

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 4739



Introduced by Rep. Mohamad Khalid Q. Dimaporo

EXPLANATORY NOTE

The objective of this legislative measure is to provide for a harmonized regulatory and taxation framework, as well as highlight the inter-operability of Collective Investment Schemes (CIS) products that are currently offered in the Philippine market.

With the passage of this law, this representation is hoping for a steady growth of the CIS industry in our country, and in turn, boost and promote a stable economic growth. This will also ensure uniformity in the protection of our investing public from uneven regulatory constraints and make way for a more competitive playing field in terms of better CIS products offered to the public.

In view of these premises, the prompt approval of this bill is earnestly sought and recommended.

A large, stylized handwritten signature in black ink, consisting of several loops and a long horizontal stroke.

REP. MOHAMAD KHALID Q. DIMAPORO
1st District, Lanao del Norte

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

Eighteenth Congress
First Regular Session

4739
House Bill No. _____

Introduced by Rep. Mohamad Khalid Q. Dimaporo

COLLECTIVE INVESTMENT SCHEMES LAW

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

1 **TITLE I – GENERAL PROVISIONS**

2 **SECTION 1. *Short Title*** - This Law shall be known as the "**Collective**
3 **Investment Schemes Law**".

4 **SEC. 2. *Declaration of Policy*** – The policy of the state is to:

5 (a) Promote investor protection by applying high governance standards
6 in the establishment, management and operation of collective investment
7 schemes (CIS) and the registration and sale of CIS securities in order to prevent
8 abuse and protect the interests of the investing public, including but not limited to,
9 the setting of standards for the eligibility of persons who establish, manage or
10 operate collective investment schemes and register and sell CIS securities; the
11 prevention, disclosure and elimination of all conflicts of interest which may
12 prejudice the investing public; and the provision of independent third party
13 supervision over the operations of collective investment schemes;

14 (b) Promote the growth of pooled investments and the development of
15 the capital market by providing a favorable framework for CIS to facilitate the flow
16 of investment capital from sources within the country and abroad;

17 (c) Encourage the participation in the collective investment scheme
18 industry of the best qualified fund managers regardless of place of incorporation,
19 and the best qualified investment advisers regardless of nationality;

1 (d) Broaden participation by Filipinos in ownership of securities and
2 other investment assets allowed in this law so that more are able to share in
3 economic growth;

4 (e) Provide equal protection to investors in all similar CIS, impose the
5 same requirements and provide the same competitive environment for such
6 schemes and the participants therein; and,

7 (f) Encourage responsible investing through the dissemination of
8 information on the opportunities and risks involved in investments.

9 **SEC.3. Purpose** – The purpose of this Law is to establish a
10 comprehensive regulatory and tax framework to enable CIS and all the
11 participants therein to play a key role in the development of the capital market in
12 a manner consistent with the policy declared in Section 2 hereof.

13 **SEC.4. Coverage**—This Law shall apply to the establishment,
14 management and operation of all collective investment schemes and the
15 registration and sale of CIS securities in the Philippines.

16 **SEC. 5. Definitions**—When used in this Law, unless the context otherwise
17 requires:

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

- 19 1. any person directly or indirectly owning, controlling or holding with
20 power to vote, ten per centum (10%) or more of the outstanding
21 voting securities of such other person;
- 22 2. any person ten per centum (10%) or more of whose outstanding
23 voting securities are directly or indirectly owned, controlled, or held
24 with power to vote, by such other person;
- 25 3. any person directly or indirectly controlling, controlled by, or under
26 common control with, such other person;
- 27 4. any officer, director, partner, or employee of such other person;
- 28 5. if such other person is a juridical CIS, any investment adviser, fund
29 manager, CIS distributor, CIS solicitor and custodian thereof.
- 30 6. if a juridical CIS, any other corporation or partnership having
31 interlocking directors, managing partners, or officers with the

1 juridical CIS, except in cases involving independent directors as
2 defined under existing regulations, provided that, for juridical CIS
3 that are not corporations or partnerships, the clause shall apply to
4 such persons with equivalent duties or functions as directors or
5 officers of corporations, or managing partners in a partnership;

6 7. if a juridical CIS, organized as a stock corporation, any other
7 corporation having common stockholders owning at least ten
8 percent (10%) of the outstanding voting stock of the juridical CIS or
9 any partnership having partners who own at least ten percent (10%)
10 of the interest in the juridical CIS, provided that, for juridical CIS that
11 are not corporations or partnerships, this clause shall refer to the
12 form of security ownership in the said entity;

13 8. having a management contract or any arrangement granting power
14 to one corporation, partnership or entity to direct or cause the
15 direction of management and policies of the other corporation,
16 partnership or entity, or vice-versa; or

17 9. having permanent proxy or voting trusts in favor of the corporation,
18 partnership or entity constituting at least ten percent (10%) of the
19 outstanding voting stock or voting power of the other corporation,
20 partnership or entity, or vice versa.

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

- 22 1. the *Bangko Sentral ng Pilipinas (BSP)*, in the case of banks, trust
23 entities and other financial institutions supervised by the *BSP*;
24 2. the Insurance Commission (IC), as may be provided by law or by
25 the order of any competent authority, in the case of insurance
26 companies and other persons regulated by the IC ; and
27 3. the Securities and Exchange Commission (SEC), in the case of
28 investment companies, Real Estate Investment Trusts (REITS),
29 Exchange-Traded Funds (ETFs), Special Purpose Corporations or
30 partnerships or other persons or other entities not under the
31 regulation of the BSP or the IC.

32 (c) **"Bank"** means an entity engaged in the lending of funds obtained in the
33 form of deposits and duly authorized to operate as one by the *BSP*.

34 (d) **"Broker"** means any person duly licensed by the appropriate regulatory

agency and, if required, accredited by the appropriate self regulatory organization to engage in the business of buying and selling securities for the account of others, but does not include a bank or any person solely by reason of the fact that such person is a CIS or a distributor of CIS securities.

(e) **"CIS distributor"** means any stock corporation or broker licensed by the appropriate regulatory agency to engage in the offering or selling of CIS securities.

(f) **"CIS investor"** means any person who purchases or otherwise invests in CIS securities.

(g) **"CIS plan"** means the plan for the registration and sale of CIS securities filed with the appropriate regulatory agency in accordance with Sections 24, 26, 29 and 30 hereof, which shall be in lieu of the registration statement required to be filed pursuant to the Securities Regulation Code (SRC) for the sale and offer for sale of securities to the public.

(h) **"CIS securities"** mean units of participation or similar interests in a contractual CIS or shares of stock or similar interests in a juridical CIS.

(i) **"CIS Security Holder"** means a stockholder, partner or other security holder, as applicable, of a juridical CIS.

(j) **"CIS solicitor"** means a natural person who is duly licensed as such by the appropriate regulatory agency to sell CIS securities.

(k) **"Collective investment scheme" or "CIS"** shall have the meaning given in Section 6 hereof.

(l) **"Commission"** means the Securities and Exchange Commission.

(m) **"Common stock"** of a corporation means a class of shares with general voting rights.

(n) **"Company"** means a corporation, partnership, trust, or an association duly registered with the SEC and lawfully transacting business in the Philippines.

(o) **"Contractual CIS"** means a CIS:

1. organized pursuant to a contract, such as a Unit Investment Trust Fund (UITF), REITs in a trust form, ETFs or a Separate Variable Account of a variable insurance contract;
2. engaged, or holds itself out as being engaged, or proposes to

engage, in the business of investing, reinvesting, and/or trading in securities or other investment assets allowed under this Law; and

3. that issues units of participation each of which represents an undivided interest in a pool of investment assets.

(p) **"Control"** is presumed to exist when the parent owns, directly or indirectly through subsidiaries, more than one half of the voting power of an entity unless, in exceptional circumstances, it can be clearly demonstrated that such ownership does not constitute control. Control is also presumed to exist even when the parent owns half or less of the voting power of an entity when there is:

1. power over more than one half of the voting rights by virtue of an agreement with other investors;
2. power to govern the financial and operating policies of an entity under a statute or an agreement;
3. power to appoint or remove the majority of the members of the board of directors, partners, or other equivalent governing body and control of the entity is by that board or body;
4. power to cast the majority of votes at meetings of the board of directors, partners or other equivalent governing body and control of the entity is by that board or body; or
5. any other arrangement similar to any of the above.

(q) **"Convicted"** includes being the subject of a verdict, judgment, or plea of guilty in the first instance, if and such verdict, judgment or plea has not been reversed, set aside, or withdrawn, whether or not sentence has been served.

(r) **"Creation"** refers to the issuance of CIS securities upon its due registration or recognition by the appropriate regulatory agency.

(s) **"Corporation Code"** refers to the Corporation Code of the Philippines, Batas Pambansa Blg. 68, enacted on May 1, 1980, as may be amended from time to time, or any law subsequently enacted in replacement or substitution thereof.

(t) **"Custodian"** means an entity duly authorized by the BSP which is appointed to engage in the business of safekeeping investment assets, and act as the custodian of the investment assets of a CIS pursuant to

1 this Law and the relevant regulations of the BSP, IC, and/or the SEC.

2 (u) **"Dealer"** means any person duly licensed by the appropriate regulatory
3 agency and accredited by the appropriate self regulatory organization to
4 buy and sell securities for his own account, in the ordinary course of
5 business whether through a broker or otherwise. The term excludes
6 banks, insurance companies, or CIS, or any person insofar as he is
7 engaged in investing, reinvesting, or trading in securities, or in owning or
8 holding securities, for his own account, either individually or in some
9 fiduciary capacity, but not as a part of regular business.

10 (v) **"Director"** means a director of a corporation or any person performing
11 similar functions with respect to any organization.

