Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. 4049

RECEIVED
DATE: 11 OCT 2016
TIME: 5:00 PM
BY:

Introduced by Rep. JOSE T. PANGANIBAN, JR.
of ANAC-IP Partylist

EXPLANATORY NOTE

The improvement of social protection programs is a core component of President Rodrigo Roa Duterte's 10-Point Socio-Economic Agenda. The clamor from among senior citizens, pensioners of the Social Security System (SSS) and their families for pension reforms has been long, arduous and overwhelming.

This bill addresses President Duterte's priority agenda and responds to such overwhelming clamor that cuts across various sectors in our society. It seeks the payment of a P2,000.00 across-the-board increase in the monthly pension of around 2.15 million current and future SSS pensioners. It is only right and just that the pensions of our retirees should be adjusted upwards so they can buy their groceries and their medicines at today's prices. Their families certainly stand to benefit from this proposed measure.

However, the proposed huge jump in pensions will cost SSS a lot. Based on existing data, about P56 billion for the first year of implementation of the P2,000 pension increase will be needed, an amount expected to rise as the number of pensioners grow every year. SSS currently pays benefits to the 2.15 million pensioners who yearly receive 12 regular monthly pensions and the 13th month pension. The proposal is to pay the P2,000 ATBP increase in tranches of P500.00 per year starting 1 January 2017 up to 1 January 2020.

In our desire to provide higher pensions for SSS pensioners, we also have to look after the welfare of the other 34 million SSS members as fiduciaries of the SS Fund in order to ensure its actuarial soundness.

The SS Fund life is projected to last until 2042 based on the latest actuarial valuation. It will be drastically cut short by the proposed pension increase. In 2025 or nine (9) years from now, the SS Fund will be completely dissipated if the funding requirements for the projected P56 billion annual pension benefit increase will not be identified.

Rationalizing the powers, duties and accountabilities of the Social Security Commission (SSC)

The nature of the SSS fund being already obligated to future pension disbursements and the existing SS Fund's inability to absorb the adverse impact of the popular demand for pension increase, are sufficient reasons to equip the SSS with the tools to respond to the social, economic and political challenges confronting it. Thus, the companion proposal to rationalize the powers, duties and accountabilities of the Social Security Commission (SSC), the body entrusted by Congress with quasi-judicial authority to direct and control the actions of the SSS.

This bill seeks to provide the SSC the authority to condone penalties on delinquent contributions, to determine the monthly salary credits, the schedule and rate of contributions, benefit increases and the rate of penalty on delinquent contributions and unpaid loan amortizations, thereby further amending Republic Act No. 1161, as amended, otherwise known as the Social Security Law.

The Commission, guided by its fiduciary duty to protect the welfare of SSS members and the fortitude to exercise extraordinary diligence in the care of the SS Fund, is a collegial body where the government, the employers, the workers and the general public are well-represented. All the nine (9) members of the Commission are appointed by the President of the Philippines for a term of one year and their performance are appraised and evaluated by the Office of the President through the Governance Commission on GOCCs every year.

The Commission believes that a strong and vibrant social protection system fulfills an emerging country. This proposed measure will enable the Commission and the SSS to realize its mandate and reinforce their commitment for a better SSS in the years to come.

Penalty condonation on delinquent contributions

Under Section 22 (a) of the SS Law, a penalty of three percent (3%) a month is assessed on unremitted contributions. This penalty is burdensome as it continues to accrue from the date the contribution falls due until paid. As a result, the delinquency, if not quickly addressed, can really pile up. For troubled companies that, by and large, do not want to be delinquent in the first place but failed to remit what is due as their employees' contributions to SSS could easily find themselves in arrears.

It is reported that for a big number of billing or demand letters issued against employers-members of the SSS, the amount of contribution-delinquency is computed based on presumptive delinquency under Section 22 (d) of the SS Law, and hence not yet final being subject to reconciliation of records. The Large Account Division of SSS has a collectible of P1.033 Billion as of 26 May 2014 from delinquent employers. P408 Million is accounted for by penalties and P625.9 Million is for contributions that are due. By providing a breathing space, we are actually helping SSS to immediately collect about P625.9 Million overdue SS contributions which would otherwise be difficult to collect. It is not a secret that companies choose not to pay what SSS demands of them because of penalties slapped upon them that have accumulated through the years which, at times, are actually bigger than the principal that should have been paid. This measure provides a strong incentive for those that have been in arrears in the payment of their employees' contributions to immediately settle what is due and overdue, minus the huge burden of dealing with the delinquency penalties. Past SSS condonation experience shows the amount of P3.42 B that was condoned as penalties while enabling the SSS, at the same time, to collect P3.546B from 24,042 delinquent employers which availed of the program. This amount easily beefed up the SS Fund and contributed to its stability and viability.

More importantly, this is a welcome development for the privately employed workers comprising SSS' general membership, the self-employed individuals, financially distressed companies, small and medium businesses, other social enterprises, the contributing members of the informal sector, the farmers and the fisherfolks, the *kasambahays* and their household employers. They can now avail of the privileges of SSS members of good standing, full benefits and loans, which would otherwise not be available had their delinquent payments remain unsettled.

