecum* and *ad testificandum*, order the examination,
30 search and seizure of documents, papers, files, tax returns, books of accounts
31 and other records, in whatever form, of any entity or person under
32 investigation;
- 33 (h) Punish for contempt of the Commission, both direct and indirect, in
34 accordance with the pertinent provisions of and penalties prescribed by the
35 Rules of Court;
- 36 (i) Impose sanctions, institute cases and/or prosecute offenders for violation of
37 this Law, related laws, rules, regulations and orders issued pursuant thereto;
- 38 (j) Suspend or revoke registrations and/or licenses issued by the Commission;

- 1 (k) Enlist the aid and support of and/or deputize any and all enforcement agencies
2 of the Government in the implementation of its powers and exercise of its
3 functions under this Law;
- 4 (l) Take over a CIS or fund manager which fails to comply with this Law, related
5 laws, rules, regulations and orders issued pursuant thereto, either through the
6 appointment of a conservator, receiver or liquidator;
- 7 (m) Jointly issue, amend or repeal implementing rules and regulations in
8 accordance with Section 64 and orders for the proper enforcement of this
9 Law, and issue opinions and provide guidance on and supervise compliance
10 with such rules, regulations and orders;
- 11 (n) Formulate policies and recommendations on issues concerning CIS, including
12 proposed legislation;
- 13 (o) Retain and utilize, in addition to its annual budget, an amount up to One
14 Hundred Million Pesos (P100,000,000.00) of the fees, charges and other
15 income derived from the regulation of CIS; and
- 16 (p) Exercise such other powers as may be provided by law as well as those which
17 may be implied from, or which are necessary or incidental to carry out the
18 express powers granted the Commission to achieve the objectives and
19 purposes of this Law.
20
21

22 TITLE IX. –REMEDIAL PROVISIONS 23

24 SECTION 53. *Solidary Liability* – (a) The fund manager, trustee and/or
25 insurance company shall be jointly and severally liable for actual losses and damages that
26 CIS investors may directly suffer as a result of bad faith, gross negligence and/or wilful
27 misconduct by the fund manager, trustee and/or insurance company resulting in the
28 violation of any of the provisions of this Law, its implementing rules and regulations, or
29 their failure to observe and comply with the terms and conditions of the CIS plan.

30 (b) The directors and/or officers of the corporate CIS, fund manager, trustee
31 and/or insurance company shall also be jointly and severally liable for all losses and
32 damages that CIS investors may suffer as a result of bad faith, gross negligence and/or
33 willful misconduct by the corporate CIS, fund manager, trustee and/or insurance
34 company resulting in the violation of any of the provisions of this Law, its implementing
35 rules and regulations, or their failure to observe and comply with the terms and
36 conditions of the CIS plan. Notwithstanding any provision of law to the contrary, in no
37 case shall such directors and officers recover their liability from the corporate CIS, fund
38 manager, trustee and/or insurance company.

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SECTION 54. Investigations, Injunctions and Prosecution of Offences. (a) The Commission may, in its discretion, and in coordination with the appropriate regulatory agency, make such investigations as it deems necessary to determine whether any person has violated or is about to violate any provision of this Law, any rule, regulation or order thereunder, and may require or permit any person to file with it a statement in writing, under oath or otherwise, as the Commission shall determine, as to all facts and circumstances concerning the matter to be investigated. The Commission may publish information concerning any such violations, and to investigate any fact, condition, practice or matter which it may deem necessary or proper to aid in the enforcement of the provisions of this Law, in the prescribing of rules and regulations thereunder, or in securing information to serve as a basis for recommending further legislation concerning the matters to which this Law relates: Provided, however, That any person requested or subpoenaed to produce documents or testify in any investigation shall simultaneously be notified in writing of the purpose of such investigation: Provided, further, That all criminal complaints for violations of this Law, and the implementing rules and regulations enforced or administered by the Commission shall be referred to the Department of Justice for preliminary investigation and prosecution before the proper court: *Provided, furthermore,* That in instances where the law allows independent civil action arising from the same act shall continue to apply; *Provided, finally,* That the investigation, prosecution, and trial of such cases shall be given priority.

(b) For the purpose of any such investigation, or any other proceeding under this Law, the Commission or any officer designated by it is empowered to administer oaths and affirmations, subpoena witnesses, compel attendance, take evidence, require the production of any book, paper, correspondence, memorandum, or other record which the Commission deems relevant or material to the inquiry, and to perform such other acts necessary in the conduct of such investigation or proceedings.

