



HOUSE OF REPRESENTATIVES

H. No. 8015

INTRODUCED BY HONORABLE ROXAS II, LAUREL IV, FAJARDO, JACOB, LIBAN, LAUREL IV, DUAVIT, SUAREZ, SILVERIO, LEDESMA IV, FAJARDO, ROMUALDEZ, LAPUS, PANCHO, SALCEDA, SUPILICO, TEVES, SARMIENTO (R.), ESCUDERO, BUNYE, CALIMBAS-VILLAROSA, TEODORO JR., GONZALES II, ANDAYA (R.), JR., BADELLES, VERGARA, ANGARA-CASTILLO AND VILLAR JR., PER COMMITTEE REPORT NO. 401

THE SECURITIES ACT 2000

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

CHAPTER I

TITLE AND DEFINITIONS

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3 SECTION 1. *Title.* – This Act shall be known as the “Securities Act
4 2000.”

5 SEC. 2. *Declaration of Policy.* – It is hereby declared that the policy
6 of the State is to: (a) enhance a socially conscious free market that regulates
7 itself in the interest of its members; (b) encourage private corporations to
8 broaden the base of their ownership; (c) promote the development of the
9 capital market and encourage widest public participation of ownership and
10 democratization of wealth consistent with corporate and market efficiency;
11 (d) promote full and fair disclosure about securities which are publicly sold
12 and traded; (e) encourage management of publicly-held and traded
13 companies to act in the interest of all shareholders; (f) promote high
14 standards of market conduct by securities market participants; (g) ensure that
15 securities market participants who deal directly with the public are
16 adequately trained and capitalized to reflect the risks they are undertaking;
17 (h) promote the centralized clearing and settlement of transactions in

1 securities traded on an exchange; (i) minimize if not totally eliminate insider
2 trading and other fraudulent or manipulative devices and practices which
3 create distortions in the free market; (j) facilitate the establishment of
4 exchanges and promote fair competition amongst them; and (k) promote
5 international best practice standards.

6 SEC. 3. *Definitions.* – For purposes of this Act, unless the context
7 otherwise requires:

8 (a) “Securities” are shares, participation or interests in a corporation
9 or in a commercial enterprise or profit-making venture and evidenced by a
10 certificate, contract, instrument or a book entry into the official records of a
11 securities intermediary. It includes:

12 (1) Shares of stock, bonds, debentures, notes, evidences of
13 indebtedness, asset/mortgage-backed securities, pre-organization certificates
14 or subscription;

15 (2) Investment contracts, certificates of interest or participation in a
16 profit sharing agreement, certificates of deposit for a future subscription;

17 (3) Fractional undivided interest in oil, gas or other mineral rights;

18 (4) Exchange or over the counter derivatives like options and
19 warrants;

20 (5) Certificates of assignments, certificates of participation, trust
21 certificates, voting trust certificates or similar instruments;

22 (6) Proprietary or non-proprietary membership certificates or similar
23 instruments;

24 (7) Commodity futures contracts, transferable stock options, pre-
25 need plans, pension plans, life plans, joint venture contracts, and similar
26 contracts and investments where there is no tangible return on investment
27 plus profit but an appreciation of capital as well as enjoyment of particular
28 privileges and services; and

29 (8) Other instruments as may in the future be determined by the
30 Commission.

31 (b) “Associated person of a broker or dealer” refers to any employee
32 thereof who directly exercises control or supervisory authority, but does not
33 include a salesman or person whose functions are solely clerical or
34 ministerial.

35 (c) “Broker” refers to any person engaged in the business of effecting
36 transactions in securities for the account of others, but does not include a

1 bank when engaged in banking activities and does not publicly solicit stock
2 brokerage business for which it receives transaction-related compensation.

3 (d) "Buy" and "purchase" shall include any contract to buy,
4 purchase, or otherwise acquire.

5 (e) "Clearing agency" refers to any person who acts as an
6 intermediary in making payments or deliveries or both in connection with
7 transactions in securities or who provides facilities for comparison of data
8 respecting the terms of settlement of securities transactions, to reduce the
9 number of settlements of securities transactions, or for the allocation of
10 securities settlement responsibilities. It also refers to any person, such as a
11 securities depository, who (1) acts as a custodian of securities in connection
12 with a system for the central handling of securities whereby all securities of a
13 particular class or series of any issuer deposited within the system are treated
14 as fungible and may be transferred, loaned, or pledged by bookkeeping entry
15 without physical delivery of securities certificates, or (2) otherwise permits or
16 facilitates the settlement of securities transactions without physical delivery
17 of securities certificates.

18 (f) "Commercial papers" refers to an evidence of indebtedness of
19 any corporation to any person or entity with maturity period of less than
20 three hundred sixty-five (365) days.

21 (g) "Commission" refers to the Securities and Exchange
22 Commission.

23 (h) "Commodity interest contracts" refers to a contract, providing for
24 the making or taking of delivery at a prescribed time in the future of a
25 specified quantity and quality of a commodity or the cash value thereof,
26 which is customarily offset prior to the delivery date, and includes
27 standardized contracts commonly known as or having the *indicia* of
28 commodity futures, commodity options or commodity leverage, or margin
29 contracts. For purposes of this definition, the term "commodity" refers to
30 any goods, articles, services, rights and interests, including any group or
31 index of any of the foregoing, in which commodity interest contracts are
32 presently or in the future dealt in.

33 (i) "Dealer" refers to any person engaged in the business of buying
34 and selling securities for his own account, through a broker or otherwise, but
35 does not include a bank when acting as fiduciary for trust or managed funds
36 or otherwise engaged in banking activities; insurance companies, investment
37 companies; or any other person insofar as he is engaged in investing,

1 reinvesting, or trading in securities or holding securities for his own account,
2 either individually or in some fiduciary capacity, but not as a part of a regular
3 business.

4 (j) "Director" refers to any director of a corporation or any person
5 performing similar functions with respect to any organization, whether
6 incorporated or unincorporated.

7 (k) "Equity security" refers to any share of stock or any security
8 convertible into, or carrying any warrant or right to subscribe to or purchase
9 such stock; or any such warrant or right; or any other security the
10 Commission deems to be of similar nature and appropriate to treat as equity
11 security pursuant to rules the Commission may prescribe.

12 (l) "Exchange" refers to any organization, association, or group of
13 persons, whether incorporated or unincorporated, which constitutes,
14 maintains, or provides a marketplace or facilities for bringing together
15 purchasers and sellers of securities or for otherwise performing with respect
16 to securities the functions commonly performed by a stock exchange as that
17 term is generally understood, and includes the marketplace and the market
18 facilities maintained by such exchange.

19 (m) "Facility", when used with respect to an exchange, includes its
20 premises, tangible or intangible property, whether on the premises or not, any
21 right to the use of such premises or property or any service thereof for the
22 purpose of effecting or reporting a transaction of an exchange including,
23 among other things, any electronic system for effecting transactions and any
24 system of communication to or from the exchange, by ticker, or otherwise,
25 maintained by or with the consent of the exchange, and any right of the
26 exchange to the use of any property or service.

27 (n) "Foreign enforcement authority" refers to any agency or
28 component of a foreign government or a foreign regulatory organization
29 empowered to enforce laws of such government as they relate to matters
30 involving securities, commodities or pre-need plans.

31 (o) "Foreign financial regulator" refers to a foreign governmental
32 agency or body or foreign equivalent of a self-regulatory organization
33 empowered to administer or enforce laws of such government or the rules of
34 such equivalent of a self-regulatory organization relating to the regulation of
35 securities; commodities, banking, insurance, pre-need plans or other financial
36 activities.

1 (p) "Insider" refers to: (1) the issuer; (2) a director or officer (or
2 person performing similar functions) of, or a person controlling the issuer;
3 (3) a person whose relationship or former relationship to the issuer gives or
4 gave him access to material information about the issuer or its securities that
5 is not generally available to the public; (4) a government employee, or
6 employee, director or officer of an exchange, clearing agency and/or self
7 regulatory organization who has access to material information about an
8 issuer or a security of an issuer that is not generally available to the public;
9 or (5) a person who learns and knowingly receives material non-public
10 information from a communication from any of the foregoing insiders.

11 (q) "Investment adviser" refers to any person who:

12 (1) For remuneration as part of the regular course of its business,
13 advises other persons concerning securities;

14 (2) For remuneration as part of a regular business, issues analyses
15 or reports concerning securities;

16 (3) For remuneration pursuant to a contract or arrangement with a
17 client undertaken on behalf of the client, undertakes the management of a
18 portfolio of securities, including the arrangement of purchases, sales or
19 exchange of securities through a dealer or broker; and

20 (4) In the case of a corporation which is an investment adviser,
21 includes any director or officer of the corporation who actually participates
22 in, or is in any way directly responsible for the corporation's business as an
23 investment adviser, but does not include:

24 (i) a licensed bank;

25 (ii) a licensed investment house;

26 (iii) a licensed lawyer or professional accountant whose
27 professional circumstances when carrying on business as an investment
28 adviser is wholly incidental;

29 (iv) a licensed dealer or broker to the extent that the giving of
30 investment advice is incidental to his carrying on business as a dealer or
31 broker;

32 (v) a licensed trust corporation;

33 (vi) a person who, through a bona fide newspaper, magazine,
34 periodical, journal publication generally available to the public, or through
35 subscription, advises other persons concerning securities, or issues
36 analyses or reports covering securities, not being a proprietor or publisher
37 of or a contributor to, a newspaper, journal, magazine or other publication

1 whose principal or only objective is to advise others concerning securities
2 or to issue analyses or reports concerning securities; or

3 (vii) an investment adviser giving advice only to persons residing
4 outside the Philippines.