This is a three-pronged stimulus package that will benefit all stakeholders of the SSS in the light of the recent calamities and economic debacles besieging our country. It is important that the loan privileges of SSS members such as calamity, housing and other loan packages remain available. This can only happen if contribution payments are up to date. The law will help the SSS, the employers and workers.

To foster public accountability, transparency and good governance, Congress is not deprived of its oversight functions because an annual report on the exercise of the proposed power shall be required to be submitted to both Houses, stating therein the following facts and information, among others: names and addresses of employers whose penalty delinquencies have been the subject of compromise or condonation; amount involved; amount compromised or condoned; and the reason/s for the exercise of power to determine that said powers are reasonably exercised and that the SSS is not unduly deprived of revenues.

This new provision is patterned from the GSIS Law (Section 43 of RA No. 8291), the HDMF/Pag-Ibig Law (Section 9 of RA No. 9679) and PhilHealth Law (Section 16 of RA No. 10606) and the National Internal Revenue Code (Section 204, Chapter I, Title VIII of RA No. 8424).

Under the said laws, the statutory powers which the governing boards of GSIS, PhilHealth and HDMF can exercise includes the authority to waive, compromise or release, in whole or in part, any claim, interest or surcharges imposed upon employers regardless of the amount involved, under such valid terms and conditions. The aim is to replicate and/or align the SS Law with the Legislative will of Congress as contained and expressed in its more recent Legislative enactments

Operational details and accounts management are the province of the Commission and the SSS, the ones entrusted with the mandate of running the affairs of the country's social security system including the exercise of discretion and flexibility in managing its own affairs.

Fixing the monthly salary credits, the schedule and rate of contributions and the rate of penalty on delinquent contributions and unpaid loan amortizations

What is embodied in Section 18 of the SS Law is an outdated schedule of the social security contributions and the monthly salary credits that have failed to keep pace with the changing times. Amendments to the SS Law last introduced in 1997 (now 17 years old) are no longer reflective of current socio-economic conditions. The minimum monthly salary credit still pegged at P1,000.00 per month is way below the minimum salary/wage in the private sector while the maximum salary credit at P16,000.00 per month is a far cry from existing realities in compensation administration and labor developments.

The SS contribution rate is an altogether different story. Since 1980, the contribution rate was pegged at 8.4 percent for 23 years, until it was increased by one-percent to 9.4 percent in 2003, to 10.4 percent in 2007 and 11 percent in 2014 to avoid fund depletion. The contribution rate of the GSIS stands at 21 per cent. Given this, it is timely that Congress revisits the SS Law and ensure that this provision is responsive to the present-day realities.

Upon the other hand, across-the-board pension increases of eight to fifty percent were granted 24 times (the last one in 2007); and the minimum monthly pension was also increased under the 1997 SS Law Amendment to ₱1,200 if with at least 10 Credited Year of Service (CYS) and to ₱2,400 if with at least 20 CYS. These pension increases averaged 15.12 percent per year for the period 1972 to 2007 and were often announced on "special occasions" such as Labor Day in May and the SSS anniversary in September.

It is just unfortunate that while these pension increases averaged 15.12 percent per year for the period 1972 to 2007 the SS contributions was increased only six times from 1960 to 2014. The heavy strain on the SS Fund being exacted by the increasing benefit obligations of the SSS to be paid to its members and their beneficiaries has a dire effect on the fund's long-term viability. To lighten this load, the SSS, at the same time, carefully manage benefit payouts and operating expenses to minimize SSS' unfunded liability. Prudent fiscal management coupled with solid investment strategies are continuously being undertaken as the key drivers toward strengthening the viability of the SS Fund.

SSS initiatives to enlighten more workers on the value of SSS and the importance of the active membership has helped boost contributions collections, which is the lifeblood of the SSS Fund. However, the existing contribution set-up does not ensure that SSS can continuously cover its ballooning unfunded liabilities in the future. To address such concern and be able to cope with this predicament, something must be done about the SSS contribution rates and align the same with industry standards and sound international practices taking into consideration actuarial calculations, rate of benefits, inflation and other relevant socio-economic indicators.

To live up to the Commission's full representative capacity where all the stakeholders and the sectors of the government, the workers, the management and the general public are well represented, the authority to determine and fix from time to time through rules and regulations, the minimum and maximum monthly salary credits, the schedule and the rate of contributions as well as the rate of increase in benefits, without the Presidential approval requirement, is now being proposed.

Corollary to such power is the authority to review and periodically adjust the rate of penalty on due but unremitted contributions and unpaid loan amortizations taking into consideration inflation and other pertinent socio-economic data. This is the logical consequence as this harmonizes the power to condone, compromise or release, in whole or in part, such penalties imposed upon delinquent social security contributions regardless of the amount involved under such valid terms and conditions it may prescribe when the financial position of the employer demonstrates a clear inability to pay the assessed delinquency.