(c) Whenever it shall appear to the Commission that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this Law, any rule, regulation or order thereunder, it may issue an order to such person to desist from committing such act or practice. After finding that such person has engaged in any such act or practice and that there is a reasonable likelihood of continuing, further or future violations by such person, the Commission may issue *ex-parte* a cease and desist order for a maximum period of ten (10) days, enjoining the violation and compelling compliance with such provision. The Commission may transmit such evidence as may be available concerning any violation of any provision of this Law, or any rule, regulation or order thereunder, to the Department of Justice, which may institute the appropriate criminal proceedings under this Law.

1 (d) Any person who, within his power but without cause, fails or refuses to
2 comply with any lawful order, decision or subpoena issued by the Commission shall after
3 due notice and hearing, be guilty of contempt of the Commission. Such person shall be
4 fined in such reasonable amount as the Commission may determine, or when such failure
5 or refusal is a clear and open defiance of the Commission's order, decision or subpoena,
6 shall be detained under an arrest order issued by the Commission, until such order,
7 decision or subpoena is complied with.

8
9 **SECTION 55. *Cease and Desist Order.*** (a) The Commission, after proper
10 investigation or verification, *motu proprio*, or upon verified complaint by any aggrieved
11 party, may issue a cease and desist order without the necessity of a prior hearing if in its
12 judgment the act or practice, unless restrained, will operate as a fraud on investors or is
13 otherwise likely to cause grave or irreparable injury or prejudice to the investing public.

14 (b) Until the Commission issues a cease and desist order, the fact that an investigation
15 has been initiated or that a complaint has been filed, including the contents of the
16 complaint, shall be confidential. Upon issuance of a cease and desist order, the
17 Commission shall make public such order and a copy thereof shall be immediately
18 furnished to each person subject to the order.

19 (c) Any person against whom a cease and desist order was issued may, within five (5)
20 days from receipt of the order, file a formal request for a lifting thereof. Said request shall
21 be set for hearing by the Commission not later than fifteen (15) days from its filing and
22 the resolution thereof shall be made not later than ten (10) days from the termination of
23 the hearing. If the Commission fails to resolve the request within the time herein
24 prescribed, the cease and desist order shall automatically be lifted.

25
26 **SECTION 56. *Administrative Sanctions.*** (A) If, after due notice and hearing, the
27 Commission or appropriate regulatory agency finds that: (1) there is a violation of this
28 Law and its implementing rules and regulations or the rules or orders of the Commission
29 or appropriate regulatory agency; (2) any fund manager, trustee, insurance company,
30 corporate CIS, CIS distributor or CIS solicitor has failed reasonably to supervise, with a
31 view to preventing violations, another person subject to supervision who commits any
32 such violation; (3) any person has, in a CIS plan or in other reports, applications,
33 accounts, records or documents required by this law and its implementing rules and
34 regulations to be filed with the Commission, made any untrue statement of a material
35 fact, or omitted to state any material fact required to be stated therein or necessary to
36 make the statements therein not misleading; or (4) any person has refused to permit any
37 lawful examination into its affairs, including the refusal to produce books, records or
38 documents upon demand by the CIS investor or the Commission or appropriate

1 regulatory agency, it shall, in its discretion, and subject only to the limitations hereinafter
2 prescribed, impose any or all of the following sanctions as may be appropriate in light of
3 the facts and circumstances:

- 4 (a) A fine of no less than Ten thousand pesos (P10,000.00) nor more than One
5 million pesos (P1,000,000.00);
- 6 (b) Disqualification from being an officer, member of the board of directors,
7 or person performing similar functions, of the fund manager, trustee,
8 insurance company, corporate CIS or CIS Distributor;
- 9 (c) Suspension of the license of such person;
- 10 (d) Revocation of the license of such person; and
- 11 (e) Other penalties within the power of the appropriate regulatory agency to
12 impose.

13 (B) The imposition of the foregoing administrative sanctions shall be without
14 prejudice to the filing of criminal charges and civil cases against the entities and
15 individuals responsible for the violation.

16 (C) The appropriate regulatory agency shall have the power to issue writs of
17 execution to enforce the provisions of this section and to enforce payment of the
18 fines, penalties, fees and other dues collectible under this Law.

19 (D) If the offender is a corporation or other juridical entity, the administrative
20 sanctions may in the discretion of the Commission be imposed upon such corporation
21 or other juridical entity and upon the officer or officers of the corporation, or entity
22 responsible for the violation, *Provided, that*, in case of the imposition of
23 administrative fines, the Commission may, in its discretion, impose such fines solely
24 upon the officer or director responsible for the violation; and *Provided further that*, if
25 such officer is an alien, he shall, in addition to the penalties prescribed, be deported
26 without further proceedings after service of sentence.