5 (r) "Issuer" refers to any person who issues or proposes to issue any
6 security; except that with respect to certificates of deposit, voting trust
7 certificates, or certificates of interest or shares in an unincorporated
8 investment trust, not having a board of directors or persons performing
9 similar functions or of the fixed restricted management, or unit type, the term
10 "issuer" means any person or persons performing the acts and assuming the
11 duties of depositor or manager pursuant to the provisions of the trust or other
12 agreement or instrument under which such securities are issued; and except
13 that with respect to fractional undivided rights in oil, gas, or other mineral
14 rights, claims or properties, the term "issuer" means the owner of any such
15 right or property or of any interest therein, whether whole or fractional, who
16 creates fractional interests therein for the purpose of public offering.

17 (s) "Material" refers to such relevant facts or events that a reasonable
18 investor or potential investor would consider important in a decision to buy,
19 sell or hold a security in light of such factors as the degree of specificity, the
20 extent of its difference from information generally available previously, and
21 its nature and reliability.

22 (t) "Member", when used with respect to an exchange, refers to: (1)
23 any natural person permitted to effect transactions on the floor of the
24 exchange or by means of an electronic system without the services of another
25 person acting as broker; (2) any registered broker or dealer with which such a
26 natural person is associated; (3) any registered broker or dealer permitted to
27 designate as a representative such a natural person; and (4) any other
28 registered broker or dealer, or other person, which agrees or is required to be
29 regulated by such exchange and with respect to which the exchange
30 undertakes to enforce compliance with the provisions of this Act, the rules
31 and regulations thereunder, and its own rules.

32 (u) "Person" refers to an individual, a corporation, a partnership, an
33 association, a joint-stock company, a trust, any business organization, or a
34 government or political subdivision thereof. As used in this paragraph, the
35 term "trust" shall include only a trust where the interest or interests of the
36 beneficiary or beneficiaries are evidenced by a security.

1 (v) "Pre-need plans" refer to contracts which provide for the
2 performance of future services or the payment of future monetary
3 considerations at the time of actual need for which planholders pay in cash or
4 installment at stated prices, with or without interest or insurance coverage
5 and includes life plans, pension plans, education plans, interment plans and
6 other similar plans.

7 (w) "Promoter" refers to: (1) any person who, acting alone or in
8 conjunction with one or more persons, directly or indirectly, takes initiative
9 in founding and organizing the business or enterprise of the issuer; or (2) any
10 person who, in connection with the founding and organizing of the business
11 of an issuer, directly or indirectly receives in consideration of services or
12 property or both services and property ten percent (10%) or more of any
13 class of securities of the issuer or ten percent (10%) or more of the proceeds
14 from the sale of any class of such securities. However, a person who
15 receives such securities or proceeds either solely as underwriting
16 commissions or solely as consideration of property shall not be deemed a
17 promoter within the meaning of this paragraph if such person does not
18 otherwise take part in founding and organizing the enterprise.

19 (x) "Prospectus" refers to any written communication made by or on
20 behalf of an issuer, underwriter or dealer to sell or offer for sale any
21 securities offered to the public by a registration statement filed with the
22 Commission pursuant to Sections 6 and 9 of this Act.

23 (y) "Registration statement" refers to any written statement required
24 to be filed with the Commission pursuant to Sections 6 and 9 of this Act, and
25 includes any amendments thereto, and any supporting documents (including
26 any prospectus) attached thereto and made a part thereof or incorporated
27 therein by reference.

28 (z) "Rules of an exchange", "rules of a Self-Regulatory
29 Organization", and "rules of a clearing agency", refer to the constitution,
30 articles of incorporation (or similar charter of organization), by-laws and
31 rules, or instruments corresponding to the foregoing, of each respective entity
32 and such policies, practices and interpretations of each such entity as the
33 Commission by rule may determine to be deemed a rule of such respective
34 entity.

35 (aa) "Sale" or "sell" shall include every contract of sale or
36 disposition of a security or interest in a security, for value. The terms shall
37 include every "offer to sell" and "offer for sale" and every attempt or offer to

1 dispose of, or solicitation of an offer to buy, a security or interest in a
2 security, for value.

3 (bb) "Salesman" shall include every natural person, other than a
4 dealer or broker, employed or appointed or authorized by a dealer, issuer or
5 broker to sell or purchase securities in any manner. The partners in a
6 partnership and the executive officers of a corporation or other association
7 registered as a broker or dealer shall not be considered as salesmen within the
8 meaning of this definition.

9 (cc) "Securities account" refers to an account to which a security is
10 or may be credited in accordance with an agreement under which a securities
11 intermediary maintaining the account undertakes to treat the person for
12 whom the account is maintained as entitled to exercise the rights that
13 comprise the security.

14 (dd) "Securities intermediary" refers to: (1) a registered clearing
15 agency; or (2) a person who is registered or licensed by the Commission,
16 or a bank or trust company, that in the ordinary course of its business
17 maintains securities accounts for others and is acting in that capacity.

18 (ee) "Self-regulatory organization" or "SRO" refers to any
19 organization or association designated as an SRO by the Commission
20 under Section 47 of this Act to enforce this Act and the rules and
21 regulations promulgated hereunder and mandated to make and enforce its
22 own rules, which have been approved by the Commission, relating to its
23 members and/or participants.

24 (ff) "Transfer agent" refers to any person who engages on behalf of
25 an issuer of securities or on behalf of itself as an issuer of securities in (1)
26 countersigning such securities upon issuance; (2) monitoring the issuance of
27 such securities with a view to preventing unauthorized issuance, a function
28 commonly performed by a person called a registrar; (3) registering the
29 transfer of such securities; (4) exchanging or converting such securities; or
30 (5) transferring record ownership of securities by bookkeeping entry without
31 physical issuance of securities certificates.

32 (gg) "Uncertificated security" refers to a security that is not
33 represented by a certificate.

34 (hh) "Underwriter" refers to any person who has purchased from an
35 issuer with a view to, or offers or sells for an issuer in connection with the
36 distribution of any security, or participates or has a direct or indirect
37 participation in any such undertaking or participates or has participation in

1 the direct or indirect underwriting of any such undertaking; but such term
2 shall not include a person whose interest is limited to a commission from
3 an underwriter or dealer not in excess of the usual and customary
4 distributors' or sellers' commission. As used in this paragraph, the term
5 "issuer" shall include, in addition to an issuer, any person directly or
6 indirectly controlling or controlled by the issuer, or any person under
7 direct or indirect common control with the issuer.

8 (ii) "Written communication" includes printed, video or graphic
9 communication and communication by means of radio, television, electronic
10 media, and facsimile and other telecommunication data transmission but does
11 not include voice telephonic communication.

12 The terms not otherwise defined under this Act shall be construed in
13 their usual and commonly understood trade, business, commercial or
14 investment meaning.

15 SEC. 4. *Administrative Agency.* – (a) This Act shall be administered
16 by the Commission which is a collegial body composed of five (5)
17 commissioners, inclusive of the chairman, who shall be appointed by the
18 President, and the term of office of each commissioner shall be seven (7)
19 years: *Provided, however,* That the chairman and four (4) associate
20 commissioners of the Commission shall serve for a period of seven (7)
21 years, five (5) years and three (3) years, as fixed by their respective
22 appointments: *Provided, however,* That upon expiration of his term, a
23 commissioner shall serve as such until his successor shall have been
24 appointed and qualified and: *Provided, further,* That no commissioner shall
25 be appointed to fill a vacancy occurring prior to the expiration of the term for
26 which his predecessor was appointed except for the unexpired portion of
27 such term. The Commission shall have the organization, powers and
28 functions provided by this Act and other existing laws as the same may from
29 time to time be amended or supplemented.

30 (b) The chairman and commissioners shall be of unquestionable
31 integrity, of known probity and patriotism, and at the time of appointment
32 with at least five (5) years of experience in securities industries and law,
33 accountancy, finance or public administration. The chairman and majority
34 of the commissioners must be members of the Philippine Bar.

35 (c) The Commission, in the exercise of its regulatory and
36 enforcement activities and quasi-judicial functions pursuant to the provisions

1 of this Act, shall be subject only to judicial review pursuant to the provisions
2 of existing laws.

3 (d) The salary of the chairman and the associate commissioners shall
4 be fixed at Ninety thousand pesos (P90,000.00) and Eighty thousand pesos
5 (P80,000.00) per month, respectively.

6 (e) The chairman, as the chief executive officer of the Commission,
7 shall execute and administer the policies, decisions, orders and resolutions
8 approved by the Commission and shall have the general executive control,
9 direction and supervision of the work and operation of the Commission
10 and its members, bodies, boards, offices, personnel and all its
11 administrative business.

12 In carrying out any of his functions, he shall be governed by the
13 general policies of the Commission and by such regulatory decisions,
14 findings and determinations as the Commission may be authorized by law
15 to make.

16 (f) There shall be a secretary appointed by the Commission, who
17 shall be of equal rank or level with that of a director of a department and
18 shall be the recorder and official reporter of the proceedings of the
19 Commission and shall have the authority to administer oaths in all matters
20 coming under the jurisdiction of the Commission.

21 (g) There shall be an executive director appointed by the
22 Commission who shall be responsible for the effective implementation of
23 the policies, rules and standards promulgated by the Commission, to
24 coordinate and supervise the activities of the different operating units, to
25 report to the chairman on the operation of such units, and to perform such
26 functions as may be assigned to him by the chairman and/or by the
27 Commission.