As earlier discussed, the proposed bill is aligned with the GSIS Law, the PhilHealth Charter, the Pag-Ibig Law and the NIRC. The GSIS Law (in Section 43 thereof) expressly vests upon the GSIS Board of Trustees without need of Presidential approval, the power *i)* to fix and periodically review and adjust the rates of interest and other terms and conditions for loans and credits extended to its members or other persons, *ii)* to determine, fix and impose interest upon unpaid or unremitted premiums and/or contributions, and *iii)* to do and perform any and all acts necessary, proper or incidental to the attainment of the purposes and objectives of the GSIS Law.

Also, the PhilHealth Corporation has authority pursuant to Section 16 of its Charter to *i)* impose interest and/or surcharges not exceeding three percent (3%) per month, in case of delay by a public or private employer in the remittance of contributions and *ii)* to compromise, waive or release, in whole or in part, such interest or surcharges imposed upon employers regardless of the amount involved without Presidential approval, notwithstanding the provisions of any law to the contrary.

The Board of Trustees of the HDMF, in the same vein, may waive or suspend the coverage and/or payment of monthly Pag-Ibig contributions pursuant to Section 9 of the Pag-Ibig Law without securing approval from the President by reasons of nature of employment, condition of business, ability to make contributions and other reasonable considerations.

Similarly, the same statutory powers are also found in the provisions of the RA 8424 granting the BIR Commissioner the authority *i)* to abate and refund or credit taxes and *ii)* to compromise the payment of any internal revenue tax, when *(1)* a reasonable doubt as to the validity of the claim against the taxpayer exists; or *(2)* the financial position of the taxpayer demonstrates a clear inability to pay the assessed tax and the BIR Evaluation Board in certain instances.

Updating and rationalizing SSC's investment capabilities

The SS Law was crafted within the backdrop of the 1997 Asian Financial Crisis which wreaked havoc Asian financial institutions and the global market. The emphasis was given to the principle of safety ahead of returns and liquidity. This limited asset allocation in risky assets, limited foreign investments to a mere 7.5% and subjected investment in foreign-currency debt to triple-A rated papers among other conservative provisions.

The current financial environment is more complex with a vaster array of investment vehicles than in 1997. The number, types, complexity and size of the global financial markets have vastly increased. SSS charter only covered investment vehicles existent during that time and investment types such Real Estate Investment Trusts (REITs), Hedge Funds, Unit Investment Trusts (UITFs), Multi-Asset Funds were not explicitly covered in the current charter.

The Philippines have become an investment-grade rated sovereignty. This distinction that resulted to improved financial and crediting standing owed to a large part to the unwavering influx of overseas Filipino workers (OFW) remittances and the continued recognition as an outsourcing haven that fuels the unabated growth of business process outsourcing (BPO) revenues prospers a level of investment safety comfort in the government and private investments. The drawback however is that, under the trade-off of return and risks, expected returns are priced lower as empirically witnessed in the low interest rate environment of the country as well. For example, Philippine 10-year rates have gone down from double digit rates to a mere 3.50%.

Starting from the US Subprime Crisis of 2008, the financial markets have embarked on a highly liquid status owing to the series of Quantitative Easing (QE) packages spanning from the US, Europe and Japan that resulted in the current low interest rate environment.

This pushed global fund managers, fund trustees, plan sponsors and asset owners to take on higher level of risks to secure added returns without unduly compromising the viability of their funds. In a survey study conducted by the Economist Intelligence Unit in August 2014 of which respondents from 15 sovereign pension funds participated in the survey, pension funds will strike a new balance on risk and reward. About 77% of respondents in the survey foresee an increase in their institution's investment risk appetite over the next three years. About 20% expect this increase in risk appetite to be very significant.

A. Inclusion of New Investment Vehicles

1) **Project Finance (Section 26-b)** - The SSS is not allowed to invest in project finance for infrastructure except for projects of government instrumentalities with government guarantees and/or guarantees of multilateral agencies. The existence of developments under project finance schemes is expected to expand in the next 6 years with the Private Public Partnership (PPP) projects and with the commitment of President Duterte Administration under its economic agenda to jack-up infrastructure spending to 8% of GDP. If done right, project finance is one of the few investment vehicles that can still provide double-digit annual internal rates of return (IRR). It makes sense for SSS to participate in PPP projects to improve its portfolio ROI as well as to support the economic development of the country. However, such expected return is not without carrying risks given that project finance in its pure form sacrifices track record as the structural form of private project finance is through a special purpose vehicle (SPV) and the "waterfall" cashflows carries high uncertainty of funding payback. It is this for reason exposure to project finance without government or multilateral agency guarantee is limited to 10%of the IRF.

2) **Real Estate Investment Trusts (REITs) (Section 26-g)** - A real estate investment trust (REIT) is a company that owns income-producing real estate. REITs own many types of commercial real estate, ranging from office and apartment buildings to warehouses, hospitals, shopping centers, hotels and even timberlands. It has become a suitable investment among pension funds, as typically 90% of rental and sales income are "dividend-out".