12 (w) **"Exchange"** means an organized marketplace or facility duly licensed by
13 the SEC that brings together buyers and sellers and executes trades of
14 securities and/or commodities.

15 (x) **"Fund manager"** means a juridical person engaged in the business of
16 managing the investment assets of a CIS and/or engaged in the business
17 of providing administrative and ancillary services for such CIS as licensed
18 by the appropriate regulatory agency in accordance with Section 8, and
19 having the duties and responsibilities enumerated in Section 9 hereof.

20 (y) **"General Banking Law"** refers to Republic Act No. 8791, as may be
21 amended from time to time, or any law subsequently enacted in
22 replacement or substitution thereof.

23 (z) **"Implementing Rules and Regulations"** refer to the uniform rules and
24 regulations jointly formulated and issued by the appropriate regulatory
25 agencies to implement the provisions of this Law, in accordance with
26 Section 57 hereof.

27 (aa) **"Independent auditor"** means the independent external certified public
28 accountant referred to in Section 18 hereof.

29 (bb) **"Independent director"** refers to a person other than an officer or
30 employee of the corporation, its affiliates, or any other individual having
31 any relationship with the corporation which would materially interfere with
32 the exercise of independent judgment in carrying out the responsibilities
33 of a director. An independent director shall possess the degree of
34 independence and all the qualifications and none of the disqualifications

1 for independent directors as defined in the SRC and its implementing
2 rules and regulations.

3 (cc) **"Independent oversight body"** refers to the body or entity referred to
4 in Section 48(b) (2) hereof.

5 (dd) **"Insurance Code of the Philippines"** refers to Presidential Decree No.
6 612 otherwise known as 'The Insurance Code', as amended, or any law
7 subsequently enacted in replacement or substitution thereof.

8 (ee) **"Insurance company"** means a company engaged in the insurance
9 business and duly issued by the IC with a certificate of authority to
10 transact such business, as specifically defined under the Insurance Code
11 of the Philippines."

12 (ff) **"Investment adviser"** means any person who regularly advises or
13 recommends investment decisions with regard to the securities or other
14 portfolio of a CIS pursuant to an advisory contract with such CIS through
15 the fund manager, trustee or insurance company.

16 (gg) **"Investment assets"** means the securities and other assets in which
17 the funds of a CIS may be invested in accordance with Section 37 hereof.

18 (hh) **"Investment company"** means the stock corporation organized as
19 a juridical CIS, which is engaged, or holds itself out as being engaged, or
20 proposes to engage, in the business of investing, reinvesting, and/or
21 trading in securities allowed under this Law.

22 (ii) **"Investment house"** means any enterprise which engages in the
23 underwriting of securities of other companies, as defined in Section 2 of
24 the Investment Houses Law, Presidential Decree No. 129, as may be
25 amended from time to time, and is registered pursuant to said law.

26 (jj) **"IOSCO"** means the International Organization Of Securities
27 Commissions.

28 (kk) **"Juridical CIS"** means a CIS:

- 29 1. organized as a stock corporation such as an investment company
30 or a partnership, including limited partnerships and limited liability
31 companies whether incorporated in or outside the Philippines, or
32 such other entity as the SEC shall allow in accordance with
33 IOSCO principles or the implementing rules and regulations of this
34 law;

1 2. is also known as an investment company that pools the funds of
2 investors to form a massive asset base which is then entrusted to
3 a full time professional fund manager who develops and maintains
4 a diversified portfolio of security investments; provided that limited
5 partnerships that are managed by a general partner and pools the
6 investments of limited partners who are either qualified institutional
7 investors or qualified individual investors shall be deemed
8 "Juridical CIS".

9 3. engaged, or holds itself out as being engaged, or proposes to
10 engage, in the business of investing, reinvesting, and/or trading in
11 securities or other investment assets allowed under this Law; and

12 4. that issues common stock or units of participation each share or
13 unit of which represents an undivided interest in a pool of
14 investment assets or, as may be allowed by the appropriate
15 regulatory agency, represents underlying securities.

16 (II) "**Net asset value**" means the value of all assets less all liabilities of a
17 CIS as determined in accordance with generally accepted accounting
18 principles and the provisions of this Law and its implementing rules and
19 regulations.

20 (mm) "**Organized Marketplace**" is an exchange, an over-the- counter
21 market, alternative trading system, or otherwise recognized as such by
22 the SEC, and governed by, among others, transparent and binding rules
23 and market conventions on membership, trading, price transparency,
24 trade reporting, market monitoring and orderly conduct/operation of the
25 market which are enforceable on the members and participants.

26 (nn) "**Person**" means a natural or juridical person as defined in the Civil
27 Code of the Philippines.

28 (oo) "**Real Estate Investment Trust**" or "**REIT**" is a Collective Investment
29 Scheme formed principally for the purpose of acquiring, owning or
30 operating income-generating real estate assets, as specifically defined in
31 the Real Estate Investment Trust Act (REITA). For the purpose of clarity,
32 a REIT in contractual or trust form organized under this act shall, to the
33 extent applicable, be governed by the REITA.

34 (pp) "**Real Estate Investment Trust Act**" refers to Republic Act No. 9856

otherwise known as 'The Real Estate Investment Trust (REIT) Act of 2009', or any law subsequently enacted in replacement or substitution thereof.

(qq) **"Redemption"** refers to the liquidation of a CIS security through its surrender to the issuer in exchange for its net asset value or the underlying securities it represents.

(rr) **"Registrar"** means the fund manager or trustee or such other person or persons as may from time to time be appointed by the trustee, or the fund manager with the prior approval of the trustee, to perform all or any of the duties and functions of the registrar under Section 23 hereof.

(ss) **"Sale", "sell" "offer to sell" or "offer for sale"** means every contract of sale or disposition of, attempt or offer to dispose of, or solicitation of an offer to buy a unit of participation, including security and interest therein, for value. Any such security, unit of participation or interest therein, given or delivered with, or as a bonus on account of, any purchase of securities, unit of participation or any other thing, shall be conclusively presumed to constitute a part of the subject of such purchase and to have been sold for value.

(tt) **"Security"** means any instrument or product defined as such by the SRC and its implementing rules and regulations.

(uu) **"Securities Regulation Code" Or "SRC"** refers to Republic Act No. 8799, enacted on July 17, 2002, as may be amended from time to time.

(vv) **"Securitization Act"** refers to Republic Act No. 9267, otherwise known as 'The Securitization Act of 2004', or any law subsequently enacted in replacement or substitution thereof.

(ww) **"Separate Variable Account Fund"** – means the segregated portfolio of investments established, maintained and invested in by an insurance company for its variable insurance contracts and accounted for separately and apart from its other investments and accounts, pursuant to the Insurance Code of the Philippines, under which the income, gains and losses (whether or not realized) from, and expenses incurred on the acquisition, disposal and management of investment assets allocated to such account, are credited to or charged against such account without regard to the other income, gains, losses and other expenses of the

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

7 (xx) **"Special Purpose Corporation"** refers to a juridical person created in
8 accordance with the Corporation Code of the Philippines solely for the
9 purpose of securitization and to which the seller makes a true and
10 absolute sale of assets, as specifically defined in the Securitization Act.

11 (yy) **"Special Purpose Trust"** means a trust administered by an entity
12 duly licensed to perform trust functions under the General Banking Law,
13 and created for a special purpose such as but not limited to securitization of
14 assets.

15 (zz) **"Trust Entity"** – means any bank, non-bank financial institution or a
16 stock corporation duly authorized by the Monetary Board of the BSP to
17 engage in trust, investment management and fiduciary business.

18 (aaa) **"Trustee"** means a trust entity appointed and acting as the trustee of
19 a contractual CIS pursuant to this Law.

20 (bbb) **"Unit of Participation"** means an undivided interest in the pool of
21 investment assets of the CIS."

22 (ccc) **"Value"** means the market value or fair value of securities as may be
23 determined in accordance with such rules and regulations as the
24 appropriate regulatory agency may prescribe.

25 TITLE II - COLLECTIVE INVESTMENT SCHEMES

26 Chapter 1 – Nature and Structure of Collective Investment Schemes

27 SEC. 6. *Collective Investment Schemes* –

28 (a) A Collective Investment Scheme is any arrangement whereby funds are
29 solicited from the investing public and pooled together for the purpose of
30 investing, re-investing and/or trading in securities or other investment assets or
31 different classes thereof as allowed under this Law. All CIS shall be covered by
32 and regulated by this law and its implementing rules and regulations. A CIS may

1 either be a juridical CIS, or have a contractual structure such as a unit investment
2 trust fund, a special purpose trust, or similar scheme held by a trust entity or a
3 separate account fund established pursuant to a variable unit linked life insurance
4 policy issued by an insurance company. All CIS shall be governed by and shall
5 comply with the requirements of this Law, the pertinent provisions of the SRC and
6 other applicable laws not inconsistent with this law. For purposes of clarity, a
7 REIT, ETF & other forms of investment arrangements existing and accepted in
8 other international markets, consistent with the IOSCO objectives and principles
9 of Securities Regulation, and allowed by the appropriate regulatory agency may
10 be formed or organized in this law.