28 (h) There shall be an enforcement department which shall have,
29 subject to the Commission's control and supervision and, pursuant to
30 Section 63 of this Act, the primary authority and responsibility to
31 investigate, on complaint or *motu proprio*, any act or omission of the board
32 of directors of corporations or partnerships or other associations or of their
33 stockholders, employees, officers or partners, including any fraudulent
34 device, scheme or representation in violation of this Act or any rule or
35 regulation adopted hereunder subject to Commission procedures, rules and
36 guidelines adopted hereunder; to file and prosecute in accordance with this
37 Act, procedures, rules and regulations adopted hereunder and, in

1 appropriate cases, the corresponding criminal or civil case before the
2 proper court or body upon a *prima facie* finding of violation of any laws or
3 rules and regulations administered and enforced by the Commission; and
4 to perform such other powers and functions as may be provided by law or
5 delegated to it by the Commission under this Act: *Provided, however,*
6 That the Commission in the interest of the public and for the protection of
7 investors may create a special committee to investigate special cases.

8 (i) A commissioner who directly or indirectly has personal or
9 pecuniary interest in any decision that is to be taken on any matter before the
10 Commission shall disclose the nature of such interest at the meeting of the
11 Commission where such decision is being taken. The disclosures shall be
12 recorded in the record of the meeting and such commissioner shall withdraw
13 from such meeting while such deliberation is in progress or such decision is
14 being made.

15 (j) The Commission shall hold meetings *en banc* for the conduct of
16 business as often as may be necessary at such times as the chairman may fix
17 or such number of commissioners constituting a quorum shall request. The
18 notice of the meeting shall be given to all commissioners and the presence of
19 at least three (3) commissioners shall constitute a quorum. In the absence of
20 the chairman, the most senior commissioner shall act as presiding officer of
21 the meeting.

22 (k) The Commission may delegate for purposes of efficiency, any of
23 its functions to any department or office of the Commission, an individual
24 commissioner or staff member of the Commission, except its review or
25 appellate authority, its power to adopt, alter and supplement any rule or
26 regulation. The Commission *en banc* shall retain a discretionary right to
27 review the action of any department or office, individual commissioner, or
28 staff member of the Commission, upon its own initiative, or upon petition of
29 a party to or intervenor in such action. The vote of one (1) commissioner
30 shall be sufficient to bring any such action before the Commission *en banc*
31 for review. If no review is sought within the prescribed time or the
32 Commission *en banc* declines to exercise review, the action taken pursuant to
33 delegated authority shall for all purposes be deemed the action of the
34 Commission.

35 (l) The Commission shall indemnify each commissioner and other
36 officials of the Commission, including technical personnel of all departments
37 against all costs and expenses reasonably incurred by such persons in

1 connection with any civil or criminal actions, suits or proceedings to which
2 they may be, or are made, a party by reason of the performance of their
3 functions or duties, unless they are finally adjudged in such actions or
4 proceedings to be liable for gross negligence or misconduct.

5 In the event of a settlement or compromise, indemnification shall be
6 provided only in connection with such matters covered by the settlement as
7 to which the Commission is advised by external counsel that the persons to
8 be indemnified did not commit any gross negligence or misconduct.

9 The costs and expenses incurred in defending the aforementioned
10 action, suit or proceeding may be paid by the Commission in advance of the
11 final disposition of such action, suit or proceeding upon receipt of an
12 undertaking by or on behalf of the member, officer or employee to repay the
13 amount advanced should it ultimately be determined by the Commission *en*
14 *banc* that he is not entitled to be indemnified as provided in this subsection.

15 (m) Except as provided herein, the Commission shall provide for its
16 reorganization to streamline its structure and operations, upgrade its human
17 resource component and enable it to more efficiently and effectively perform
18 its functions and exercise its powers under this Act. Pursuant thereto, the
19 Commission, upon the recommendation of the chairman, shall fix the
20 remuneration and other emoluments of its staff and of officers and
21 employees. All positions in the Commission shall be governed by the Civil
22 Service law except that compensation, position classification systems and
23 qualification standards shall be approved by the Commission based on its
24 comprehensive job analysis of actual duties and responsibilities. The
25 Commission shall be exempt from existing laws, rules and regulations on
26 compensation, position classification qualification standards. The
27 Commission shall, however, endeavor to make its system conform as closely
28 as possible to the principles under the Compensation and Position
29 Classification Act of 1989 (Republic Act No. 6758, as amended).

30 (n) The Commission shall act with transparency in exercising its
31 powers under this Act.

32 SEC. 5. *Duties of Commissioners and Commission Employees.* –

33 (a) In order to avoid conflicts of interest and promote the fair
34 implementation of this Act, the Commission shall adopt rules for the conduct
35 of commissioners and Commission employees which shall regulate the
36 conduct of present and former commissioners and Commission employees in
37 the areas regulated by this Act.

1 (b) Commissioners and Commission employees shall comply with
2 Commission rules adopted under this section.

3 CHAPTER II

4 REGISTRATION OF SECURITIES

5 SEC. 6. *Requirement of Registration of Securities.* – (a) No securities,
6 except of a class exempt under Section 7 hereof or unless sold in any
7 transaction exempt under Section 8 hereof, shall be sold or offered for sale
8 directly or indirectly within the Philippines, unless a registration statement
9 registering the securities to be offered has been filed with the Commission
10 and is in effect.

11 (b) No securities required to be registered pursuant to subsection (a)
12 of this section shall be sold to the public unless prior to such sale information
13 on the securities is made available to each prospective purchaser in such form
14 and with such substance as the Commission by rule may prescribe.

15 (c) Notwithstanding the provisions of paragraph (a) of this section
16 and of the succeeding sections regarding exemptions, no commercial paper
17 hereof shall be issued, endorsed, sold, transferred or in any other manner
18 conveyed to the public, unless registered in accordance with rules
19 promulgated by the Commission in the public interest and for the protection
20 of investors. The Commission, however, with due regard to the public
21 interest and for the protection of investors, may by rules and regulations and
22 pursuant to its powers under Section 74 of this Act, exempt from registration
23 any commercial paper that may otherwise be covered by this paragraph. In
24 either case, the rules and regulations promulgated by the Commission shall
25 be subject to the approval of the Monetary Board of the Bangko Sentral ng
26 Pilipinas. The Monetary Board shall, however, have the power to
27 promulgate its own rules on the monetary and credit aspects of commercial
28 papers issues, which may include the imposition of ceilings on issues by
29 any single borrower, and the authority to supervise the enforcement of
30 such rules and to require issuers of commercial papers to submit their
31 financial statements and such periodic reports as may be necessary for
32 such enforcement. As far as practicable, such financial statements and
33 periodic reports, when required by both the Commission and the Monetary
34 Board, shall be uniform.

35 (d) Notwithstanding the provisions in subsection (a) of this section to
36 the contrary, the Commission by rule may permit securities required to be
37 registered under subsection (a) to be offered for sale after the filing of a

1 registration statement for such securities, but prior to its effectivity, upon
2 such terms and conditions as the Commission by rule may prescribe:
3 *Provided, however,* That no offer for sale under this subsection shall be made
4 by means of any written communication except a preliminary prospectus
5 conforming in form and content to requirements for preliminary prospectuses
6 which the Commission by rule may prescribe.

7 (e) The Commission by rule may specify the terms and conditions
8 under which any written communication, including any summary prospectus
9 shall be deemed not to constitute an offer for sale under this section.

10 (f) A record of the registration of securities shall be kept in a register
11 of securities in which shall be recorded orders entered by the Commission
12 with respect to such securities. Such register and all documents or
13 information with respect to the securities registered therein shall be open to
14 public inspection at reasonable hours on business days.

15 SEC. 7. *Exempt Securities.* – (a) Except as expressly provided herein,
16 the requirement of registration under subsection (a) of Section 6 of this Act
17 and reporting requirements under Sections 15 and 16 of this Act, shall not
18 apply to any of the following classes of securities:

19 (1) Any security issued or guaranteed by the government of the
20 Philippines, or by any political subdivision or agency thereof or by any of its
21 public instrumentality, or by any person controlled or supervised by, and
22 acting as an instrumentality of said government, or any certificate of deposit
23 for any of the foregoing.

24 (2) Any security issued or guaranteed by the government of any
25 country with which the Philippines is, at the time of the offer or sale thereof,
26 maintaining diplomatic relations, or by any state, province or political
27 subdivision thereof having the power of taxation or assessment, which
28 security is recognized at the time of the sale or the offer to sell in the
29 Philippines as a valid obligation by such foreign government or by such state,
30 province or political subdivision thereof of issuing the same: *Provided,*
31 *however,* That the Commission is authorized to condition such exemption
32 upon compliance by such foreign government with the form and content of
33 disclosures the Commission by rule may prescribe for the offer and sale of
34 any such security by such foreign government.

35 (3) Certificates issued to creditors by a receiver, a trustee in
36 rehabilitation/insolvency proceedings, with the approval of the proper
37 government adjudicatory body.

1 (4) Securities issued by a debtor in rehabilitation/insolvency
2 proceedings, under a plan approved by the proper government adjudicatory
3 body, for partial or full satisfaction of claims to pre-existing creditors who
4 have been provided with disclosure of material information about the
5 company, its debts and such creditor's rights in connection with the
6 rehabilitation/insolvency proceedings.