   The Philippine has already enacted a REIT Law in 2009 (RA No. 9856), which primarily aims to promote the development of the country's capital market, broadening the participation of the public in the ownership of real estate in the Philippines. However, stringent IRR rules and tax disincentives barred the law from being implemented. The Duterte Administration has vowed to review the stifling provisions of the IRR and be pragmatic about its implementation, cognizant that the implementation will fuel economic activity more particularly in the real estate sector. It is for these reasons that REITs be included in Section 26-g under the 5% IRF limit in lieu of common and preferred stocks in real estate, which is seen to be more aptly included in the limit of Section-i.

3) **Private Equity and Collective Investment Schemes (Section 26-j)** - Owing to the conservative provisions in SSS Charter, SSS can only invest in listed equities.

   However in the last two decades, investment in private equity among pension funds has started to flourish. In a survey study conducted by the Economist Intelligence Unit in August 2014 of which respondents from 15 sovereign pension funds participated in the survey, about 66% of the respondents in the survey say they will increase allocations into private equity. The traditional drivers of pension investment in private equity include statistical diversification stemming from partial uncorrelation to listed securities and expectation of superior risk-adjusted returns over long periods (typically 8 to 10 years). However, the major drawback to private equity investments is the concern of lack of liquidity or a viable exit mechanism. To remedy this wearisome consideration, it is proposed that private equity investment be allowed under the SS Charter <u>but only through a collective investment scheme</u> normally under a private equity mutual fund.

   While in spirit, the current charter recognizes investments in "pooled funds" or "diversified investments" under Section 26-j, it would be more accurate to refer to these investments as "Collective Investment Schemes" than just Mutual Funds (as Mutual Funds is just one form of a Collective Investment Scheme, others include a Trust Scheme). These include among others:

- Private Equity Funds
- Feeder Funds
- Funds of Funds
- Multi-Asset Investment Strategy Funds

B. Asset Allocation Changes

1. **Increase in Private Securities from 40% to 60% (Section 26-i) -** Increase in Equities Investment (Common Stocks, Preferred Stocks and Related Investments) from 30% to 40% and Increase in Corporate Bonds from 30% to 40%

   SSS' actuarial rate of return is about 11% and in the 2014 SSS Actuarial Valuation, which estimated a fund life of 2042, the imputed ROI on investments is 6.7%. Thus, the only way to come close to these returns and promote the viability of fund life is through investment in riskier assets, which include private equities and bonds that secure return premium from risk-free investments.

   In the Global Pension Assets Study 2016 by Towers Watsons where it surveyed the pension funds of G7 countries, average exposure in equities ranged from 52% in 1996 to 44% in 2015 of fund portfolio. Exposure in equities has been declining over the years but this is as a result of exposure in high-yielding and more risky alternative investments (private equity, infrastructure, etc). The proportion to equities is still above the limit of SSS. It can only be surmised that exposure in smaller and less developed pension funds, including the Philippines, would have a higher equities exposure given the higher growth requirements of their pension needs.

2. **Decrease in Housing Loans from 35% to 20% (Section 26-e) -** The reduction in the ceiling for SSS investments in housing loans from 35% to 20% of the IRF is justified by the following:

   - **SSS is not a shelter agency**. SSS' mandate is to provide social protection to its members. In the 1980's and 1990's, the SSS, together with the Government Service Insurance System (GSIS), was tapped as a major source for housing funds, leading to its enduring association with the housing sector. However, it must be remembered that housing loans is only one of several allowable investment outlets of SSS. While it made sense in the past for SSS to be heavily invested in housing, this is no longer the case today. First, the Home Development Mutual Fund (HDMF) has stepped in to fill the role as the foremost government institution for housing finance. Second, the change in the investment landscape has enabled SSS to engage in other more financially rewarding investment options that will ultimately better serve to help the institution's vision of financial viability and to build and extend the life of the Social Security Fund.

   - **SSS' actual experience with shelter agencies have been problematic.** SSS' support to government housing programs through the Home Guaranty Corporation (HGC) and National Home Mortgage Finance Corporation (NHMFC) had become problematic due to their inability to service their loan obligations to SSS. SSS claims versus HGC is already subject of arbitration case filed with the Office of the Government Corporate Counsel (OGCC) in 2013. Outstanding guaranteed obligations amount to P6.3 Billion as of end-Jun 2016.

     SSS claims versus NHMFC relate to the latter's inability to service its loan obligations by a monthly average of about P50 Million since May 2013 (or accumulated total deficiency of about P1.8 Billion as of end-Jun 2016). Total outstanding obligation as of end-Jun 2016 is about P23.3 Billion.