11 (b) Subject to the regulation under this law, none of the following
12 arrangements shall be deemed a CIS:

- 13 1. Any arrangement whereby securities are issued to not more than
14 nineteen (19) beneficial owners within any twelve-month period, and
15 there is no current offering or intention to make a public offering of such
16 securities, *provided*, however, that within ten (10) calendar days from
17 the issuance of said security, the issuer shall notify the appropriate
18 regulatory agency of the said transaction. For purposes of this
19 paragraph, beneficial ownership by a company shall be deemed to be
20 beneficial ownership by one person; except that, if such company owns
21 twenty-five per centum (25%) or more of the outstanding voting
22 securities of the issuer, the beneficial ownership shall be deemed to be
23 that of the holders of such company's outstanding securities;
- 24 2. Any insurance company in the conduct of its ordinary business;
25 *provided*, however, that a separate account fund established by an
26 insurance company shall be deemed a contractual CIS as defined
27 under this Law;
- 28 3. Any employees' stock, bonus, pension, retirement, provident or profit
29 sharing plans which were transacted or contracted in the regular
30 conduct of their ordinary business;
- 31 4. Any fund which is employed by the trust entity solely as an aid to the
32 administration of existing trust or fiduciary accounts covered by
33 agreements separate from those in connection with the CIS; *provided*
34 that interests in such fund are not advertised or offered for sale to the

- 1 general public;
- 2 5. Any arrangement whereby an investment house, dealer, or broker,
- 3 registered as such with the SEC, primarily engaged in the business of
- 4 underwriting securities issued by other persons, purchases and sells
- 5 securities for its own account, or effects transactions in securities for
- 6 the account of others;
- 7 6. Any arrangement whereby a company primarily engages in the
- 8 business of factoring or mortgage financing, by purchasing or
- 9 otherwise acquiring accounts receivable and similar obligations or
- 10 making loans in respect of goods or services of a business, or by
- 11 purchasing or otherwise acquiring mortgages and other liens on or
- 12 interests in real estate; *provided* that such arrangement does not
- 13 include the business of issuing redeemable securities;
- 14 7. Any arrangement organized and operated by an entity exclusively for
- 15 religious, educational, benevolent, fraternal, charitable, or reformatory
- 16 purposes, where no part of the net earnings from such arrangement
- 17 inures to the benefit of any shareholder or member of such entity;
- 18 8. Any arrangement whereby an issuer is primarily engaged in investing
- 19 in securities issued by a majority-owned subsidiary or subsidiaries of
- 20 such issuer, where each such subsidiary is not a CIS; and
- 21 9. Any other arrangement that, pursuant to rule or order issued by the
- 22 appropriate regulatory agency, is determined not to be a CIS, or is
- 23 excluded from the definition thereof as not necessary in the public
- 24 interest and for the protection of investors.
- 25 (c) A CIS may either be open-end or closed-end, defined as follows:
- 26 1. "Open-end CIS" means a CIS where securities are offered and are
- 27 always redeemable by the CIS ; and
- 28 2. "Closed-end CIS" means a CIS where a fixed number of securities are
- 29 offered in an initial public offering and thereafter may be traded in an
- 30 organized market as determined by the SEC, but may not be
- 31 redeemed by the CIS. A closed-end CIS shall not be allowed to
- 32 increase its number of securities.
- 33 (d) A CIS may be constituted as a single compartment or as a multiple
- 34 compartment CIS, defined as follows:

- 1 1. Single compartment CIS is a single CIS plan comprising of only one
2 compartment or CIS or fund.
- 3 2. Multiple compartment CIS or otherwise known as umbrella CIS is a
4 single CIS plan comprising of two or more compartments or sub-CIS or
5 sub-funds.

6 **SEC. 7. Juridical CIS –**

7 (a) No company, partnership, or entity shall act as a juridical CIS unless duly
8 licensed by the SEC, and no company, partnership, or entity shall be licensed as
9 a juridical CIS for purposes of this Law, unless it shall:

- 10 1. Be organized in the form of a stock corporation, such as an investment
11 company or a partnership, including limited partnerships and limited
12 liability companies whether incorporated in or outside the Philippines,
13 or such other entity as the SEC shall allow in accordance with IOSCO
14 principles or the implementing rules and regulations of this law;
- 15 2. Issue shares of stock consisting of common stock or units of
16 participation, if a corporation, or issue units of interest, or other similar
17 security, in the case of a partnership or other allowed structure or
18 entity;
- 19 3. In the case of a corporation, to provide in its articles of incorporation that
20 shareholders shall not be entitled to pre-emptive rights;
- 21 4. Have, at the time of registration, an initial subscribed and paid-up
22 capital of at least Fifty Million Pesos (P50,000,000.00) provided,
23 however, that the SEC may prescribe a higher paid-up capital. The
24 SEC may prescribe a lower minimum paid-up capital for any
25 subsequent juridical CIS that is established and managed by the same
26 fund manager; the SEC shall also prescribe the minimum required
27 capital for juridical CIS that are organized as partnerships or other
28 structures that may be allowed by the SEC;
- 29 5. Hold the original subscription of securities and maintain unimpaired its
30 initial paid-up capital for a period of twelve (12) months following its
31 registration with the SEC as a juridical CIS, or such other period as the
32 SEC may prescribe; and

1 6. Maintain at all times, if an open-ended CIS, a reserve in liquid or semi-
2 liquid assets, equal to at least ten per centum (10) % of its total
3 investment assets, or such other percentage and in such form as the
4 SEC may prescribe.

5 (b) Notwithstanding any provision of the Corporation Code to the contrary, no
6 juridical CIS that is organized as a stock corporation shall be required to comply
7 with the minimum subscribed and paid-up capital relative to an increase in its
8 authorized capital stock.

9 (c) The incorporators or partners of a juridical CIS shall, at incorporation or
10 recording, fully pay in cash their respective subscriptions.

11 (d) The SEC may prescribe such other or additional requirements under
12 subsection (a) of this section respecting the form, share structure, and level of
13 restrictions on capitalization and reserves, as necessary or appropriate in the
14 public interest or for the protection of investors.

15 (e) At least one third (1/3) of the entire membership of the board of directors
16 of a juridical CIS organized as a stock corporation shall be independent directors
17 but in no case less than three (3) or as may be required by the appropriate
18 regulatory agency.

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

20 Participants in the CIS:

- 21 1. Fund Manager;
- 22 2. Trustee or/Board of Directors (BOD), Partners, or other persons
23 exercising similar functions, as appropriate;
- 24 3. Custodian;
- 25 4. CIS Distributor;
- 26 5. CIS Solicitor, and
- 27 6. Investment Adviser , as deemed appropriate

28 **SEC. 8. Fund manager**– No company shall act as a fund manager for a
29 CIS unless duly licensed by the appropriate regulatory agency, and no company
30 shall be licensed as a fund manager for purposes of this Law, unless:

1 (a) It is organized as a stock corporation;

2 (b) It has a minimum paid-up capital of not less than One Hundred Million
3 Pesos (P100,000,000.00);

4 (c) Provided, However, that the appropriate regulatory agency may
5 prescribe a higher minimum paid-up capital taking into consideration, among
6 other factors:

7 1. the risk-based principles on capital adequacy based on
8 internationally accepted standards; and

9 2. the number and/or total net asset values of all CIS managed;

10 (d) At least one-third (1/3) of the entire membership of the BOD of the
11 fund manager but in no case less than three (3) or as may be required by the
12 appropriate regulatory agency; and

13 (e) It has complied with such other requirements as may be prescribed by
14 the appropriate regulatory agency.

15 In licensing a fund manager, the appropriate regulatory agency shall
16 ensure that the requirements under this Law and its implementing rules and
17 regulations and other pertinent laws not inconsistent with this law are complied
18 with.

19 **SEC. 9. Duties and Responsibilities of the Fund Manager** - The fund
20 manager shall have the following duties and responsibilities:

21 (a) Manage the investment assets of the CIS and perform its functions in
22 accordance with the CIS plan, the provisions of this Law and its implementing
23 rules and regulations for the exclusive interest of the CIS investors;

24 (b) Provide copies of financial and other records of CIS investments to the
25 CIS investors, trustee/BOD, CIS and auditor;

26 (c) Ensure that the fund and the CIS securities are accurately valued or
27 priced;

28 (d) Ensure that all payments out of CIS funds and investment assets are
29 made in accordance with the CIS plan, this Law and its implementing rules and
30 regulations;

31 (e) Comply with the instructions of the juridical CIS or the trustee to
32 remedy a breach of the provisions or covenants of the CIS plan, its contract with

1 the juridical CIS or trustee, the provisions of this Law or its implementing rules
2 and regulations;

3 (f) Furnish the juridical CIS or the trustee with all contracts and
4 agreements relating to the operation and management of the CIS;

5 (g) Report to the juridical CIS or the trustee and the CIS investors results
6 of the CIS operations;

7 (h) Facilitate the redemption of CIS securities where applicable;

8 (i) Maintain proper accounting records and other records to:

9 1. enable a complete and accurate review of the CIS funds and
10 investment assets; and

11 2. ensure that the CIS funds and investment assets are managed and
12 administered in accordance with the CIS plan, its contract with the
13 juridical CIS or trustee, this Law and its implementing rules and
14 regulations;

15 (j) Propose and secure approval from the respective regulatory agency for
16 the establishment and amendment of the CIS plan in accordance with this Law
17 and its implementing rules and regulations. In the event that the appropriate
18 regulatory agency fails to approve or deny the proposed CIS plan within thirty
19 (30) calendar days from receipt thereof, the proposed CIS plan is deemed
20 approved;

21 (k) File such information and documents to keep reasonably current the
22 information and documents contained in the CIS Plan; and ,

23 (l) Such other duties and responsibilities that the appropriate regulatory
24 agency may prescribe.

25 **SEC.10. Prohibited Acts of the Fund Manager.** - The fund manager
26 shall not:

27 (a) Invest CIS funds in any securities, property and investment assets in
28 which such fund manager or any of its directors, officers, employees and affiliates
29 have a substantial financial interest, subject to such exceptions and/or guidelines
30 as may be prescribed by the appropriate regulatory agency;

31 (b) Engage in a business other than the business of managing,
32 administering, marketing and distributing CIS funds and securities, provided that

1 this prohibition shall not apply if the fund manager is, or a trust entity or if the fund
2 manager is an insurance company;

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

7 (d) Retain any rebate from, or otherwise share in any commission with,
8 any broker or dealer in consideration of transactions or investments of the CIS
9 funds. Accordingly, any rebates or shared commissions shall be for the account
10 of the CIS fund concerned; and

11 (e) Engage in such other acts as may be prohibited by rule or order of the
12 appropriate regulatory agency.