7 (5) Any insurance or endowment policy or annuity contract, or
8 optional annuity contract, issued by a corporation subject to the supervision
9 of the Insurance Commission.

10 (6) Any security covering any right or interest in real property
11 including a subdivision lot or condominium unit, where the sale or transfer of
12 such security is subject to the supervision and regulation by the proper
13 government authority.

14 (7) Pension plans subject to regulation and supervision by the proper
15 government authority.

16 (8) Any security other than the shares of stock issued or guaranteed
17 by any banking institution authorized to do business in the Philippines, the
18 business of which is substantially confined to banking or a financial
19 institution licensed to engage in quasi-banking, and is supervised by the
20 Bangko Sentral ng Pilipinas.

21 (b) The Commission may, by rule or regulation and subject to such
22 terms and conditions as may be prescribed after public hearing or upon
23 application, add to the foregoing any class of securities if it finds that the
24 enforcement of this Act with respect to such securities is not necessary in the
25 public interest.

26 SEC. 8. *Exempt Transactions.* - (a) The requirement of registration
27 under subsection (a) of Section 6 of this Act shall not apply to the offer or
28 sale of any security in any of the following transactions:

29 (1) At any judicial sale, or sale by an executor, administrator,
30 guardian or receiver or trustee in insolvency or bankruptcy;

31 (2) By or for the account of a pledge holder, or mortgagee or any
32 other similar lien holder selling or offering for sale or delivery in the ordinary
33 course of business and not for the purpose of avoiding the provisions of this
34 Act, to liquidate a bona fide debt, a security pledged in good faith as security
35 for such debt;

36 (3) An isolated transaction in which any security is sold, offered for
37 sale, subscription or delivery by the owner thereof, or by his representative

1 for the owner's account such sale or offer for sale, subscription or delivery
2 not being made in the course of repeated and successive transactions of a like
3 character by such owner, or on his account by such representative and such
4 owner or representative not being the underwriter of such security;

5 (4) The distribution by a corporation, actively engaged in the
6 business authorized by its articles of incorporation, of securities to its
7 stockholders or other security holders as stock dividend or other distribution
8 out of surplus;

9 (5) The sale of capital stock of a corporation to its own stockholders,
10 exclusively, where (i) no commission or other remuneration is paid or given
11 directly or indirectly in connection with the sale of such capital stock and (ii)
12 in any period of twelve (12) months any sales aggregate less than One
13 million pesos (P1,000,000.00) or are made to fewer than twenty (20) persons
14 or such other number as the Commission by rule may prescribe;

15 (6) The issuance of bonds or notes secured by mortgage upon real
16 estate or tangible personal property, where the entire mortgage together with
17 all the bonds or notes secured thereby are sold to a single purchaser at a
18 single sale;

19 (7) The issue and delivery of any security in exchange for any other
20 security of the same issuer pursuant to a right of conversion entitling the
21 holder of the security surrendered in exchange to make such conversion:
22 *Provided*, That the security so surrendered has been registered under this Act
23 or was, when sold, exempt from the provisions of this Act, and that the
24 security issued and delivered in exchange, if sold at the conversion price,
25 would at the time of such conversion fall within the class of securities
26 entitled to registration under this Act. Upon such conversion the par value of
27 the security surrendered in such exchange shall be deemed the price at which
28 the securities issued and delivered in such exchange are sold;

29 (8) Broker's transactions, executed upon customer's orders, on any
30 registered exchange or other trading market;

31 (9) Subscriptions for shares of the capital stock of a corporation prior
32 to the incorporation thereof under the Corporation Code, when no expense is
33 incurred, or no commission, compensation or remuneration is paid or given
34 in connection with the sale or disposition of such securities to fewer than
35 twenty (20) persons subscribing for their account in the Philippines and any
36 number of qualified purchasers, as that term is defined in subsection (a) (11)
37 of this section during any twelve (12)-month period, where there is no

1 general solicitation or general advertising, and only when the purpose for
2 soliciting, giving or taking of such subscriptions is to comply with the
3 requirements of such law as to the percentage of the capital stock of a
4 proposed corporation which should be subscribed before it can be registered
5 and duly incorporated, but only so long as such law imposes such
6 requirements;

7 (10) The exchange of securities by the issuer with its existing security
8 holders exclusively, where no commission or other remuneration is paid or
9 given directly or indirectly for soliciting such exchange; and

10 (11) A private placement provided that there is no general solicitation
11 or general advertising in connection therewith. For purposes of this
12 subsection, a "private placement" means the sale of securities by an issuer to
13 less than twenty (20) persons purchasing for their own account in the
14 Philippines during any consecutive twelve (12)-month period plus to any
15 number of the following "qualified purchasers":

16 (i) any bank or thrift institution;

17 (ii) any registered investment house;

18 (iii) any insurance company;

19 (iv) any pension fund or retirement plan maintained by the
20 government of the Philippines or any political subdivision thereof or
21 managed by a bank;

22 (v) any common trust fund managed by a person authorized by the
23 Bangko Sentral ng Pilipinas to engage in trust functions;

24 (vi) any executive officer, director or general partner of the issuer;

25 (vii) any investment company;

26 (viii) any corporation or entity listed on an exchange; and

27 (ix) any other person who, on the basis of such factors as financial
28 sophistication, net worth, knowledge and experience in financial or
29 business matters is defined by the Commission in rules and regulations as a
30 "qualified purchaser".

31 (b) The Commission may by rule, or order upon application, from
32 time to time and subject to such terms and conditions as it may prescribe,
33 exempt transactions other than those provided in the preceding subsection, if
34 it finds that the enforcement of the requirements of registration under this Act
35 with respect to such transactions is not necessary in the public interest and for
36 the protection of the investors such as based on its findings that the
37 transaction did not involve a securities distribution, or by reason of the small

1 amount involved or the limited character of the offering and the availability
2 of full and fair disclosure of information to investors concerning the issuer
3 and the transaction.

4 (c) To qualify for any exemption under this section, the person
5 claiming entitlement thereto shall file with the Commission a notice
6 identifying the exemption relied upon on the prescribed form and the reason
7 why such relief should apply to the identified transaction and with such
8 notice shall pay to the Commission a fee of not more than one-tenth of one
9 percent of the maximum aggregate price or issued value of the securities.
10 Any person claiming an exemption pursuant to this section shall, if
11 challenged, bear the burden of establishing that the exemption is available:
12 *Provided, however,* That no filing is required to be made to the Commission,
13 or fee to be paid thereto, with respect to a transaction, or series of related
14 transactions, that in total involve fewer than five (5) purchasers for their own
15 account and that does not involve a change in control of the issuer.

16 SEC. 9. *Procedure for Registration of Securities.* – (a) All securities
17 required to be registered for offer and sale under subsection (a) of Section 6
18 of this Act shall be registered through the filing by the issuer in the office of
19 the Commission, of a sworn registration statement with respect to such
20 securities, in such form and containing such information and documents as
21 the Commission by rule shall prescribe. The registration statement shall
22 include or have annexed thereto any prospectus required or permitted to be
23 delivered under subsections (b), (c), (d) and (e) of Section 6.

24 (b) In promulgating rules governing the content of any registration
25 statement (including any prospectus made a part thereof or annexed thereto),
26 the Commission shall require the registration statement to contain the
27 information or documents described in Schedule A appended to this Act:
28 *Provided, however,* That depending on public availability of this information
29 to investors and/or the applicability of this information or documents to the
30 class of securities sought to be registered, the Commission may dispense with
31 any such requirement, or may require additional information or documents,
32 including written information from an expert.

33 (c) The registration statement shall be signed by the issuer, its
34 principal executive officer, its principal operating officer, its principal
35 financial officer, its comptroller or principal accounting officer, a majority of
36 members of its board of directors, or persons performing functions similar to
37 any of the foregoing. The written consent of the expert named as having

1 certified any part of the registration statement or any document used in
2 connection therewith shall also be filed. Where the registration statement
3 includes shares to be sold by selling shareholders, a written certification by
4 such selling shareholders as to the accuracy of any part of the registration
5 statement contributed to by such selling shareholders shall also be filed.

6 (d) Upon filing of the registration statement, the issuer shall pay to
7 the Commission a fee of not more than one-tenth of one percent of the
8 maximum aggregate price at which such securities are proposed to be
9 offered.

10 Notice of the filing of the registration statement shall be immediately
11 published by the issuer, at the expense of the issuer, in two (2) newspapers of
12 general circulation in the Philippines, once a week for two (2) consecutive
13 weeks, or in such other manner as the Commission by rule shall prescribe,
14 reciting that a registration statement for the sale of such security has been
15 filed, and that the aforesaid registration statement, as well as the papers
16 attached thereto are open to inspection at the Commission during business
17 hours, by any person, and copies thereof, photostatic or otherwise, shall be
18 furnished to every applicant at such reasonable charge as the Commission
19 may prescribe.

20 (e) Within forty-five (45) days after the date of filing of the
21 registration statement, or by such later date to which the issuer has consented,
22 the Commission shall review the registration statement and:

23 (1) If the Commission finds that the registration statement is on its
24 face complete, enter an order declaring the registration statement to be
25 effective; or

26 (2) Where it appears to the Commission that the registration
27 statement does not comply with disclosure requirements under this Act and
28 regulations adopted hereunder, and/or is not textually clear and consistent, it
29 shall provide a written response to the issuer requesting additional
30 information necessary to explain or revise the registration statement, and/or
31 submission of evidence in support of the authenticity of the information
32 included therein. Upon correcting the specified deficiencies, the issuer may
33 file amendments to the registration statement under Section 11 of this Act
34 which shall invoke the new forty-five (45) day review period; or

35 (3) Pursuant to Section 10 of this Act undertake to determine whether
36 to reject and refuse registration, which proceeding shall be completed within
37 thirty (30) days after the initiation thereof.