   - **New ceiling is more attuned to current situation and still provides a comfortable margin**. An adjustment in the allowable ceiling takes into account the growth of the investment funds in the past 20 years. Relative to the total amount of investment reserve levels charted in the past, determination of the housing ceiling probably took into consideration the actual exposure of SSS in housing loans at its height (1986-99). However, with the growth of the SS Fund, sticking to the same ceiling is no longer necessary. The IRF stands at about P470

Billion today. If we apply the same ceiling, it means SSS potentially can invest as much as P165 Billion in housing loans which is not justified particularly since SSS is not purely a key shelter agency. Current SSS investment in housing loans is placed at P12 Billion, representing less than 5% of the IRF. Notwithstanding the reduction in the ceiling, there is still adequate room for SSS to put money into housing should the future situation lead SSS to decide to do so.

3. **Increase in Member Loans from 10% to 20% (Section 26-e) -** As of June 2016, SSS investment in short and medium term loan amounts to P70.2 Billion, 15.36% of IRF of P456 Billion, a breach of 5.36% over limit of 10% or ceiling of P45.6 Billion. For the last 5 years since 2010, the average % of short and medium term loans versus IRF is almost 16%, or a breach of 6% annually. SSS short and medium term loans are comprised of salary loans, emergency loans and other loans offered by SSS. Average salary loan amounts to P20,000 with the highest loanable amount of P32,000 or two times the maximum salary credit. It is payable in 2 years charged with 10% per annum interest rate. The following justifies an increase in the SSS Charter investment limit concerning short term and medium term loans:

   - **Increase in Member-Borrowers Served.** There is an average 19% increase year-on-year in number of member-borrowers who availed SSS short and medium term loans since 2010. In 2010, salary loan releases amounted to P11.28 Billion serving 803,000 borrowers. This increased four times in June 2016, as releases ballooned to P43.7 Billion with 2.2 Million borrowers.

     The increasing trend in loan availment is supported by the increase in total number of member-borrowers from 7.1 Million in 2010 to 8.6 Million in June 2016. The increase in loan availment also shows the increasing trend in members who are actively paying their SSS contributions.

   - **Salary Loans, Among the Most Popular Privilege of an SSS Member.** Easy access to salary loans by actively paying SSS members prove to be a credit advantage for those who are in need for ready cash at reasonable rate of return of 10% per annum. Almost half of SSS branch and online transactions are salary loan applications prompting the need to manage this increasing usage by SSS members, loan processing being one of the important services offered by SSS to its members.

   - **Interest Rate is Reasonable to Members and Attractive to SSS.** SSS Salary loans are charged with 10% per annum, this is considered to be reasonable compared to banks salary loans or credit card transactions, which charge effective monthly interest rate of 2-3%. Moreover, the 10% ROI is guaranteed even with delinquencies, as delinquencies are covered by compounding interest that are charged terminally at pension inception. Barring any aggressive condonation programs of the government, it can be said that Member Loans, as an investment is a major income and ROI contributor to the SSS IRF. With the increase in the maximum loanable amount for salary loans from P24,000 in 2010 to P36,000 at present, the short-term loan portfolio of SSS continues to grow.

   - **Other Loan Programs.** In 2013, SSS introduced a medium term loan of Educational Assistance Loan Program (EALP) specifically to cater to SSS members for their college education requirements. The latter has a portfolio of P7 Billion with 50% funding coming from the national government and contributes in the increase of SSS' loan portfolio. The EALP is a medium term loan with term of 3-5 years at 3% per annum. It is popular to member borrowers because of the great help in funding their college education or of their beneficiaries at affordable rate. As of now EALP has served 500,000 member borrowers.

C. **Amendments to the Provision on Foreign Investments (Section 26-k) –** From the Charter limit of 7.5 % of the IRF, increase in foreign investments is being raised to 20% of the IRF with a gradual increase of 1% per year until it reaches limit. The gradual increase which allows for the ramp-up exposure spanning a typical business cycle of about 7-8 years thereby spreading pricing risk, is being propose on the strength of the foregoing:

1) **Increase in Exposure from 7.5% to 20% (retain gradual exposure at 2.5% increase per year).** While all of SSS' assets are currently still invested domestically, conscious efforts have been made to prepare the inevitable that one day local market returns and the need for diversification will propel for foreign investments. The outsourcing of local fund managers and the setting up of an Investment Management System (IMS) are all major steps towards this end. SSS' advances into the foreign markets have lagged most pension funds in the world, including that of its government counterpart in the Philippines, the GSIS. Foreign investments not only provides an improved menu that would expand the efficient frontier (return and risk profiles) of pension fund portfolios, it all also promotes the transfer of technology through counterparties' investor services.

   In an Organization for Economic Cooperation and Development (OECD) study "Annual Survey of Large Pension Funds and Public Pension Reserve Funds: Report on Pension Funds ' Long-Term Investments 2014", the large pension funds in the world on average invest 36.6% of total assets in foreign markets while for public pension funds it is 31.6%. Foreign diversification is mostly the result of regulation and investment policy, although funds based in countries with small domestic markets, including the Philippines, may be more inclined to invest abroad to diversify and increase their opportunity sets. Foreign alternatives such as real estate, private equity and infrastructure and emerging market investments are part of the foreign allocations. This trend has been increasing as cross-border investment barriers continue to dissipate through technological advances and global economic cooperation.