27 (E) The directors and other officer/s of a corporation held administratively liable
28 under this Section shall in no case recover the administrative liability from the CIS or
29 corporation of which he/they is/are a director/s or officer/s.

30
31 **SECTION 57. Criminal penalties.** [A] The following acts are criminal in nature
32 and shall be penalized as follows:

- 33 (a) Refusal to comply with the orders of the appropriate regulatory agency for the
34 production of books, records or documents, or to undergo an examination
35 shall be penalized by imprisonment of one (1) month to six (6) months or fine
36 in the amount of One Hundred Thousand Pesos (P100,000.00) to Two Million
37 (P2,000,000.00) Pesos, or both imprisonment and fine, at the discretion of the
38 Court;

1 (b) Selling or offering for sale a CIS security by unregistered sellers, distributors
2 or solicitors shall be penalized by imprisonment of six (6) years and one day
3 to twelve (12) years or fine equivalent to triple the contract price of each of
4 the CIS securities sold, or both imprisonment and fine, at the discretion of the
5 Court;

6 (c) Selling or offering for sale by the issuer of CIS securities of a CIS plan that
7 has not been registered pursuant to this Law shall be penalized by
8 imprisonment of six (6) years and one day to twelve (12) years or fine
9 equivalent to triple the contract price of each of the CIS securities sold or
10 offered for sale, or both imprisonment and fine, at the discretion of the Court;

11 (d) Any negligent act or omission that is prejudicial or injurious to the CIS
12 investors shall be penalized by imprisonment of one (1) year and one (1) day
13 to six (6) years and fine in the amount of fifty thousand pesos (P50,000.00) to
14 five million pesos (P5,000,000.00), or both imprisonment and fine, at the
15 discretion of the Court;

16 (e) Any fraudulent act or omission that is prejudicial or injurious to the CIS
17 investors shall be penalized by imprisonment of six (6) years and one (1) day
18 to twelve (12) years and fine in the amount of five hundred thousand pesos
19 (P500,000.00) to ten million pesos (P10,000,000.00), or both imprisonment
20 and fine, at the discretion of the Court; and

21 (f) Violation of the provisions of this Law, the implementing rules and
22 regulations or orders of the appropriate regulatory agency shall be penalized
23 by imprisonment of six (6) years and one (1) day to twelve (12) years and a
24 fine in the amount of one hundred thousand pesos (P100,000.00) to five
25 million pesos (P5,000,000.00); *Provided that*, repeated violations shall
26 constitute *prima facie* evidence against the offender.

27 [B] If the offender is a corporation is a corporation or other juridical entity, the
28 criminal penalties may in the discretion of the Court be imposed upon such corporation or
29 other juridical entity and upon the officer or officers of the corporation or entity
30 responsible for the violation, *Provided that*, in case of the imposition of fines, the Court
31 may, in its discretion, impose such fines solely upon the officer or director responsible for
32 the violation; and *Provided further that*, if such officer is an alien, he shall in addition to
33 the penalties prescribed, be deported without further proceedings after service of
34 sentence.

35
36 [C] The directors and other officer/s of a corporation held administratively
37 liable under this Section shall in no case recover the administrative liability from the CIS
38 or corporation of which he/they is/are a director/s or officer/s.

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SECTION 58. *Small Claims Clause.* (a) The Commission shall have the power to adjudicate any and all claims involving CIS amounting to not more than One Million Pesos (P1,000,000.00) or such higher amount as may be determined by the Commission for each CIS Investor. The proceedings before the Commission shall be summary in nature, and the decision of the Commission shall be final and immediately executory, unless restrained by the Court of Appeals or the Supreme Court.

(b) Claims filed with the Commission shall not be subject to the payment of filing fees.

(c) The authority to adjudicate granted to the Commission under this section shall be concurrent with that of the civil courts, but the filing of a complaint with the Commission shall preclude the civil courts from taking cognizance of a suit involving the same subject matter.

(d) The Commission, having due regard to the facts and circumstances of each claim, may refer the claim to compulsory arbitration, under such rules and regulations as the Commission may prescribe.

SECTION 59. *Duty of the Regulator* – In view of the nature of the CIS as one impressed with public interest, the officers and employees of the appropriate regulatory agencies are strictly enjoined to monitor, enforce and ensure compliance with the provisions of this Law and its implementing rules and regulations. Failure to do so shall be dealt with under existing laws and regulations in the gravest degree.