1 Pending a determination by the Commission under Sections 10 or 11,
2 the registration statement shall not become effective.

3 (f) Upon effectivity of the registration statement, the issuer shall state
4 in every prospectus disseminated to the public that such effectivity and any
5 declaration by the Commission thereof shall not be deemed a finding by the
6 Commission that the registration statement is true and accurate on its face or
7 that it does not contain an untrue statement of fact or omit to state a material
8 fact, or be held to mean that the Commission has in any way recommended,
9 endorsed or given approval to the security included in the registration
10 statement. It shall be unlawful to make, or cause to be made, to any
11 prospective purchaser any representation contrary to the foregoing.

12 (g) The Commission, for the guidance of the investors, may require
13 issuers to submit their securities to rating by rating agencies recognized by
14 the Commission, pursuant to criteria set forth in rules, as independent and
15 qualified, to provide all information necessary therefor, and to report such
16 rating in the registration statement and prospectus, if any, offering the
17 securities.

18 SEC. 10. *Rejection and Revocation of Registration of Securities.* – (a)
19 The Commission may, after due notice and hearing, reject a registration
20 statement and refuse registration of the security thereunder, or revoke the
21 effectivity of a registration statement and the registration of the security
22 thereunder by issuing an order to such effect, setting forth its findings in
23 respect thereto, if it finds that:

24 (1) The issuer:

25 (i) Has been judicially declared insolvent;

26 (ii) Has violated any of the provisions of this Act, the rules
27 promulgated pursuant thereto, or any order of the Commission of which the
28 issuer has notice in connection with the offering for which a registration
29 statement has been filed;

30 (iii) Has been or is engaged or is about to engage in fraudulent
31 transactions; and

32 (iv) Has made any false or misleading representation of material facts
33 in any prospectus that has been distributed concerning the issuer or its
34 securities;

35 (2) The registration statement is on its face incomplete or inaccurate
36 in any material respect or includes any untrue statement of a material fact or

1 omits to state a material fact required to be stated therein or necessary to
2 make the statements therein not misleading.

3 (3) The following disciplinary events which reflect upon the integrity
4 of the issuer, and involve the issuer and any officer, director or controlling
5 person of the issuer, or person performing similar functions:

6 (i) Has been convicted, after final judgement by a competent judicial
7 or administrative body, of an offense involving fraud, embezzlement,
8 counterfeiting, theft, estafa, misappropriation, forgery, bribery, false oath or
9 perjury; or

10 (ii) Is currently enjoined or restrained by the Commission or other
11 competent judicial or administrative body from, or was the subject of any
12 such order not subsequently reversed, suspended or vacated, within the last
13 five (5) years, permanently or temporarily enjoining or otherwise limiting
14 him from engaging in securities, commodities, banking, real estate or
15 insurance activities or from willfully violating laws governing such activities;
16 or

17 (iii) Is subject to an effective order of the Commission or other
18 competent judicial or administrative body, or within the last five (5) years
19 was subject to such order, refusing, revoking or suspending any registration,
20 license or other permit required under this Act, the rules and regulations
21 promulgated thereunder, or any other law, to engage in any activity involving
22 securities, commodities, banking, real estate or insurance; or

23 (iv) Is subject to an effective order of a self-regulatory organization,
24 or within the last five (5) years was subject to such an order, suspending or
25 expelling him from membership or participation therein or from association
26 with a member or participant thereof.

27 For purposes of this subsection, the term "competent judicial or
28 administrative body" shall include a foreign court of competent jurisdiction
29 and a foreign financial regulator: *Provided, however,* That where such
30 disciplinary event involves a foreign court or regulator, it may not serve as a
31 bar to registration unless the Commission makes a finding such event reflect
32 upon the integrity of the issuer applying for registration.

33 (b) Subject to existing laws, the Commission may compel the
34 production of all the books and papers of such issuer and may administer
35 oaths to, and examine the officers of such issuer or any other person
36 connected therewith as to its business and affairs, and may also require a
37 balance sheet exhibiting the assets and liabilities of any such issuer or his

1 income statement or both to be certified to by an independent certified public
2 accountant: *Provided, That*, in case of banks and other financial
3 intermediaries supervised by the Bangko Sentral ng Pilipinas, the extent of
4 disclosure shall be subject to Monetary Board rules and regulations on the
5 matter.

6 (c) If any issuer shall refuse to permit an examination to be made by
7 the Commission, its refusal shall be proper ground for the refusal or
8 revocation of the registration of its securities;

9 (d) If the Commission deems it necessary, it may issue an order
10 suspending the offer and sale of the securities pending any investigation.
11 The order shall state the grounds for taking such action, but such order of
12 suspension although binding upon the persons notified thereof, shall be
13 deemed confidential and shall not be published. Upon the issuance of the
14 suspension order, no further offer or sale of such security shall be made until
15 the same is lifted or set aside by the Commission. Any such sale shall be
16 void;

17 (e) Notice of issuance of such order shall be given by mail, or
18 personally, or by telephone, confirmed in writing or by telegram, to the issuer
19 and every dealer or broker who shall have notified the Commission of an
20 intention to sell such security; and

21 (f) A registration statement may be withdrawn by the issuer after it
22 has been filed only with the consent of the Commission and in accordance
23 with such rules and regulations which the Commission may prescribe. The
24 Commission may deny permission to withdraw if any person may suffer
25 damage as a result thereof.

26 SEC. 11. *Amendments to the Registration Statement.* - (a) If a
27 registration statement is on its face incomplete or inaccurate in any material
28 respect, or if the issuer wants to change material information therein, the
29 issuer shall:

30 (1) File an amendment to the registration statement with the
31 Commission explaining all proposed changes which shall be reviewed by the
32 Commission in accordance with Section 9(e) hereof;

33 (2) Where the registration statement has been declared effective by
34 the Commission, publish a notice in two (2) newspapers of general
35 circulation in the Philippines and/or by such other means, as the Commission
36 may by rule prescribe, that the offering in its current form has been
37 cancelled, reasons for such proposed changes to the offering, and offer to

1 rescind all transactions that have been completed for sale to date, without
2 making any deductions pursuant to paragraph (b) below and wait thirty (30)
3 days for purchasers to respond to the rescission offer before initiation of the
4 amended offering; and

5 (3) Where material amendments have been made to the registration
6 statement after the effective date pursuant to paragraph (a) (2) above,
7 purchasers shall have the right to renounce their purchase of securities,
8 whereas the issuer shall, within ten (10) days, return the contributions paid by
9 them without making any deductions. Purchasers who decide not to
10 renounce their purchase of securities shall be subject to the terms of the
11 amended offering.

12 (b) If, after commencement of a public offering, the Commission
13 becomes aware that the registration statement is on its face incomplete or
14 inaccurate in any material respect, or there is a material omission, the
15 Commission may require the issuer to comply with subsections (a)(1) and
16 (a)(2).

17 (c) If the issuer does not comply with a Commission order under
18 paragraph (b) of this section, the Commission may, in addition to its other
19 powers under this Act, issue a suspension order under Section 12 of this Act.

20 (d) If, during a public offering, information, other than material
21 information, in the registration statement changes, the issuer shall file a copy
22 of the new information/changes with the Commission, prior to making such
23 changes in the registration statement, pursuant to procedures set forth in
24 Commission regulations. Unless, within twenty (20) days, the Commission
25 provides a written response to the issuer regarding such disclosure, the
26 proposed changes shall be deemed to be part of the original disclosure.

27 (e) The filing of a post effective amendment regarding the price of
28 the security being offered shall not be treated as a material amendment under
29 subsection (a) of this section unless the price varies by more than twenty
30 percent (20%) from the indicative price contained in the registration
31 statement which was declared effective. Unless subject to subsection (a) of
32 this section, such pricing amendment shall become effective upon filing with
33 the Commission.

34 SEC. 12. *Suspension of Registration.* - (a) If, at any time, the
35 Commission becomes aware that the information contained in the registration
36 statement filed is or has become misleading, incorrect, inadequate or
37 incomplete in any material respect, or the sale or offering for sale of the

1 security registered thereunder may work or tend to work a fraud, the
2 Commission may require from the issuer filing such statement and any other
3 information as may in its judgment be necessary to enable the Commission to
4 ascertain whether the registration of such security should be revoked on any
5 ground specified in this Act. The Commission may also suspend the right to
6 sell and offer for sale such security pending further investigation, by entering
7 an order specifying the grounds for such action, and by notifying in writing
8 by mail, by messenger, by facsimile with confirmed transmission report, the
9 issuer filing such statement and any underwriter, dealer or broker known as
10 participating in such offering (hereinafter referred to as "suspension notice").

11 (b) The refusal to furnish information required by the Commission,
12 within a reasonable time to be fixed by the Commission, may be a proper
13 ground for the entry of an order of suspension pursuant to subsection (a).