2) **Foreign-Currency Debts from Triple-A Rated to Investment-Grade Rated.** The low interest rate environment and the current phenomenon of low global growth gave rise to a scenario of even negative interest rates. Thus, investment in foreign-currency investments in triple-A rated global debts have become unsuitable to the SSS pension investing as returns to be achieved would have to be eroded by inflation (2.5% - 3% currently).

3) **Foreign-Currency Non-Speculative Equities, Dividend Requirement to Once in the Past 3 Years.** Similar to domestic equities requirement, the dividend requirement is paralleled to "once in the past 3 years" as consistent dividend payment in the past 3 years will be too restrictive and limit investment in equities to mature and even sunshine industries and lead to the missing out on high trajectory growth companies.

Based on the foregoing, therefore, the proposed SSS Charter Amendments are being put forward for the cause of the 34 million SSS members here and around the world. These reforms were never conceived to be a panacea, but rather a movement towards strengthening this institution.

It is in this context that the early passage of this bill is earnestly sought.

JOSE T. PANGANIBAN, JR. CPA, Llb
Representative, ANAC-IP Partylist

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. 4049

Introduced by Rep. JOSE T. PANGANIBAN, JR.
of ANAC-IP Partylist

AN ACT MANDATING A TWO-THOUSAND PESO (P2,000.00) ACROSS-THE-BOARD INCREASE IN THE MONTHLY PENSION OF SSS MEMBER-PENSIONERS AND RATIONALIZING THE POWERS, DUTIES AND ACCOUNTABILITIES OF THE SOCIAL SECURITY COMMISSION (SSC), FURTHER AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 1161, AS AMENDED BY REPUBLIC ACT NO. 8282, OTHERWISE KNOWN AS THE SOCIAL SECURITY ACT OF 1997

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

SECTION 1. Any law to the contrary notwithstanding, a two-thousand peso (P2,000.00) across-the-board increase in the monthly pension of current and future SSS pensioners shall be implemented by the social security commission in tranches of P500.00 per year starting 1 January 2017 and every January 1 of the succeeding year up to year 2020, as follows:

First year of implementation: – existing pensioners shall be paid P500.00 in addition to the pension they are currently receiving while new pensioners shall be paid P500.00 in addition to the pension they are entitled to as determined in accordance with section 12 of the SS law.

Second year of implementation: existing pensioners shall be paid P500.00 in addition to the pension they are currently receiving while new pensioners shall be paid P1,000.00 in addition to the pension they are entitled to as determined in accordance with section 12 of the SS law.

Third year of implementation: existing pensioners shall be paid P500.00 in addition to the pension they are currently receiving while new pensioners shall be paid P1,500.00 in addition to the pension they are entitled to as determined in accordance with section 12 of the SS law.

Fourth year of implementation: existing pensioners shall be paid P500.00 in addition to the pension they are currently receiving while new pensioners shall be paid P2,000.00 in addition to the pension they are entitled to as determined in accordance with section 12 of the SS law.

For succeeding years thereafter, all new pensioners shall be paid P2,000.00 in addition to the pension they are entitled to in accordance with section 12 of the SS law.

For every P500.00 pension increase, as provided above, a 1.5% upward adjustment in the contribution rate shall be implemented or a total of 6% contribution rate increase to cover the entire P2,000.00 pension hike. The contribution rate increase shall be equally shared by the employer and the employee members.

The pensions maybe further increased by the social security commission after the implementation of the p2,000.00 pension increase subject to section 4, paragraph (b) sub-paragraph (2) of the SS law, as amended.

SECTION 2. Section 4, paragraphs (a) and (b) of Republic Act No. 1161, as amended, otherwise known as the "Social Security Law", is hereby further amended to read as follows:

"**SEC. 4. *Powers and Duties of the Commission and SSS.* - *(a) The Commission*.** - For the attainment of its main objectives as set forth in Section 2 hereof, the Commission shall have the following powers and duties;

(2) To establish a provident fund for the members which will consist of voluntary contributions of employers and/or employees, self-employed and voluntary members and their earnings, for payment of benefits to such members or their beneficiaries, subject to such rules and regulations as it may promulgate;

(6) To compromise or release, in whole or in part, any interest, penalty or any civil liability to SSS in connection with the investments authorized under Section 26, hereof, under such terms and conditions as it may prescribe;

(7) Any law to the contrary notwithstanding, to condone, enter into compromise or release, in whole or in part, penalties imposed upon delinquent social security contributions regardless of the amount involved under such valid terms and conditions it may prescribe when the financial position of the employer demonstrates a clear inability to pay the assessed delinquency.