13 **SEC. 11. Fund Management Agreement** - (a) The agreement between
14 the fund manager and the trustee or the juridical CIS or the insurance company
15 shall contain, among others, provisions pertaining to:

- 16 1. Extent of services to be rendered;
- 17 2. Any restrictions or prohibitions regarding the performance of the
18 functions of the fund manager;
- 19 3. All compensation to be paid thereunder which shall be clearly
20 described in a transparent manner, and which shall be in accordance
21 with such requirements and limitations as the implementing rules and
22 regulations may prescribe;
- 23 4. The term of the engagement and the manner of termination thereof,
24 which shall be in accordance with such requirements or limitations as
25 this law and its implementing rules and regulations may prescribe;
- 26 5. Reporting requirements to the trustee, juridical CIS, CIS investors and
27 the appropriate regulatory agencies; and
- 28 6. Such other terms or conditions as the implementing rules and
29 regulations may prescribe.

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

1 **SEC. 12. Board of Directors (BOD)** – The BOD of a juridical entity or an
2 independent shall act as the BOD of a CIS. With respect to Contractual CIS
3 under trust arrangements, the duties and responsibilities of the BOD of CIS
4 pertain to and shall be performed by the Trustees. The following, in addition to
5 those prescribed under existing laws and regulations, shall be the duties and
6 responsibilities of a BOD of a CIS:

7 (a) Monitor the activities of the CIS distributors in the sale and/or
8 redemption of the CIS units and ensure that the provisions of any marketing
9 document relating to the sale or offer for sale of the CIS securities do not contain
10 any matter which is inconsistent with the provisions of the CIS plan, this Law and
11 its implementing rules and regulations;

12 (b) Ensure that the management and investments of the CIS funds by the
13 fund manager are in accordance with the CIS plan;

14 (c) Ensure that the fund manager remedies any breach of the CIS plan or
15 the
16 terms of its appointment as fund manager, or any contravention of the provisions
17 of this Law or its implementing rules and regulations;

18 (d) Appoint an independent third-party custodian;

19 (e) Ensure that CIS funds and investment assets are clearly identified and
20 held separately from its own properties and other properties held in trust;

21 (f) Ensure that all payments out of CIS funds and investment assets are
22 made in accordance with the CIS plan, this Law and its implementing rules and
23 regulations;

24 (g) Monitor the existence of conflict of interest situations and address the
25 same for the best interests of the CIS investors;

26 (h) Report to the appropriate regulatory agency, as soon as practicable,
27 any material development or breach of the provisions or covenants of the CIS
28 plan, the provisions of this Law or its implementing rules and regulations that:

29 1. relates to the establishment, operation or dissolution of the CIS or
30 to the registration and sale of CIS securities, and
31 2. has had or is likely to have a material adverse effect on the
32 interests of the CIS investors;

1 (i) File such information and documents to keep reasonably current the
2 information and documents contained in the CIS Plan ;

3 (j) Send, either by registered mail or other means authorized by the
4 appropriate regulatory agency, annual reports for the investors as appropriate,
5 which may be annual holding statements for UITFs as required by BSP, separate
6 financial statements as required by IC for Insurance Companies, and in the case
7 of Mutual Funds (MFs), the annual report as required by the SEC;

8 (k) Propose and secure approval from the respective regulatory agency for
9 the establishment or amendment of the CIS plan in accordance with the
10 provisions of this Law and its implementing rules and regulations; and

11 (l) Such other duties and responsibilities that the appropriate regulatory
12 agency may prescribe.

13 **SEC.13. Custodian** –Only entities duly authorized to engage in
14 investment management or trust business by the BSP or authorized by their
15 home regulator may be licensed by the BSP to act as custodian of investment
16 assets of a CIS. Unless otherwise authorized by the appropriate regulatory
17 authority taking into account the interest of the investing public, all CIS must
18 appoint an independent third party custodian which shall have custody of the
19 investment assets of the CIS. The following, in addition to those prescribed
20 under existing laws and regulations, shall be the duties and responsibilities of a
21 custodian:

22 (a) Hold the investment assets of a CIS in accordance with its agreement
23 with the trustee or the juridical CIS; and

24 (b) Such other duties and responsibilities that the BSP may prescribe,
25 which shall include:

26 1. Earmarking, segregation and hypothecation of the investment
27 assets of the CIS; and

28 2. Provisions for periodic or other inspections by employees and
29 agents of the BSP.

30 **SEC. 14. Appointment of Custodian** – The agreement between the
31 custodian and the juridical CIS or the trustee or the insurance company of a
32 contractual CIS shall contain, among others, provisions pertaining to:

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

6 **SEC.15. CIS Distributor** – (a) No entity shall be licensed by the
7 appropriate regulatory agency as a distributor of CIS securities, unless:

- 8 1. It is organized as a stock corporation;
- 9 2. It has a minimum paid-up capital of at least Ten Million Pesos
- 10 (P10,000,000.00), or such higher capitalization to be prescribed by the
- 11 appropriate regulatory agency taking into consideration (i) the risk-
- 12 based principles on capital adequacy based on internationally accepted
- 13 standards, and (ii) the number and/or total net asset value of all CIS
- 14 distributed; and
- 15 3. It has complied with such other requirements as may be prescribed by
- 16 the appropriate regulatory agency.

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

- 21 1. Any fund manager;
- 22 2. Any investment house;
- 23 3. Any bank, financial institution or trust entity under the supervision of the
- 24 BSP;
- 25 4. Any insurance broker or their agents under the supervision of the IC;
- 26 5. Securities brokerage firms or their agents and sales persons duly
- 27 licensed by the SEC; and
- 28 6. Other persons as may be hereinafter allowed by the appropriate
- 29 regulatory agency.

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

1 (d) The CIS distributor shall be principally responsible for marketing,
2 distributing, selling CIS securities and safekeeping of identification documents as
3 well as the minimum information required by existing Anti-Money Laundering
4 laws, rules and regulations. It shall perform such other duties and responsibilities
5 as the implementing rules and regulations may prescribe.

6 **SEC.16. Marketing and Distribution Agreement** – (a) The agreement
7 between the CIS distributor and the juridical CIS or the trustee or insurance
8 company of a contractual CIS shall contain, among others, provisions pertaining
9 to:

- 10 1. Extent of services to be rendered by the CIS distributor;
- 11 2. Fees, remuneration and other expenses of the CIS distributor;
- 12 3. Any restrictions or prohibitions regarding the performance of the
13 functions by the CIS distributor;
- 14 4. Undertaking to employ or appoint only CIS solicitors duly licensed by
15 the appropriate regulatory agency; and
- 16 5. Reporting requirements.

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

21 **SEC.17. CIS Solicitor** – No person shall be allowed to solicit, sell or offer
22 to sell CIS securities unless duly licensed by the appropriate regulatory agency
23 after compliance with such requirements and standards for eligibility as may be
24 prescribed in this law and its implementing rules and regulations and the SRC
25 and its implementing rules and regulations.

26 **SEC.18. Accountants and Auditors.**– (a) The financial statements of
27 every juridical CIS, fund manager and contractual CIS shall be audited and
28 certified by an independent auditor duly accredited by the appropriate regulatory
29 agency.

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

- 1 1. Report to the BOD or the trustee of the CIS any irregularity or
2 undesirable practice in the operation of the CIS which has come to its
3 knowledge. Any material finding shall be reported by the independent
4 auditor to the appropriate regulatory agency;
- 5 2. Report to the appropriate regulatory agency non-compliance by the
6 fund manager and trustee with its contractual and regulatory
7 requirements; and
- 8 3. Report to the appropriate regulatory agency whether the internal
9 control and audit structures in the operation of the CIS are at an
10 acceptable level.

11 **SEC.19. Common Duties and Responsibilities of Parties** – In addition
12 to their specific duties and responsibilities, each of the juridical CIS, fund
13 manager, trustee, CIS distributor, CIS solicitor, and the CIS custodian shall have
14 the following common duties and responsibilities:

- 15 (a) Carry on and manage its business and the CIS in a proper, diligent and
16 efficient manner;
- 17 (b) Observe honesty, due care and diligence, utmost good faith and high
18 standards of integrity;
- 19 (c) Act in the best interests of the CIS investors;
- 20 (d) Establish systems, procedures and processes to be observed by its
21 officers and employees to ensure compliance with this Law and its
22 implementing rules and regulations and to protect the interests of the
23 CIS investors;
- 24 (e) Take responsibility for all actions and omissions of any third party to
25 whom it delegates any of its duties and responsibilities, except for any
26 resulting damage or liability arising from force majeure or other similar
27 occurrence beyond the control of such third party;
- 28 (f) Ensure that any person appointed or employed by it is of good repute,
29 has relevant expertise and experience to act in the capacity so
30 appointed or employed;
- 31 (g) Refrain from using its position to gain, directly or indirectly, an
32 advantage for itself or for any other person or to cause detriment to the
33 interests of CIS investors;

- 1 (h) Avoid and eliminate conflicts of interest in the performance of their
2 functions, which may be identified by the appropriate regulatory agency
3 as prejudicial to the interests of the investing public;
4 (i) Disclose all conflicts of interest in the performance of their functions;
5 and
6 (j) Comply with orders, rules and regulations as may be prescribed by the
7 appropriate regulatory agency.
- 8 Any contractual provision which protects or purports to protect the fund manager,
9 juridical CIS, trustee, CIS distributor, CIS solicitor, or CIS custodian against any
10 liability for willful misfeasance, malfeasance, fraud, bad faith, or gross negligence
11 in the performance of their duties shall be void.