14 (c) The Commission may conduct an examination in any case in
15 order to determine whether a suspension order should be issued under
16 subsection (a). In making such examination, the Commission or any officer
17 or officers designated by it shall, subject to existing laws, have access to, and
18 may demand, the production of, any books and records of, and may
19 administer oaths and affirmations to and examine the issuer, any underwriter,
20 or any other person, with respect to any matter relevant to the examination,
21 and may, in its discretion, subject to existing laws, require the production of
22 the corporate books and records, showing, among other things, the assets and
23 liabilities and income statement of the issuer, certified by a public
24 accountant. Failure of an issuer or underwriter to cooperate, or his
25 obstruction or refusal to undergo an examination, shall be ground for the
26 issuance of a suspension order under this section: *Provided*, That in case of
27 banks and other financial intermediaries supervised by the Bangko Sentral ng
28 Pilipinas, the extent of disclosure shall be subject to Monetary Board rules
29 and regulations on the matter.

30 (d) Upon entry of a suspension order and service of a suspension
31 notification, no further offer or sale of any such security shall be made until
32 the Commission orders otherwise. Any such sale shall be void. Issuers
33 subject to such order shall comply with Section 11 (a) (2) of this Act.

34 (e) In the event of the entry of an order of suspension, the
35 Commission shall give a prompt hearing to the parties interested. If after
36 such hearing, the Commission determines that the sale of any security should
37 be revoked on any ground specified in this Act, it shall make necessary

1 findings and enter a final order prohibiting sale of such security. If, however,
2 after a hearing the Commission finds that the sale of the security will neither
3 be fraudulent nor result in fraud, it shall forthwith enter an order revoking the
4 order of suspension, and such security shall be restored to its status as a
5 security registered under Section 9 of this Act as of the date of such order of
6 suspension.

7 CHAPTER III

8 REGULATION OF COMMODITY INTERESTS AND PRE-NEED PLANS

9 SEC. 13. *Commodity Interest Contracts.* – (a) No person shall offer,
10 sell or enter into commodity interest contracts except in accordance with
11 rules, regulations and orders the Commission may prescribe in the public
12 interest for allowing transactions in such commodity interest contracts.

13 (b) The Commission is authorized under this section to promulgate
14 rules and regulations necessary and appropriate for the regulation of
15 accounts, agreements and transactions involving commodity interest
16 contracts. Such regulations may include:

17 (1) Prohibiting fraud, manipulation, fictitious transactions, undue
18 speculation and other unfair and abusive trading practices;

19 (2) Registering commodity exchanges and commodity associations,
20 providing for approval by the Commission of the rules thereof (including
21 terms of commodity interest contracts traded on such exchanges or in
22 markets supervised by such associations) and requiring enforcement of such
23 rules, in a manner similar to that provided in this Act for the regulation of
24 exchanges;

25 (3) Licensing market professionals, such as futures commission
26 merchants/brokers, persons associated with futures commission merchants,
27 floor brokers, pool operators and commodity trading advisors in a manner
28 similar to that provided in this Act for securities brokers, dealers, salesmen
29 and associated persons of a broker and dealer;

30 (4) Imposing requirements on the persons referred to in paragraphs
31 (2) and (3), with respect to disclosure, reporting, record keeping,
32 examination, capital, bonding and other financial responsibility, and
33 segregation of margin deposits and other customer funds; and

34 (5) Additional protections for investors to ensure the development of
35 a fair and transparent commodities market.

36 (c) The Commission shall prohibit transactions with respect to all or
37 specified commodity interest contracts if it finds, after proper notice and

1 opportunity for hearing, that such transactions may cause grave or irreparable
2 injury to the investing public.

3 SEC. 14. *Pre-Need Plans.* – (a) No person shall offer for sale or sell
4 to the public any pre-need plan except in accordance with rules, regulations
5 and orders the Commission shall prescribe in the public interest and for the
6 protection of planholders.

7 (b) The Commission is authorized under this section to promulgate
8 rules, regulations and orders necessary and appropriate to regulate the sale of
9 pre-need plans by, among other things, prohibiting fraud, registering the
10 offering of pre-need plans, licensing persons involved in the sale of pre-need
11 plans, requiring disclosures to prospective planholders prescribing
12 advertising guidelines, providing for reports and record keeping with respect
13 to such plans, imposing capital, bonding and other financial responsibility
14 and other security requirements, and establishing trust funds sufficient in
15 amount for the payment of benefits under such plans at any given time.

16 (c) The Commission shall create a new department within its control,
17 headed by a director to regulate and supervise the operations and activities of
18 pre-need plan companies in the country.

19 CHAPTER IV

20 REPORTORIAL REQUIREMENTS

21 SEC. 15. *Periodic and Other Reports of Issuers.* – (a) Every issuer
22 with a class of securities satisfying the requirements in subsection (b) hereof
23 shall file with the Commission:

24 (1) An annual report within one hundred thirty-five (135) days, or
25 such other time as the Commission by rule shall prescribe, after the end of
26 the issuer's fiscal year which shall include a balance sheet, profit and loss
27 statement and statement of cash flows, for such last fiscal year, certified by
28 an independent certified public accountant, and a management discussion
29 and analysis of results of operations; and

30 (2) Such other periodical reports for interim fiscal periods and
31 current reports on significant developments of the issuer as the Commission
32 may prescribe as necessary to update and keep current information on the
33 operation of the business and financial condition of the issuer.

34 (b) The reportorial requirements of subsection (a) hereof shall apply
35 to the following:

36 (1) An issuer which has sold a class of its securities pursuant to
37 registration under Section 9 hereof: *Provided, however,* That the obligation

1 of such issuer to file reports shall be suspended for any fiscal year after the
2 year such registration became effective if such issuer, as of the first day of
3 any such fiscal year, has less than one hundred (100) holders of such class of
4 securities or such other number as the Commission shall prescribe and it
5 notifies the Commission of such;

6 (2) An issuer with a class of securities listed for trading on an
7 exchange; and

8 (3) An issuer with assets of at least Fifty million pesos
9 (P50,000,000.00) or such other amount as the Commission shall prescribe,
10 and having two hundred (200) or more holders each holding at least one
11 hundred (100) shares of a class of its equity securities: *Provided, however,*
12 *That the obligation of such issuer to file reports shall be terminated ninety*
13 *(90) days after notification to the Commission by the issuer that the number*
14 *of its holders holding at least one hundred (100) shares is reduced to less than*
15 *one hundred (100).*

16 (c) Every issuer of a security listed for trading on an exchange shall
17 file with the exchange a copy of any report filed with the Commission under
18 subsection (a) hereof.

19 (d) All reports (including financial statements) required to be filed
20 with the Commission pursuant to subsection (a) hereof shall be in such form,
21 contain such information necessary to keep current information previously
22 filed with the Commission in a registration statement or comparable
23 information filed with an Exchange, where such company is listed, and be
24 filed at such times as the Commission by rule shall prescribe, and shall be in
25 lieu of any periodical or current reports or financial statements otherwise
26 required to be filed under the Corporation Code.

27 (e) Every issuer which has a class of equity securities satisfying any
28 of the requirements in subsection (b) shall furnish to each holder of such
29 equity security an annual report in such form and containing such
30 information as the Commission by rule shall prescribe.

31 (f) Within such period as the Commission by rule may prescribe
32 preceding the annual meeting of the holders of any equity security of a class
33 entitled to vote at such meeting, the issuer shall transmit to such holders an
34 annual report in conformity with subsection (e).

35 (g) The Commission, by rule, regulation or order upon application,
36 and subject to such terms and conditions as may be prescribed therein, may
37 exempt any issuer from the provisions of this section except the requirement

1 governing annual reports, if it finds that such exemption is appropriate and
2 serves an identified public interest and is consistent with the protection of
3 investors and the policy of full disclosure by companies subject to reporting
4 requirements under subsection (b) of this section.

5 SEC. 16. *Reports by Ten Percent (10%) Holders of Equity Securities.*

6 – (a) In every case in which an issuer has a class of equity security that
7 satisfies the requirements of subsection (b) of Section 15 hereof, any person
8 who, after acquiring directly or indirectly the beneficial ownership of any
9 such equity security, is directly or indirectly the beneficial owner of more
10 than ten percent (10%) of such class or in excess of such lesser percent as the
11 Commission by rule may prescribe, shall, within ten (10) days after such
12 acquisition or such reasonable time as fixed by the Commission, submit to
13 the issuer of the security, to the exchange where the security is traded, and to
14 the Commission a sworn statement containing the following information and
15 such other information as the Commission may require in the public interest
16 or for the protection of investors:

17 (1) The background, identity, residence and citizenship of, and the
18 nature of such beneficial ownership by, such person and all other persons by
19 whom or on whose behalf the purchases are effected; in the event the
20 beneficial owner is a juridical person, the lines of business of the beneficial
21 owner shall also be reported;

22 (2) If the purpose of the purchases or prospective purchases is to
23 acquire control of the business of the issuer of the securities, any plans or
24 proposals which such persons may have that will effect a major change in its
25 business or corporate structure;

26 (3) The number of shares of such security which are beneficially
27 owned, and the number of shares concerning which there is a right to
28 acquire, directly or indirectly, by (i) such person, and (ii) by each associate of
29 such person, giving the background, identity, residence and citizenship of
30 each such associate; and

31 (4) Information as to any contracts, arrangements or understanding
32 with any person with respect to any securities of the issuer including but not
33 limited to transfer, joint ventures, loan or option arrangements, puts or calls,
34 guarantees or division of losses or profits, or proxies naming the persons with
35 whom such contracts, arrangements or understanding have been entered into,
36 and giving the details thereof.

1 (b) If any material change occurs in the facts set forth in the
2 statements, an amendment shall be transmitted to the issuer, the exchange
3 and the Commission in accordance with such rules and regulations as the
4 Commission may prescribe as necessary or appropriate in the public interest
5 or for the protection of investors.