The commission shall submit to both the senate and house of representatives of the Philippines an annual report on the exercise of the powers under this provision, stating therein the following facts and information, among others: names and addresses of employers whose penalty delinquencies have been the subject of compromise or condonation; amount involved; amount compromised or condoned; and the justifications thereon to determine that said powers are reasonably exercised and that the SSS is not unduly deprived of revenues;

(8) To determine and fix from time to time through rules and regulations, the minimum and maximum monthly salary credits of member-employees, the schedule and the rate of contributions of employers and member employees, the rate of penalty on due but unremitted contributions of employers and member employees and unpaid loan amortizations of its members taking into consideration actuarial calculations, rate of benefits, inflation and other relevant socio-economic data: *provided* that in no case shall the increase in the rate of contributions exceed 3% per year, and;

(9) To approve, confirm, pass upon or review any and all actions of the SSS in the proper and necessary exercise of its powers and duties hereinafter enumerated.

(b) The Social Security System - Subject to the provision of Section Four (4), paragraph (a), sub-paragraph 9 (nine) hereof, the SSS shall have the following powers and duties:

(2) To require the actuary to submit a valuation report on the SSS benefit program every four (4) years, or more frequently as may be necessary, and to undertake the necessary actuarial studies and calculations concerning increases in benefits taking into account inflation and the financial stability of the SSS and to provide increases in benefits, including the addition of new ones, under such rules and regulations as the Commission may adopt, subject to the actuarial soundness of the reserve fund;

SECTION 3. Section 18, paragraph (a) of Republic Act No. 1161, as amended, is hereby deleted and a new paragraph shall be introduced to read as follows:

> "**SEC. 18. *Employee's Contribution.*** - beginning as of the last day of the calendar month when an employee's compulsory coverage takes effect and every month thereafter during his employment, the employer shall deduct and withhold from such employee's monthly salary, wage, compensation or earnings, the employee's contribution in an amount corresponding to his salary, wage, compensation or earnings during the month in accordance with the monthly salary credits, the schedule and the rate of contributions as maybe determined and fixed by the commission.
>
> the monthly salary credits, schedule and rate of contribution shall also apply to self-employed and voluntary members.

SECTION 4. Section 22, paragraph (a) of Republic Act No. 1161, as amended, is hereby further amended to read as follows:

"SEC. 22. ***Remittance of Contributions***. – (a) The contribution imposed in the preceding section shall be remitted to the SSS within the first ten (10) days of each calendar month following the month for which they are applicable or within such time as the Commission may prescribe. Every employer required to deduct and to remit such contributions shall be liable for their payment and if any contribution is not paid to the SSS as herein prescribed, the delinquent employer shall pay besides the contribution a penalty thereon from the date the contribution falls due until paid. the rate of the penalty on delinquent contributions per month shall be determined and fixed by the commission through rules and regulations taking into consideration the current inflation rate and other relevant socio-economic data. if deemed expedient and advisable by the Commission, the collection and remittance of contributions shall be made quarterly or semi-annually in advance, the contributions payable by the employees to be advanced by their respective employers: ***Provided***, That upon separation of an employee, any contribution so paid in advance but not due shall be credited or refunded to his employer."

SECTION 5. Section 26 of Republic Act No. 1161, as amended, are hereby further amended to read as follows:

"SEC. 26. ***Investment of Reserve Funds***. – All revenues of the SSS that are not needed to meet the current administrative and operational expenses incidental to the carrying out of this Act shall be accumulated in a fund to be known as the "Reserve Fund". Such portions of the Reserve Fund as are not needed to meet the current benefit obligations thereof shall be known as the "Investment Reserve Fund" which the Commission shall manage and invest with the skill, care, prudence and diligence necessary under the circumstances then prevailing that a prudent man acting in like capacity and familiar with such matters would exercise in the conduct of an enterprise of a like character and with similar aims. Pursuant thereto, and in line with the basic principles of safety, good yield and liquidity, the Commission shall invest the funds to earn an annual income not less than the average rates of treasury bills or any acceptable market yield indicator in any of the following under such rules and regulations as may be prescribed by the commission: *provided*, that investments shall satisfy the requirements of liquidity, safety/security and yield in order to ensure the actuarial solvency of the funds of the SSS;

(b) In bonds, securities, promissory notes or other evidence of indebtedness of the Government of the Philippines or any of its agencies or instrumentalities to finance domestic infrastructure projects such as roads, bridges, ports, telecommunications, and other similar projects: *Provided*, That the instrument issued by an agency or instrumentality of the government shall be guaranteed by the Government of the Philippines or any government financial institution or acceptable multilateral agency :*Provided, further*, That the SSS shall have priority over the revenues of the projects: ***Provided,*** That such investments shall not exceed thirty percent (30%) of the Investment Reserve Fund; or in bonds, securities, promissory notes, other evidence of indebtedness or equity investments in private sector infrastructure or development projects normally financed, constructed, operated and maintained by the public sector but which will be wholly or partly implemented by the private sector, including but not limited to, power plants, highways, ports, airports, canals, dams, hydropower projects, water supply, irrigation, telecommunications, railroads and railways, transport systems, toll ways, land reclamation projects, industrial estates or townships, housing, government buildings, tourism projects, markets, slaughterhouses, warehouses, solid waste management, information technology networks and database infrastructure, sewerage, drainage, dredging and other infrastructure and development projects undertaken through contractual arrangements; provided, finally that such investments in private sector infrastructure or development projects shall not exceed ten per cent (10%) of the investment reserve fund;