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

- 21 (a) Has willfully violated any provision of this Law, any rule, regulation or
22 order made hereunder, or any other law administered by the appropriate
23 regulatory agency, or has failed to supervise, with a view to preventing such
24 violation, another person who commits such violation;
- 25 (b) Has willfully made or caused to be made a materially false or
26 misleading statement in any application for license or report filed with the
27 appropriate regulatory agency, or has willfully omitted to state any material fact
28 that is required to be stated therein or necessary to make the statement therein
29 not misleading;
- 30 (c) Has failed to satisfy the qualifications or requirements for licensing
31 prescribed under this Law and its implementing rules and regulations;
- 32 (d) Is enjoined or restrained by a competent body from engaging in

1 securities, commodities, banking, real estate, insurance or similar activities;

2 (e) Is subject to an order of a competent body refusing, revoking or
3 suspending any license or other permit under this Law, the implementing rules
4 and regulations, any other law or regulation administered by the appropriate
5 regulatory agency or any other governmental authority;

6 (f) Has been found by a competent body to have violated any provisions
7 of securities, commodities, banking, real estate or insurance laws, or has aided,
8 abetted, counseled, commanded, induced or procured such violation; or

9 (g) Is insolvent as may be determined by the appropriate regulatory
10 agency.

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

13 **SEC.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
15 agency shall prescribe or pass upon and review the qualifications and
16 disqualifications of individuals elected or appointed as directors or officers,
17 partners or other equivalent personnel, of fund managers, trustees, insurance
18 companies, juridical CIS or CIS distributors and disqualify those found unfit. The
19 appropriate regulatory agency may disqualify, suspend or remove any director,
20 partner, officer or other person performing similar functions who commits or omits
21 an act which renders him unfit for the position.

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

30 (a) any person convicted of any crime involving any security or financial
31 product;

32 (b) any person convicted of an offense involving fraud or embezzlement,
33 theft, estafa or other fraudulent, dishonest acts or transactions;

- 1 (c) any person who, by reason of any misconduct, is enjoined by order,
2 judgment, or decree by any court, quasi-judicial body or administrative
3 agency of competent jurisdiction from acting as a director, officer,
4 employee, consultant, or agent occupying any fiduciary position;
5 (d) any person found by the appropriate regulatory agency to have
6 violated, or aided, abetted, counseled, commanded, induced, or
7 procured the violation of this Law, the General Banking Law, The Anti-
8 Money Laundering Act (AMLA) and the rules thereto, the Insurance
9 Code, the SRC, or any related laws and any rules, regulations or
10 orders thereunder;
11 (e) any person who is insolvent, or incapacitated to contract;
12 (f) any person found guilty by a foreign court, regulatory authority or
13 government agency of the acts or violations similar to any of the acts or
14 misconduct enumerated in the foregoing paragraphs;
15 (g) any person convicted by final judgment of an offense punishable by
16 imprisonment for a period exceeding six (6) years; and
17 (h) any person convicted by final judgment of violation of the Corporation
18 Code committed within five (5) years prior to the date of his election or
19 appointment.

20 Chapter 3 - Provisions applicable to Contractual CIS

21 SEC. 22. *Establishment of a Contractual CIS.*

22 (a) Any fund manager may establish, administer and manage one or
23 more contractual CIS. Such fund manager shall enter into a fund management
24 contract with a trustee or insurance company. In case the functions of the fund
25 manager, on the one hand, and the trustee or insurance company, on the other
26 hand, are performed by the same or affiliated entities, there must be an
27 independent oversight body which shall be created pursuant to and shall perform
28 the oversight duties and responsibilities enumerated in section 48(b)(2) hereof.

29 (b) In a contractual CIS, the trust agreement shall be between the
30 trustee and the CIS investors, and the insurance contract shall be between the
31 insurance company and policy holders. The trust agreement or the insurance

1 contract, as the case may be, shall define the rights and obligations of the
2 parties.

3 (c) Notwithstanding any provision of law to the contrary, the investment
4 assets of each contractual CIS shall be deemed separate and independent of the
5 investment assets of the fund manager, trustee and/or insurance company, and
6 shall not be available to the creditors of such fund manager, trustee and/or
7 insurance company in the event of attachment, garnishment, execution,
8 bankruptcy, insolvency or rehabilitation or any form of action or claim against the
9 fund manager, trustee and/or insurance company.

10 **SEC.23. Register of CIS Investors** – An up-to-date register of all CIS
11 investors shall be kept and maintained by or under the control of a registrar,
12 which could be the fund manager, trustee, distributor or insurance company,
13 which may be kept and maintained either in written form or by other means which
14 are capable of being reproduced in written form, including, but not limited to,
15 computer records, microfilm, microfiche or electronic recording, as the registrar
16 shall from time to time determine. There shall be entered into the registry such
17 relevant information as may be prescribed by the fund manager or the trustee.
18 Information about CIS investors shall be considered confidential in nature and
19 may not be inquired or looked into except upon order of a court of competent
20 jurisdiction or in the course of examination by the appropriate regulatory agency
21 or for purposes of complying with existing Anti-Money Laundering ACT (AMLA)
22 such as, but not limited to, the reporting of covered transactions or suspicious
23 transactions to the Anti-Money Laundering Council (AMLC) AND the power of the
24 AMLC to examine or inquire into the details of the CIS account including the
25 personal information of the CIS investors; *provided*, that the processing of
26 personal information shall only be to the minimum extent necessary for the
27 achievement of the above purposes, and in a manner mindful of the data privacy
28 rights of cis investors.

29 **SEC.24. The Contractual CIS Plan.** In addition to the matters specified in
30 Section 30, a Contractual CIS Plan shall contain the following matters:

1 (a) In cases where the trustee or its affiliate, or insurance company or its
2 affiliate, performs the functions of the fund manager, a description of the
3 independent oversight body, as prescribed under Section 48 (b)(2) of this Law.

4 (b) Initial unit value and the basis thereof;

5 (c) Basis upon which the CIS may be terminated. The CIS plan shall state
6 the rights of participants in case of termination of the CIS; and

7 (d) Such other matters as the appropriate regulatory agency may
8 prescribe.

9 **Chapter 4 – Provisions Applicable to Juridical CIS**

10 **SEC. 25. *Engagement of Fund Manager.*** Juridical CIS shall engage a
11 duly registered fund manager to perform the functions prescribed in Section 9
12 hereof; Provided, That a majority of the directors, partners or other persons
13 performing similar functions of the juridical CIS are not directors, officers or
14 employees of the fund manager; and Provided, Further that no Chairman, Chief
15 Executive Officer (CEO), President, Chief Operating Officer (COO) or equivalent
16 positions may be interlocking but officers with lower rank may be common with
17 prior approval of the appropriate regulatory authority.

18 **SEC.26. *The Juridical CIS Plan*** – (a) In addition to the matters specified
19 in Section 30, a juridical CIS plan shall contain the following matters:

20 1. Par value of the CIS securities issued by the juridical CIS;

21 2. The dissolution of the juridical CIS and the rights of CIS security holders
22 in case of dissolution of the juridical CIS;

23 3. Borrowing of money in accordance with the rules and regulations as
24 may be prescribed by the SEC;

25 4. Extension of loans to other persons in accordance with the rules and
26 regulations as may be provided by the SEC; and

27 5. Such other matters as the SEC may prescribe.

28 (b) The juridical CIS shall file such information and documents to keep
29 reasonably current the information and documents contained in the CIS Plan.

1 (c) A CIS that complies with the requirements of Republic Act No. 9856,
2 otherwise known as "The Real Estate Investment Trust Act of 2009", shall also be
3 entitled to all the tax and other incentives under this law. In the event where there
4 are two tax incentives available, that which is more favorable to the taxpayer shall
5 apply.

6 **TITLE IV - REGISTRATION OF CIS SECURITIES AND OPERATIONS OF CIS**
7 **Chapter 1 - Registration and Suspension of Offer and Sale of CIS Securities**

8 **SEC.29. *Filing of CIS Plans.*** — (a) No CIS securities shall be sold or
9 offered for sale within the Philippines unless such securities have been registered
10 through the filing of a CIS plan which has been rendered effective by the
11 appropriate regulatory agency. The CIS Plan shall be filed together with a
12 registration statement, in such form and containing such information and
13 documents as prescribed by this Law, the implementing rules and regulations or
14 the appropriate regulatory agency. The CIS plan shall include any prospectus as
15 required or permitted by the appropriate regulatory agency to be delivered to CIS
16 investors. It shall be unlawful for any person to sell or offer for sale CIS securities
17 unless the corresponding CIS plan has been duly filed with and rendered
18 effective by the appropriate regulatory agency.

19 (b) The CIS plan shall be signed by the executive officer, principal
20 operating officer, principal financial officer, comptroller, principal accounting
21 officer, corporate secretary, designated managing partner, or persons performing
22 similar functions of the juridical CIS, or the fund manager, trustee or insurance
23 company in the case of a contractual CIS, accompanied by a duly verified
24 resolution of the BOD.

25 (c) Upon effectivity of the CIS plan, the juridical CIS, fund manager,
26 trustee or insurance company shall state in every sales material that all
27 registration requirements of the CIS securities have been met and that all
28 information are true and correct as represented by the juridical CIS, fund
29 manager, trustee or insurance company or the person making the statement. Any
30 untrue statement of fact or omission to state a material fact required to be stated
31 therein or necessary to make the statement therein not misleading shall
32 constitute fraud.