6 (c) The Commission, by rule or regulation or by order, may permit
7 any person to file in lieu of the statement required by subsection (a) hereof, a
8 notice stating the name of such person, the shares of any equity securities
9 subject to subsection (a) which are owned by him, the date of their
10 acquisition and such other information as the Commission may specify, if it
11 appears to the Commission that such securities were acquired by such person
12 in the ordinary course of his business and were not acquired for the purpose
13 of and do not have the effect of changing or influencing the control of the
14 issuer nor in connection with any transaction having such purpose or effect.

15 CHAPTER V

16 CIVIL LIABILITIES

17 SEC. 17. *Civil Liabilities on Account of False Registration Statement.*

18 – (a) Any person acquiring a security, the registration statement of which or
19 any part thereof contains on its effectivity an untrue statement of a material
20 fact or omits to state a material fact required to be stated therein or necessary
21 to make such statements not misleading, and who suffers damage, may sue
22 and recover damages from the following enumerated persons, unless it is
23 proved that at the time of such acquisition he knew of such untrue statement
24 or omission:

25 (1) The issuer and every person who signed the registration
26 statement;

27 (2) Every person who was a director of, or any other person
28 performing similar functions, or a partner in, the issuer at the time of the
29 filing of the registration statement or any part, supplement or amendment
30 thereof with respect to which his liability is asserted;

31 (3) Every person who is named in the registration statement as a
32 director of, or a person performing similar functions, or a partner in, the
33 issuer and whose written consent thereto is filed with the registration
34 statement;

35 (4) Every person whose profession gives authority to a statement
36 made by him, who, with his written consent, which shall be filed with the
37 registration statement, has been named as having prepared or certified any

1 part of the registration statement, or as having prepared or certified any
2 report or valuation which is used in connection with the registration
3 statement, with respect to the statement in such registration statement, report
4 or valuation, which purports to have been prepared or certified by him;

5 (5) Every selling shareholder who contributed to and certified as to
6 the accuracy of a portion of the registration statement, with respect to that
7 portion of the registration statement which purports to have been contributed
8 by him; and

9 (6) Every underwriter with respect to such security.

10 If the person who acquired the security did so after the issuer has
11 made generally available to its security holders an earnings statement
12 covering a period of at least twelve (12) months beginning from the effective
13 date of the registration statement, then the right of recovery under this
14 subsection shall be conditioned on proof that such person acquired the
15 security relying upon such untrue statement in the registration statement or
16 relying upon the registration statement and not knowing of such earnings
17 statement.

18 (b) Notwithstanding the provisions of subsection (a) no person, other
19 than the issuer, shall be liable as provided therein if he proves:

20 (1) That before the effective date of the part of the registration
21 statement with respect to which his liability is asserted (i) he had resigned
22 from or had taken such steps as are permitted by law to resign from, or
23 ceased or refused to act in, every office, capacity or relationship in which he
24 was described in the registration statement as acting or agreeing to act and
25 (ii) he had advised the Commission and the issuer in writing that he had
26 taken such action and that he would not be responsible for such part of the
27 registration statement; or

28 (2) That (i) as regards any part of the registration statement not
29 purporting to be a copy of or extract from a report or valuation of an expert,
30 and not purporting to be made on the authority of a public official document
31 or statement, he had, after reasonable investigation, reasonable ground to
32 believe and did believe, at the time such part of the registration statement
33 became effective, that the statements therein were true and that there was no
34 omission to state a material fact required to be stated therein or necessary to
35 make the statements therein true and that there was no omission to state a
36 material fact required to be stated therein or necessary to make the statements
37 not misleading; and (ii) as regards any part of the registration statement

1 purporting to be made upon his authority as an expert or purporting to be a
2 copy of or extract from a report or valuation of himself as an expert, (i-a) he
3 had, after reasonable investigation, reasonable ground to believe and did
4 believe, at the time such part of the registration statement became effective,
5 that the statements therein were true and that there was no omission to state a
6 material fact required to be stated therein or necessary to make the statements
7 therein not misleading, or (ii-a) such part of the registration statement did not
8 fairly represent his statement as an expert or was not a fair copy of or extract
9 from his report or valuation as an expert; and (iii) as regards any part of the
10 registration statement purporting to be made on the authority of an expert
11 (other than himself) or purporting to be a copy of or extract from a report or
12 valuation of an expert (other than himself), he had no reasonable ground to
13 believe and did not believe, at the time such part of the registration statement
14 became effective, that the statements therein were untrue or that there was an
15 omission to state a material fact required to be stated therein or necessary to
16 make the statements therein not misleading, or that such part of the
17 registration statement did not fairly represent the statement of the expert or
18 was not a fair copy of or extract from the report or valuation of the expert;
19 and (iv) as regards any part of the registration statement purporting to be a
20 statement made by a public official or purporting to be a copy of or extract
21 from a public official document, he had no reasonable ground to believe and
22 did not believe, at the time such part of the registration statement became
23 effective, that the statements therein were untrue, or that there was an
24 omission to state a material fact required to be stated therein or necessary to
25 make the statements therein not misleading, or that such part of the
26 registration statement did not fairly represent the statement made by the
27 public official or was not a fair copy of or extract from the public official
28 document.

29 (c) In determining, for the purpose of paragraph (2) of subsection (b)
30 of this section, what constitutes reasonable investigation and reasonable
31 ground for belief, the standard of reasonableness shall be that required of a
32 prudent man in the management of his own property.

33 (d) The suit authorized under subsection (a) may be filed to recover
34 such damages as shall represent double the difference between the amount
35 paid and committed to be paid for the security, not exceeding the price at
36 which the security was offered to the public, and (1) the value thereof as of
37 the time such suit was brought, or in case the security has been disposed of,

1 (2) the price at which such security shall have been disposed of in the market
 2 before the suit, or (3) the price at which such security shall have been
 3 disposed of after the filing of the suit but before judgment: *Provided,*
 4 *however,* That if the defendant proves that the matter alleged to have been
 5 misrepresented was not the proximate cause of all or part of the damage
 6 claimed, such portion or all damages shall not be recoverable. No
 7 underwriter shall be liable in any suit or as a consequence of suits authorized
 8 under subsection (a) hereof for damages in excess of the total price at which
 9 the securities underwritten by him and distributed to the public were offered
 10 to the public.

11 (e) The persons specified in subsection (a) hereof shall be jointly and
 12 severally liable for the payment of damages. However, any person who
 13 becomes liable for the payment of such damages may recover contribution
 14 from any other person who, if sued separately, would have been liable to
 15 make the same payment, unless the former was guilty of fraudulent
 16 representation and the latter was not.

17 (f) In no case shall the amount recoverable under this section exceed
 18 double the price at which the security was offered to the public and such
 19 exemplary damages as may be awarded.

20 (g) Notwithstanding any provision of law to the contrary, all persons,
 21 including the issuer, held liable under this section, shall contribute equally to
 22 the total liability adjudged herein. In no case shall the principal stockholders,
 23 directors and other officers of the issuer or persons occupying similar
 24 positions therein, recover their contribution to the liability from the issuer.
 25 However, the right of the issuer to recover from the guilty parties the amount
 26 it has contributed under this section shall not be prejudiced.

27 (h) In any suit under this or any other subsection of this Act, the
 28 Court may, in its discretion, require the payment of the costs of such suit,
 29 including reasonable attorney's fees may be allowed by the Court to the
 30 prevailing party litigant.

31 SEC. 18. *Civil Liabilities Arising in Connection with Prospectus,*
 32 *Communications and Reports.* – (a) Any person who:

33 (1) offers to sell or sells a security in violation of Chapter II; or

34 (2) offers to sell or sells a security, whether or not exempted by the
 35 provisions of this Act, by the use of any means or instruments of
 36 transportation or communication, by means of a prospectus or other written
 37 or oral communication, which includes an untrue statement of a material fact

1 or omits to state a material fact necessary in order to make the statements, in
2 the light of the circumstances under which they were made, not misleading
3 (the purchaser not knowing of such untruth or omission), and who shall fail
4 in the burden of proof that he did not know, and in the exercise of reasonable
5 care could not have known, of such untruth or omission, shall be liable to the
6 person purchasing such security from him, who may sue to recover the
7 consideration paid for such security with interest thereon, less the amount of
8 any income received thereon, upon the tender of such security, or for
9 damages if he no longer owns the security.

10 (b) Any person who shall make or cause to be made any statement in
11 any report, or document filed pursuant to this Act or any rule or regulation
12 thereunder, which statement was at the time and in the light of the
13 circumstances under which it was made false or misleading with respect to
14 any material fact, shall be liable to any person who, not knowing that such
15 statement was false or misleading, and relying upon such statements shall
16 have purchased or sold a security at a price which was affected by such
17 statement, for damages caused by such reliance, unless the person sued shall
18 prove that he acted in good faith and had no knowledge that such statement
19 was false or misleading.

20 (c) Any person who becomes liable to make payment under this
21 section and Sections 19 through 22 may recover contribution as in cases of
22 contract from any person who, if joined in the original suit, would have been
23 liable to make the same payment.

24 SEC. 19. *Civil Liability for Fraud in Connection with Securities*
25 *Transactions.* – Any person who makes any untrue statement of material fact
26 or omits to state any material fact necessary in order to make the statements
27 made, in light of the circumstances under which they are made, not
28 misleading in violation of Section 24(e) or 32, or any rule or regulation of the
29 Commission thereunder, shall be liable to any other person who, in reliance
30 on such materially misleading statements or omissions, purchases or sells any
31 security, or accepts or declines an invitation for tender of a security, as the
32 case may be, for the damages sustained by such other person as a result of
33 such act or transaction: *Provided, however,* That plaintiff's reliance on such
34 statements or omissions shall be presumed unless defendant can show that
35 such damages were caused by other unrelated factors.