(e) In bonds, securities, promissory notes or other evidence of indebtedness of shelter agencies of the National government or financial intermediaries to finance housing loans of members; and in long-term direct individual or group housing loans giving priority to the low-income groups, up to a maximum of ninety percent (90%) of the appraised value of the properties to be mortgaged by the borrowers; and

In short and medium term loans to members such as salary, educational, livelihood, marital, calamity and emergency loans: *Provided*, That not more than twenty (20%) of the Investment Reserve Fund at any time shall be invested for housing purposes: *Provided, further*, That not more than twenty percent (20%) of the Investment Reserve Fund shall be invested in short and medium term loans;

(g) In real estate property, including shares of stocks involving real estate property, Real Estate Investment Trusts (REITs) and investments secured by first mortgages on real estate or other collaterals acceptable to the SSS: *Provided*, That such projects and investments shall, in the determination of the Commission, redound to the benefit of the SSS, its members, as well as the general public: *Provided, further*, That investment in real estate property, excluding shares of listed stocks involving real estate property shall not exceed five percent (5%) of the Investment Reserve Fund: *Provided, finally*, That investments in other income-earning projects and investments secured by first mortgages or other collaterals shall not exceed twenty-five percent (25%) of the Investment Reserve Fund;

(h) In bonds, debentures, securities, promissory notes or other evidence of indebtedness of any prime corporation or multilateral institution to finance domestic projects: *Provided*, That the issuing or assuming entity or its predecessors shall not have defaulted in the payment of interest or any of its securities and that during each of any three (3) including the last two (2) of the five (5) fiscal years next preceding the date of acquisition by the SSS of such bonds, debentures or other evidence of indebtedness, the net earnings of the issuing or assuming institution available for its fixed charges, as defined in this Act, shall have been not less than one and one-quarter times the total of its fixed charges for such year: *Provided, further*, That such investments shall not exceed forty percent (40%) of the Investment Reserve Fund;

(i) In preferred or common shares of stocks listed or to be listed in the stock exchange or options or warrants to such stocks. also, subject to prior approval of the Bangko Sentral ng Pilipinas, in such other risk management instruments of any prime or solvent corporation or financial institution created or existing under the laws of the Philippines with proven track record of profitability over the last three (3) years and payment of dividends at least once over the same period. *Provided*, that such investments shall not exceed forty percent (40%) of the Investment Reserve Fund;

(j) In domestic or foreign collective investment schemes in the form of Unit Investment Trust Funds (UITFS) or mutual funds such as among others private equity funds, hedge funds, Exchange Traded Funds (ETFs), feeder funds and fund of funds in existence for at least three (3) years: provided, that such investments shall not exceed twenty (20%) of the investment reserve fund: *provided further*; that investments in foreign mutual funds shall not exceed two and a half percent (2.5%) of the investment reserve fund in the first year which shall be increased by two and a half percent (2.5%) for each succeeding year, but in no case shall it exceed twenty percent (20%) of the Investment Reserve Fund;

(k) In foreign currency deposits or investment-grade rated foreign currency-denominated debts, prime and non-speculative equities, and other Bangko Sentral ng Pilipinas approved financial instruments or other assets issued in accordance with existing laws of the countries where such financial instruments are issued: *Provided*, That these instruments or assets are listed in bourses of the respective countries where these instruments or assets are issued: *Provided, further*, That the issuing company has proven track record of profitability over the last three (3) years and payment of dividends at least once over the same period: *Provided, finally*, That such investments shall not exceed two and a half percent (2.5%) of the Investment Reserve Fund in the first year which shall be increased by two and a half percent (2.5%) for each succeeding year, but in no case shall it exceed twenty percent (20%) of the Investment Reserve Fund;

No portion of the Investment Reserve Fund or income thereof shall accrue to the general fund of the National Government or to any of its agencies or instrumentalities, including government owned or controlled corporations, except as may be allowed under this Act: *Provided*, That no portion of the International Reserve Fund shall be invested for any purpose or in any instrument, institution or industry over and above the prescribed cumulative ceilings as follows:

60% in private securities
20% in housing
30% in real estate related investments
20% in short and medium-term member loans
30% in government financial institutions and corporations
30% in infrastructure projects
10% in private infrastructure projects

20% in collective investment schemes
15% in any particular industry
20% in foreign-currency denominated investments

SECTION 6. Implementing Rules and Regulations. The Commission shall promulgate the necessary rules and regulations to implement this Act not later than ninety (90) days after its effectivity.

SECTION 7. Separability Clause. If any provision of this Act is declared invalid, the other provisions not affected thereby shall remain valid.

SECTION 8. Repealing Clause. All laws, decrees, orders, rules and regulations and other issuances or parts thereof which are inconsistent with the provisions of this Act are hereby repealed or modified accordingly. Republic Act No. 1161 as amended, is further amended accordingly.

SECTION 9. Effectivity. - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,