1 (d) The appropriate regulatory agency may refuse the registration of a CIS
2 security if:

- 3 1. It contains a false or misleading statement;
- 4 2. It omits to state a material fact required to be stated therein or
5 necessary to make the statement therein not misleading;
- 6 3. It does not comply with the requirements of this Law and applicable
7 laws and regulations; or
- 8 4. It is in the public interest to refuse the registration of such CIS
9 securities.

10 (e) If any change occurs in the facts set forth in the CIS plan, the juridical
11 CIS, fund manager, trustee or insurance company shall file an amendment
12 thereto setting forth the change.

13 **SEC. 30. Contents of the CIS Plan.** The CIS plan shall contain the
14 following matters:

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

1 k) Amount of fees, commissions and other charges and expenses to be
2 deducted from the fund, in the case of a contractual CIS, or to be paid by the CIS
3 security holders, in the case of juridical CIS;

4 l) Annual reports for the investors as appropriate, which may be annual
5 holding statements for UITFs as required by BSP, separate financial statements
6 for Insurance Companies as required by IC, and in the case of MFs, the annual
7 report as required by the SEC;

8 m) Public disclosures and reports;

9 n) Plan of distribution of CIS investment assets in case of dissolution; and

10 o) Such other matters as the appropriate regulatory agency may
11 prescribe.

12 A copy of the CIS plan shall be made available during regular office hours
13 to any interested person at the principal office of the fund manager and juridical
14 CIS in case of a juridical CIS, and the fund manager or trustee in case of
15 contractual CIS. The CIS plan shall also be distributed to prospective investors
16 and posted in the website, publication and/or other mode of information
17 dissemination as required by the appropriate regulatory agency.

18 **SEC.31. *Revocation of Registration or Suspension of Offer and Sale***
19 ***of Securities*** –The appropriate regulatory agency may revoke the registration of
20 the CIS securities in accordance with Section 13.1 of the SRC or order the
21 suspension of the offer and sale of the CIS securities in accordance with Section
22 13.4 of the SRC and their implementing rules and regulations.

23 Chapter 2 – Dealings in CIS Securities

24 **SEC. 32. *Rights and Privileges of CIS Investors.*** Each CIS security
25 shall be equal in all respects to every other CIS security belonging to the same
26 class of CIS securities.

27 **SEC. 33. *Proxies; Voting Trust.*** The appropriate regulatory agency may
28 prescribe rules and regulations for the solicitation of proxies and the issuance
29 and transfer of voting trust certificates in accordance with the requirements of the

1 Corporation Code and applicable laws and regulations; Provided, That the SEC
2 may prescribe other requirements or restrictions as may be necessary or
3 appropriate in the public interest and for the protection of the investors; Provided,
4 Further, that no proxies shall be used as a device to control the management of
5 any CIS.

6 **SEC. 34. *Payment for CIS Securities.*** Except as provided by law or
7 regulation, no CIS shall issue any of its securities for services or for property
8 other than cleared funds. Instalment sales are expressly prohibited.

9
10 **SEC.35. *Distribution, Redemption and Pricing of CIS Securities.*** (a)
11 Unless otherwise allowed in this law, CIS securities shall be sold only through a
12 licensed CIS distributor and by licensed CIS solicitors. Notwithstanding the
13 pertinent provision of Section 65 of the Corporation Code, CIS securities may be
14 issued at the net asset value computed in accordance with Section 42.

15 (b) CIS investors have the right to surrender their securities for
16 redemption, except in the case of closed-end CIS, in accordance with the CIS
17 plan. Redemption shall not be suspended except pursuant to the CIS plan as
18 approved by the appropriate regulatory agency in the public interest or for the
19 protection of investors. The redemption price of CIS securities shall be at the
20 applicable price described in the CIS plan.

21 **Chapter 3 – Operations of CIS**

22 **SEC. 36. *Custody of Investment Assets.*** Every CIS shall place and
23 maintain its investment assets in the custody of a custodian in accordance with
24 Sections 13 and 14 hereof.

25 **SEC. 37. *Investment Limitations.*** (a) The CIS funds may be invested
26 only in the following liquid or semi-liquid assets tradeable through an organized
27 market, subject to limitations as may be provided by this Law, the implementing
28 rules and regulations or the appropriate regulatory agency:

- 29 1. Bank deposits;
30 2. Securities issued by or guaranteed by the Philippine government, or
31 the BSP;

- 1 3. Tradable securities issued by the government of a foreign country, any
2 political subdivision of a foreign country or any supranational entity;
- 3 4. Exchange-listed securities;
- 4 5. Marketable instruments that are traded in an organized exchange or
5 market;
- 6 6. Loans traded in an organized market;
- 7 7. Exchange traded funds;
- 8 8. Derivatives as may be authorized by the appropriate regulatory
9 agency;
- 10 9. Real Estate Investment Companies under the REITA;
- 11 10. Real estate investment trusts or companies;
- 12 11. Other CIS; and
- 13 12. Such other investments or instruments existing and accepted in other
14 international markets, such as those consistent with the IOSCO objectives and
15 principles of Securities Regulation, as the appropriate regulatory agency may
16 allow.

17 Provided, however, that no CIS shall, directly or indirectly:

- 18 1. acquire more than ten per centum (10%) of another CIS; or
- 19 2. acquire securities of any issuer having an aggregate value in excess
20 of twenty per centum (20%) of the net asset value of the acquiring CIS, or the
21 weight of the security in a recognized benchmark or index, whichever is higher.

22
23 (b) The appropriate regulatory agencies may jointly issue such
24 implementing rules and regulations, in accordance with Section 57 hereof, as
25 may be necessary or appropriate in the public interest or for the protection of
26 investors, that provide for different percentages or further restrictions with respect
27 to investments in other CIS or the concentration of investments by a CIS.

28 **SEC. 38. Prohibited Acts of CIS.** It shall be unlawful for any CIS to -

- 29 (a) Purchase any security on margin, except such short-term credits as are
30 necessary for the clearance of transactions;
- 31 (b) Participate on a joint or a joint and several basis in any trading account in

1 securities; or

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

4 (d) Allow any of its employees, officers, directors, organizers and
5 incorporators, stockholders, partners, or CIS security holder in the case of
6 juridical CIS to sell real estate, personal property or any other kind of CIS
7 property to the CIS at a price higher than the procurement cost or the
8 market value thereof, or sell to any of the aforementioned persons any
9 property of the CIS, or a portion thereof, at a price below the market value
10 thereof.

11 The appropriate regulatory agency may, by rules and regulations prohibit
12 CIS from engaging in such other acts as it may deem necessary or appropriate in
13 the public interest or for the protection of investors, taking into account the policy
14 and purpose of this Law.

15 **SEC. 39. Meetings of CIS Investors.** (a) Meetings of juridical CIS
16 investors, as may be appropriate, shall be held annually for the purpose of
17 electing directors. Notice shall be sent to all CIS investors by registered mail or
18 other modes as may be authorized by the appropriate regulatory agency.

19 (b) CIS investors may attend the meetings in person or by proxy. A
20 quorum at SAID meeting shall consist of CIS security holders or stockholders
21 owning or representing at least ten per centum (10%) of the total number of units
22 in the fund or the outstanding capital stock, respectively, or such other
23 percentage as the appropriate regulatory agency may prescribe taking into
24 account the size of the CIS and the number of its CIS investors. At least a
25 majority vote of those present or represented shall be required to constitute a
26 valid act of the CIS investors.

27 (c) All other matters, such as changing the investment policy, may be
28 adopted with prior written notice to the CIS investors but will be effective only
29 after approval by the appropriate regulatory agency.

30 (d) The appropriate regulatory agency shall prescribe by rule or regulation
31 the requirements for the conduct of meetings.

1 **SEC. 40. Requirements for selling materials and advertisements.**

2 Sales and marketing documents and advertisements shall be subject to such
3 requirements as the implementing rules and regulations or the appropriate
4 regulatory agency may prescribe. All sales and marketing documents, and
5 advertisements shall:

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

9 (b) The CIS performance information in advertisements should be
10 calculated and presented from the viewpoint of the public to whom the CIS is
11 targeted;

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

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

19 **SEC. 41. Reports and Financial Statements of CIS.** (a) Every CIS shall

20 file with the appropriate regulatory agency, if any:

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

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

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

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

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

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

24 *Provided*, further, that the reports and financial statements mentioned
25 above, or such other material information as the appropriate regulatory agency
26 may determine, shall also be posted in the website, publication and/or other
27 mode of information dissemination of the appropriate regulatory agency and the
28 CIS.

29 The appropriate regulatory agency shall prescribe the forms for the reports
30 and financial statements, or such other material information as the appropriate
31 regulatory agency may determine, so that CIS investors may make meaningful
32 comparisons among various CIS, and will not be misled by differences in the
33 method of calculation and presentation.

1 **SEC. 42. Net Asset Value.** (a) A CIS shall compute and post its net asset
2 value per share/unit at such frequency as may be prescribed by the implementing
3 rules and regulations.

4 b) The computation of the net asset value per share or unit shall be made
5 in accordance with the valuation method prescribed by the implementing rules
6 and
7 regulations and shall be applied consistently.

8 **SEC. 43. Accounts and Records.** (a) Every CIS, and every fund
9 manager and trustee shall maintain and preserve for such period or periods as
10 may be prescribed by the implementing rules and regulations, such accounts,
11 books, and other documents as constituting the record forming the basis for
12 financial statements required to be filed pursuant to this Law.