TITLE IX – MISCELLANEOUS PROVISIONS

SECTION 60. *Transitory Provisions.* - Any CIS which at the time of the effectivity of this Law has been established, authorized, licensed or registered by the Commission or the appropriate regulatory agency and has continued to exist, shall be deemed to have been authorized, licensed and registered under the provisions of this Law and its implementing rules and regulations and shall be subject to and governed by the provisions hereof; *Provided however that*, where any such CIS is affected by the new requirements of this Law and its implementing rules and regulations, said CIS shall, unless otherwise herein provided, be given a period of not more than two (2) years from the effectivity of the implementing rules and regulations within which to comply with such new requirements.

SECTION 61. *Implementing Rules and Regulations.* – The appropriate regulatory agencies, with the Commission as the lead agency, shall coordinate and jointly

1 issue the implementing rules and regulations to implement this Law. In adopting and
2 issuing the implementing rules and regulations, the Commission and the appropriate
3 regulatory agencies shall be guided by and adhere to the declaration of policy contained
4 in Section 2 and the other relevant provisions of this Law. The implementing rules and
5 regulations shall pertain to the following matters, in addition to other matters in
6 connection with which other provisions of this Law may require the appropriate
7 regulatory agencies to issue rules and regulations:

- 8 a. Registration, amendment and suspension of CIS plans;
- 9 b. Distribution, sale and marketing of CIS securities;
- 10 c. Qualification and disqualification standards for directors and officers of the
11 fund manager, corporate CIS, CIS distributors, independent oversight
12 committee, CIS solicitor and other parties involved in CIS;
- 13 d. Qualified and/or eligible CIS investments;
- 14 e. Disclosure requirements on the terms and conditions of the CIS investments
15 and material information regarding CIS operations;
- 16 f. Minimum requirements for inculcating financial literacy in investors;
- 17 g. Ascertainment of client suitability for CIS securities;
- 18 h. Record-keeping, reporting and audit requirements of the fund manager,
19 corporate CIS, trustee, custodian and other relevant parties in the CIS
20 pertaining to records of all contributions, earnings, total account balances and
21 other matters;
- 22 i. Regulation, supervision and monitoring the operations, management and/or
23 activities of all CIS, fund managers, CIS distributors, CIS solicitors and other
24 parties involved in CIS;
- 25 j. Proper and effective enforcement of the provisions of this Law; and
- 26 k. Such other matters necessary and desirable for the proper and effective
27 implementation of this Law.

28 The implementing rules and regulations may be repealed, amended or
29 supplemented at any time in the same manner as the original implementing rules and
30 regulations are adopted and issued pursuant to this Section.

31 The implementing rules and regulations and its amendments or supplements shall
32 be published once a week for two (2) consecutive weeks in two newspapers of general
33 circulation.

34
35 **SECTION 62. Cooperation and Coordination.** – The appropriate regulatory
36 agencies, with the Commission as the lead agency, shall adopt all other appropriate
37 measures as may be necessary or desirable for the effective implementation and

1 enforcement of this Law, taking into full account declaration of policy contained in
2 Section 2.

3 The coordination shall cover such concerns as, but not necessarily limited to:

- 4 (a) Ensuring that avoidable market failures are prevented;
- 5 (b) Instilling measures that nurture systemic stability;
- 6 (c) Providing equal access to relevant market information to stakeholders; and
- 7 (d) Overseeing the conduct of CIS issuers to institutionalize consumer protection
8 and address anti-competitive behavior.

9

10 **SECTION 63. *Effect on Existing Laws and Contracts.*** - The rights and
11 remedies provided by this Law shall be in addition to any and all other rights and
12 remedies that exist under existing laws.

13 Nothing in this Law shall impair the obligation of existing contracts nor affect or
14 be construed to affect existing criminal, civil or administrative cases.

15

16 **SECTION 64. *Separability clause.*** - Any portion or provision of this Law that
17 may be declared unconstitutional or invalid shall not have the effect of nullifying other
18 portions or provisions hereof as long as such remaining portion or provision can still
19 subsist and be given effect in their entirety.

20

21 **SECTION 65. *Suppletory Effect*** - This Law shall apply suppletorily to any law
22 that may be hereinafter enacted on collective investment schemes governing specialized
23 products or investments.

24

25 **SECTION 66. *Repealing Clause.*** - All acts, laws, executive orders and/or rules
26 and regulations or any part thereof which are inconsistent with the provisions of this Law
27 are hereby repealed or modified accordingly.

28

29 **SECTION 67. *Effectivity Clause.*** - This Law shall take effect upon its approval.

30

31 *Approved,*