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

16 **SEC. 44. Management and Trust Fees; Expenses Chargeable to**
17 **Fund/CIS Investors.** The management or trust fees shall cover the CIS' fair and
18 equitable share of the routine administrative expenses of the fund manager,
19 trustee and/or insurance company such as directors' fees, salaries and wages,
20 supplies, credit investigation, collateral appraisal, security, messengerial and
21 janitorial services, information technology expenses, annual report preparation,
22 supervision fees, regulatory reporting expenses, and internal audit fees.
23 Marketing, advertising, and other publicity or promotional related expenses shall
24 be for the account of the fund manager, trustee, and insurance company and
25 shall be considered covered by the management or trust fee.

26 However, the fund manager, trustee, and insurance company may charge
27 special or reimbursable expenses from the CIS in case such expenses are (1)
28 necessary to preserve or enhance the value of the CIS, (2) payable to an
29 independent or non-related third party covered by a separate contract, and (3)
30 disclosed to CIS investors. the fund manager, trustee, and insurance company
31 shall secure prior approval of the appropriate regulatory agency for outsourcing
32 services provided under existing regulations of the concerned regulatory

1 agency.no other fees shall be charged to the fund/CIS investors, except in case
2 of a juridical CIS, the fees of directors, managing partners, or others persons
3 performing similar functions shall be chargeable to the fund.

4 Provided further that, the total operating expenses shall not exceed ten
5 (10%) percent of its average investment fund or net worth as shown in its
6 previous audited financial statements covering the immediately preceding fiscal
7 year.

8 **SEC. 45. *Dissolution*** - (a) The juridical CIS, trustee or insurance
9 company shall cause the dissolution of the CIS whenever any of the following
10 grounds is present:

- 11 1. Dissolution is required by the CIS plan, when the specified
12 conditions or time for dissolution have been met or reached;
- 13 2. Dissolution is agreed upon in a resolution of the CIS investors
14 owning at least two-thirds (2/3) of the outstanding CIS securities in
15 a CIS at a meeting duly called for the purpose; Provided, that the
16 implementing rules and regulations may prescribe a different
17 percentage interest taking into account the nature and size of the
18 CIS and the number of CIS investors; Provided, Finally, that there
19 has been prior publication of the notice of time, place and object of
20 the meeting for two (2) consecutive weeks in a newspaper of
21 general circulation in the Philippines;
- 22 3. Dissolution is required by a final and executory order of the court;
- 23 4. Dissolution is ordered by the appropriate regulatory agency for non-
24 compliance with the conditions for the lifting of a suspension or
25 revocation order previously issued; and
- 26 5. Dissolution is deemed necessary in view of the dissolution or the
27 revocation of the license of the fund manager, trustee or insurance
28 company;

29 Provided, that the CIS may not be dissolved whenever:

- 30 (i) The appropriate regulatory agency orders the transfer of the CIS
31 to a willing and qualified fund manager, trustee or insurance
32 company;

(ii) loss of license of the trustee, insurance company or fund manager is due to a merger and the surviving company in such merger is also an authorized trustee, insurance company or fund manager, as the case may be; or

(iii) The new company that is established as a result of the consolidation of trust entities, insurance companies or fund managers promptly obtains a license to act as trustee, insurance company or fund manager, as the case may be.

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

SEC. 46. Merger or Consolidation – No merger or consolidation of CIS will be authorized by the appropriate regulatory agency unless the following conditions are met:

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

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

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

TITLE V– CIS INVESTORS PROTECTION FUND

SEC. 47. Establishment of the CIS Investors Protection Fund -The appropriate regulatory agency shall, define the rules and procedures for the creation and management of an investors protection fund, the contribution to which shall be determined as a proportion of the CIS, which shall be segregated from the CIS, for the purpose of compensating investors who suffer material loss

in investment due to fraud, gross negligence or mismanagement; provided that, any contribution to the investor's protection fund shall not be chargeable to the CIS. A CIS that maintains an existing fund for the same purpose shall not be required to make contributions to the CIS investors protection fund, provided, that the appropriate regulatory agency has determined that the existing fund is of equivalent purpose, and the contributions to such fund are of equivalent value, as that of the CIS investors protection fund established pursuant to this section.

TITLE VI- SPECIAL RULES GOVERNING ESTABLISHMENT OF CONTRACTUAL CIS BY TRUST ENTITIES AND INSURANCE COMPANIES

SEC. 48. *Establishment of Contractual CIS by Trust Entities and Insurance Companies-* (a) Any trust entity or insurance company may establish a contractual CIS, subject to the following provisions:

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

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

1. In addition to the functions of a trustee prescribed under this Law, the trust entity or insurance company shall comply with and observe the duties, responsibilities and prohibitions of a fund manager under Sections 8 and 9 hereof;
2. The CIS plan provides for the creation of an Independent Oversight Body. The independent oversight body shall be composed of at least three (3) members who shall be appointed subject to the implementing rules and regulations and approval of appropriate regulatory agency in accordance with such rules as the implementing rules and regulations shall prescribe, all of whom shall have the degree of independence, As may be determined by the appropriate regulatory agency using

1 international best practices like the ASEAN CIS, or may be a juridical
2 entity organized and existing pursuant to the implementing rules and
3 regulations.

4 The independent oversight body shall have the following duties and
5 responsibilities:

- 6 i. Monitor the activities of the CIS distributors in the sale and/or
7 redemption of the CIS units and ensure that the provisions of
8 any marketing document relating to the sale or offer for sale of
9 the CIS units do not contain any matter which is inconsistent
10 with the provisions of the CIS plan, this Law and its
11 implementing rules and regulations;
- 12 ii. Ensure that the management and investments of the CIS funds
13 are in accordance with the CIS plan;
- 14 iii. Ensure that the trust entity or insurance company remedies any
15 breach of the CIS plan or any contravention of the provisions of
16 this Law or its implementing rules and regulations;
- 17 iv. Ensure that CIS funds, investment assets and properties are
18 clearly identified and held separately from the trust entity's or
19 insurance company's own properties and other properties held
20 in trust;
- 21 v. Monitor conflict of interest and adoption of measures to address
22 the same for the best interest of the CIS investors.

23 **TITLE VII –SANCTIONS AND SMALL CLAIMS**

24 **SEC. 49. Administrative Sanctions.** (a) If, after due notice and hearing,
25 the
26 appropriate regulatory agency finds that:

- 27 (1) there is a violation of this Law and its implementing rules and
28 regulations, or the rules or orders of the appropriate regulatory agency;
- 29 (2) any fund manager, trustee, insurance company, juridical CIS, CIS
30 distributor or CIS solicitor has failed reasonably to supervise, with a view to

1 preventing violations, another person subject to supervision who commits any
2 such violation;

3 (3) any person has, in a CIS plan or in other reports, applications,
4 accounts, records or documents required by this law and its implementing rules
5 and regulations to be filed with the appropriate regulatory agency, made any
6 untrue statement of a material fact, or omitted to state any material fact required
7 to be stated therein or necessary to make the statements therein not misleading;
8 or

9 (4) any person has refused to permit any lawful examination into its affairs,
10 including the refusal to produce books, records or documents upon demand by
11 the CIS investor or the appropriate regulatory agency, it shall, in its discretion,
12 and subject only to the limitations hereinafter prescribed, impose any or all of the
13 following sanctions as may be appropriate in light of the facts and circumstances:

14 (i) A fine of no less than ten thousand pesos (P10,000.00) nor more than
15 one million pesos (P1,000,000.00); Provided, that the fine herein
16 prescribed may be increased by the appropriate regulatory agency
17 every five (5) years based on the current price index, to maintain its
18 punitive value;

19 (ii) Disqualification from being an officer, member of the BOD, partner, or
20 any person performing similar functions, of the fund manager, trustee,
21 insurance company, juridical CIS or CIS distributor;

22 (iii) Suspension the license of such person;

23 (iv) Revocation of the license of such person; and

24 (v) Other penalties within the power of the appropriate regulatory agency
25 to impose.

26 (b) The imposition of the foregoing administrative sanctions shall be without
27 prejudice to the filing of criminal charges and civil cases against the entities and
28 individuals responsible for the violation.

29 (c) The appropriate regulatory agency shall have the power to issue writs of
30 execution to enforce the provisions of this section and to enforce payment of the
31 fines, penalties, fees and other dues collectible under this Law.

(d) If the offender is a corporation, partnership, or other juridical entity, the administrative sanctions may in the discretion of the appropriate regulatory agency be imposed upon such corporation, partnership, or other juridical entity and upon the officer or officers, or other persons performing similar functions, of the corporation, partnership, or entity responsible for the violation, Provided, That in case of the imposition of administrative fines, the appropriate regulatory agency may, in its discretion, impose such fines solely upon the officer, director, managing partner, or other persons performing similar functions, responsible for the violation; and Provided, Further, that if such officer is an alien, he shall in addition to the penalties prescribed, be deported without further proceedings after service of sentence.

(e) The directors, officers, managing partner, or other persons performing similar functions, of a corporation, partnership or other entity held administratively liable under this section shall in no case recover the administrative liability from the CIS corporation partnership or entity.

SEC. 50. Criminal penalties. (a) The following acts are criminal in nature and shall be penalized as follows:

(1) Refusal to comply with the orders of the appropriate regulatory agency, for the production of books, records or documents, or to undergo an examination shall be penalized by imprisonment of one (1) month to six (6) months or fine in the amount of one hundred thousand pesos (P100,000.00) to two million pesos (P2,000,000.00), or both imprisonment and fine, at the discretion of the court;

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

(3) Selling or offering for sale CIS securities by the issuer of a CIS plan that has not been registered pursuant to this Law shall be penalized by imprisonment of six (6) years and one day to twelve (12) years or fine equivalent to triple the contract price of each of the CIS securities sold

or offered for sale, or both imprisonment and fine, at the discretion of the court;

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

(5) Any fraudulent act or omission that is prejudicial or injurious to the CIS investors shall be penalized by imprisonment of six (6) years and one (1) day to twelve (12) years and fine in the amount of five hundred thousand pesos (500,000.00) to ten million pesos (P10,000,000.00), or both imprisonment and fine, at the discretion of the court; and

Violation of the provisions of this Law, its implementing rules and regulations or orders of the appropriate regulatory agency unless already provided in the above enumeration of this law shall be penalized by imprisonment of six (6) years and one (1) day to twelve (12) years and a fine in the amount of one hundred thousand pesos (P100,000.00) to five million Pesos (P5,000,000.00), Provided, That repeated violations shall constitute *prima facie* evidence against the offender.

(b) Solidary Liability –

1) The fund manager, trustee and/or insurance company shall be jointly and severally liable for actual losses and damages that CIS investors may directly suffer as a result of bad faith, gross negligence and/or willful misconduct by the fund manager, trustee and/or insurance company resulting in the violation of any of the provisions of this Law, its implementing rules and regulations, or their failure to observe and comply with the terms and conditions of the CIS plan.

2) The directors, managing partners, officers or other persons performing similar functions of the Juridical CIS, fund manager, trustee and/or insurance company shall also be jointly and severally liable for all losses and damages that CIS investors may suffer as a result of bad faith, gross negligence and/or willful misconduct by the juridical CIS, fund manager, trustee and/or insurance company resulting in the violation of any of the provisions of this Law,

1 its implementing rules and regulations, or their failure to observe and comply with
2 the terms and conditions of the CIS plan. Notwithstanding any provision of law to
3 the contrary, in no case shall such directors, managing partners, officers or other
4 persons performing similar functions, recover their liability from the Juridical CIS,
5 fund manager, trustee and/or insurance company.

6 (c) If the offender is a corporation, partnership, or other juridical entity, the
7 criminal penalties shall be imposed upon the officer or officers of the corporation
8 or entity responsible for the violation; Provided, That in case of the imposition of
9 the fines, the court may, in its discretion, impose such fines solely upon the
10 officer, director, managing partners, general partner or other persons performing
11 similar functions who is responsible for the violation; Provided, Further, that if
12 such person is an alien, he shall in addition to the penalties prescribed, be
13 deported without further proceedings after service of sentence.

14 (d) The director/s, officer/s managing partner/s, or other person/s
15 performing similar functions, of the corporation, partnership or entity held
16 criminally liable under this section shall in no case recover the administrative
17 liability from the CIS or corporation, partnership or entity.

18 Except if their failure to observe and comply with the terms and conditions
19 of the CIS plan arises solely from incidents of *force majeure* or acts of god.

20 **SEC. 51. Small Claims Clause.**

21 (a) The appropriate regulatory agency under this provision shall have the
22 power to adjudicate any and all claims involving CIS amounting to not more than
23 one million pesos (P1,000,000.00) or such higher amount as may be determined
24 by the appropriate regulatory agency, for each CIS Investor. The proceedings
25 before the appropriate regulatory agency shall be summary in nature, and the
26 decision of the appropriate regulatory agency shall be final and immediately
27 executory, unless restrained by the Court of Appeals or the Supreme Court.

28 (b) Claims filed with the appropriate regulatory agency shall not be
29 subject to the payment of filing fees.

30 (c) The authority to adjudicate granted to the appropriate regulatory
31 agency under this section shall be concurrent with that of the civil courts, but the

1 filing of a complaint with the appropriate regulatory agency shall preclude the civil
2 courts from taking cognizance of a suit involving the same subject matter.

3 (d) The appropriate regulatory agency, having due regard to the facts
4 and circumstances of each claim, may refer the claim to compulsory arbitration,
5 under such rules and regulations as the appropriate regulatory agency may
6 prescribe.

7 **SEC. 52. Full Disclosure and Transparency.** Require all CIS whether
8 contractual or juridical, to disclose all relevant and important information, such as
9 but not limited to the investment plan, attendant risks, insurance coverage (if any)
10 and all costs to be charged by the company on investors subscribing to the fund.
11 All CIS distributors and solicitors should be required to fully explain the
12 investment instrument and conduct due diligence on the suitability of prospective
13 investors to understand rules attendant to investments before obtaining funds
14 from them.

1

TITLE VIII – MISCELLANEOUS PROVISIONS

2 **SEC. 53. *Cross Border Transactions.*** Cross offering or selling by
3 authorized CIS in the Philippines or in another economy shall be subject to the
4 regulations provided in a mutual or multilateral agreement/s which the Philippines
5 is a signatory thereof.

6 **SEC. 54. *Transitory Provisions.***- Any CIS which at the time of the
7 effectivity of this Law has been established, authorized, licensed or registered by
8 the appropriate regulatory agency and has continued to exist, shall be deemed
9 to have been authorized, licensed and registered under the provisions of this Law
10 and its implementing rules and regulations and shall be subject to and governed
11 by the provisions hereof; Provided, however, that where any such CIS is affected
12 by the new requirements of this law and its implementing rules and regulations,
13 said CIS shall, unless otherwise herein provided, be given a period of not more
14 than two (2) years from the effectivity of the implementing rules and regulations
15 within which to comply with such new requirements.

16 For a period of three (3) years from the effectivity of the implementing
17 rules and regulations of the act, the SEC shall undertake capacity building
18 measures to enable it to exercise the powers and perform the functions presently
19 being exercised and performed by the other regulatory agencies with respect to
20 CIS products presently under their jurisdiction. upon expiration of this period, the
21 SEC shall exercise the powers and perform the functions given to the Bangko
22 Sentral Ng Pilipinas and Insurance Commission for CIS products by this act, and
23 shall be considered the sole appropriate regulatory authority referred to in this
24 act.

25 **SEC. 55. *Partial Use of Income.*** To carry out the purposes of this Act, the
26 SEC is hereby authorized, in addition to its annual budget, to retain and utilize
27 five (5%) of its annual income.

28 **SEC. 56. *Congressional Oversight Committee.*** – To oversee the
29 implementation of this Act, there shall be created a Congressional Oversight

1 Committee on CIS (COCCIS) to be composed of the Chairpersons of the Senate
2 Committee on Economic Affairs, Banks, Financial Institutions and Currencies,
3 and Trade, Commerce and Entrepreneurship, the Chairpersons of the House of
4 Representatives Committees on Economic Affairs, Banks and Financial
5 Intermediaries, and Trade and Industry and two (2) members each from the
6 Senate and the House of Representatives who shall be designated by the Senate
7 President and the Speaker of the House of Representatives: *Provided*, That one
8 (1) of the two (2) Senators and one (1) of the two (2) House Members shall be
9 nominated by the respective Minority Leaders of the Senate and the House of
10 Representatives. The Congressional Oversight Committee shall be jointly chaired
11 by the Chairpersons of the Senate and House Committees on Economic Affairs.
12 The Vice Chairperson of the Congressional Oversight Committee shall be jointly
13 held by the Chairpersons of the Senate Committee on Banks, Financial
14 Institutions and Currencies and the House of Representatives' Committee on
15 Banks and Financial Intermediaries.
16 The Secretariat of the COCCIS shall be drawn from the existing personnel of the
17 Senate and House of Representatives committees comprising the Congressional
18 Oversight Committee.

19
20 **SEC. 57 Implementing Rules and Regulations.**— Consistent with the
21 declaration of policy contained in Section 2 and the other relevant provisions of
22 this law, the appropriate regulatory agencies, with the SEC as lead agency, shall
23 coordinate and jointly establish uniform rules and regulations implementing this
24 law, including but not limited to the following matters:

- 25 (a) Qualification and disqualification standards for fund managers, CIS
26 distributors and CIS solicitors;
- 27 (b) Qualification and disqualification standards for directors and officers,
28 managing partners, or other similar positions of fund managers,
29 trustees, insurance companies, juridical CIS or CIS distributor;
- 30 (c) Revocation, refusal or suspension of licenses of the fund manager,
31 juridical CIS, trustee, insurance company, custodian, CIS distributor
32 and CIS solicitor;
- 33 (d) Filing, amendment and suspension of CIS plans;
- 34 (e) Registration, distribution, sale and marketing of CIS securities;

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

4 **SEC. 58. Cooperation and Coordination.** – The appropriate regulatory
5 agencies, with the SEC as the lead agency, shall adopt all other appropriate
6 measures as may be necessary or desirable for the effective regulation of the
7 products and uniform implementation and enforcement of this Law, taking into full
8 account declaration of policy contained in Section 2.

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

- 10 (a) Ensuring that avoidable market failures are prevented;
- 11 (b) Instilling measures that nurture systemic stability;
- 12 (c) Providing equal access to relevant market information to stakeholders;
- 13 and
- 14 (d) Overseeing the conduct of CIS issuers to institutionalize consumer
15 protection and address anti-competitive behavior.

16 **SEC. 59. Effect on Existing Laws and Contracts.** - The rights and
17 remedies provided by this Law shall be in addition to any and all other rights and
18 remedies that exist under existing laws.

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

21 **SEC. 60. Separability Clause.** – Any portion or provision of this Law that
22 may be declared unconstitutional or invalid shall not have the effect of nullifying
23 other portions or provisions hereof as long as such remaining portion or provision
24 can still subsist and be given effect in their entirety.

25 **SEC. 61. Suppletory Effect** – This Law shall apply suppletorily to any law
26 that may be hereinafter enacted on collective investment schemes governing
27 specialized products or investments.

28 **SEC. 62. Repealing Clause.** – All acts, laws, executive orders and/or
29 rules and regulations or any part thereof which are inconsistent with the
30 provisions of this Law are hereby repealed or modified accordingly.

1 **SEC. 63. *Effectivity Clause.*** - This Law shall take effect upon its
2 approval.

3 *Approved,*