36 SEC. 20. *Civil Liability for Manipulation of Security Prices.* – Any
37 person who willfully participates in any act or transaction in violation of

1 Section 30 shall be liable to any person who shall purchase or sell any
2 security at a price which was affected by such act or transaction, and the
3 person so injured may sue to recover the damages sustained as a result of
4 such act or transaction.

5 SEC. 21. *Civil Liability on Account of Insider Trading.* – (a) Any
6 insider who violates Section 33(a), and any person in the case of a tender
7 offer who violates Section 33 (b)(1), or any rule or regulation thereunder, by
8 purchasing or selling a security while in possession of material information
9 not generally available to the public, shall be liable in a suit brought by any
10 investor who, contemporaneously with the purchase or sale of securities that
11 is the subject of the violation, purchased or sold securities of the same class
12 unless such insider, or such person in the case of a tender offer, sustains the
13 burden of proof that such investor knew the information or would have
14 purchased or sold at the same price regardless of disclosure of the
15 information to him.

16 (b) The actual damages that may be imposed shall be equal to the
17 difference between the price at which such investor purchased or sold the
18 security and the market value which such security would have had at the time
19 of the purchase or sale if the information known to such insider, or such
20 person in the case of a tender offer, had been publicly disseminated and
21 absorbed by the market prior to such time: *Provided, however,* That in no
22 event shall the total amount of all damages imposed exceed the profit gained
23 or loss avoided in the transactions that comprised the violation.

24 (c) An insider who violates Section 33(a)(2), or any person in the
25 case of a tender offer who violates Section 33(b), or any rule or regulation
26 thereunder, by communicating material non-public information, shall be
27 jointly and severally liable under subsection (a) with, and to the same extent
28 as, the insider, or person in the case of a tender offer, to whom the
29 communication was directed and who is liable under subsection (a) by reason
30 of his purchase or sale of a security.

31 SEC. 22. *Civil Liability with Respect to Commodity Interest*
32 *Contracts and Pre-Need Plans.* – (a) Any person who engages in any act or
33 transaction in willful violation of any rule or regulation promulgated by the
34 Commission under Section 13 or 14, which the Commission denominates at
35 the time of issuance as intended to prohibit fraud in the offer and sale of pre-
36 need plans or to prohibit fraud, manipulation, fictitious transactions, undue
37 speculation, or other unfair or abusive practices with respect to commodity

1 interest contracts, shall be liable to any other person sustaining damage as a
2 result of such act or transaction.

3 (b) As to each such rule or regulation so denominated, the
4 Commission by rule shall prescribe the elements of proof required for
5 recovery and any limitations on the amount of damages that may be imposed.

6 SEC. 23. *Limitation of Actions.* – (a) No action shall be maintained to
7 enforce any liability created under Section 17 or Section 18 of this Act unless
8 brought within two (2) years after the discovery of the untrue statement or
9 the omission, or, if the action is to enforce a liability created under Section
10 17(a)(1), unless brought within two (2) years after the violation upon which it
11 is based. In no event shall any such action be brought to enforce a liability
12 created under Section 17 or 18(a)(1) more than five (5) years after the
13 security was bona fide offered to the public, or under Section 18(a)(2) more
14 than five (5) years after the sale.

15 (b) No action shall be maintained to enforce any liability created
16 under any other provision of this Act unless brought within two (2) years
17 after the discovery of the facts constituting the cause of action and within five
18 (5) years after such cause of action accrued.

19 (c) All suits to recover damages or otherwise impose civil liability
20 pursuant to this chapter shall be brought before the appropriate regional trial
21 courts, which shall have exclusive jurisdiction to hear and decide such suits.

22 CHAPTER VI

23 PROTECTION OF SHAREHOLDER INTERESTS

24 SEC. 24. *Tender Offers.* – (a) (1) It shall be unlawful for any person,
25 directly or indirectly, to make a tender offer for, or a request or invitation for
26 tenders of, any class of any equity security which satisfies the requirements
27 of subsection (b) of Section 15 if, after consummation thereof, such person
28 would, directly or indirectly, be the beneficial owner of more than ten
29 percent (10%) of such class, or in excess of such lesser percent as the
30 Commission may prescribe, unless at the time copies of the offer or request
31 or invitation are first published or sent or given to security holders, such
32 person has filed with the Commission and furnished the issuer a statement
33 containing such information required in Section 16 of this Act as the
34 Commission may prescribe. All requests or invitations for tender, or
35 advertisements making a tender offer or requesting or inviting tenders of
36 such a security, shall be filed as a part of such statement as the Commission
37 may prescribe. Copies of any additional material soliciting or requesting

1 such tender offers subsequent to the initial solicitation or request shall
2 contain such information as the Commission may prescribe as necessary or
3 appropriate in the public interest or for the protection of investors, and shall
4 be filed with the Commission and sent to the issuer not later than the time
5 copies of such materials are first published or sent or given to security
6 holders.

7 (2) Any solicitation or recommendation to the holders of such a
8 security to accept or reject a tender offer or request or invitation for tenders
9 shall be made in accordance with such rules and regulations as the
10 Commission may prescribe as necessary or appropriate in the public interest
11 or for the protection of investors.

12 (3) Securities deposited pursuant to a tender offer or request or
13 invitation for tenders may be withdrawn by or on behalf of the depositor
14 within such period as the Commission may otherwise prescribe by rules,
15 regulations, or order as necessary or appropriate in the public interest or for
16 the protection of investors.

17 (4) Where any person makes a tender offer, or request or invitation
18 for tenders, for less than all the outstanding equity securities of a class, and
19 where a greater number of securities is deposited pursuant thereto within
20 such period to be prescribed by the Commission by rule, than such person is
21 bound or willing to take up and pay for, the securities shall be taken up *pro*
22 *rata*, disregarding fractions, according to the number of securities deposited
23 by each depositor. The provisions of this subsection shall also apply to
24 securities deposited within ten (10) days after notice of an increase in the
25 consideration offered to security holders, as described in paragraph (5) of this
26 subsection, is first published or sent or given to security holders.

27 (5) Where any person varies the terms of a tender offer or request or
28 invitation for tenders before the expiration thereof by increasing the
29 consideration offered to holders of such securities, such person shall pay the
30 increased consideration to each security holder whose securities are taken up
31 and paid for whether or not such securities have been taken up by such
32 person before the variation of the tender offer or request or invitation.

33 (b) The provisions of subsection (a) of Section 16 and subsection (a)
34 of this section shall not apply to the ownership of, or to any offer for, or
35 request or invitation for tenders of, any equity security:

36 (1) if the acquisition of such security, together with all other
37 acquisitions by the same person of securities of the same class during the

1 preceding twelve (12) months would not exceed two percent (2%) of that
2 class; or

3 (2) by the issuer of such security; or

4 (3) which the Commission, by rules or regulations or by order, shall
5 exempt as not entered into for the purpose of, and not having the effect of,
6 changing or influencing the control of the issuer or otherwise as not
7 comprehended within the purpose of said sections.

8 (c) When two (2) or more persons act as a partnership, limited
9 partnership, syndicate, or other group for the purpose of acquiring, holding,
10 or disposing of securities of an issuer, such syndicate or group shall be
11 deemed a "person" for the purposes of Section 16 and subsection (a) of this
12 section.

13 (d) In determining, for purposes of Section 16 and subsection (a) of
14 this section, any percentage of a class of any security, such class shall be
15 deemed to consist of the amount of the outstanding securities of such class,
16 exclusive of any securities of such class held by or for the account of the
17 issuer or a subsidiary of the issuer.

18 (e) It shall be unlawful for any person to make any untrue statement
19 of a material fact or omit to state any material fact necessary in order to make
20 the statements made, in the light of the circumstances under which they are
21 made, not misleading, or to engage in any fraudulent, deceptive or
22 manipulative acts or practices, in connection with any tender offer or request
23 or invitation for tenders, or any solicitation of security holders in opposition
24 to or in favor of any such offer, request or invitation. The Commission shall,
25 for purposes of this subsection, by rules and regulations, define and prescribe
26 means reasonably designed to prevent such acts and practices as are
27 fraudulent, deceptive or manipulative.

28 (f) Subject to the limitations of subsection (b), the Commission may
29 by rule, for the protection of investors and in the public interest, specify
30 circumstances in which the use of a tender offer for some or all shares shall
31 be required.

32 **SEC. 25. Purchases by Issuers.** – (a) In connection with the purchase
33 by an issuer, by tender offer or otherwise, of any class of equity security
34 issued by it that satisfied the requirements of Section 15 (b) hereof, the
35 Commission may adopt rules reasonably designed to prevent fraudulent,
36 deceptive or manipulative practices in connection with such purchases,
37 including rules (1) requiring the issuer to provide holders of equity securities

1 of such class with such information relating to the reasons for such purchase,
2 the source of funds, the number of shares to be purchased, the price to be
3 paid for such securities, the method of purchase and such additional
4 information as the Commission deems material to a determination by holders
5 thereof whether such security should be sold and imposing requirements and
6 prohibitions similar to those imposed in connection with a tender offer under
7 Section 24 of this Act, and (2) regulating the number of brokers through
8 whom the transactions can be executed, the timing of such purchases, the
9 amount of the purchase price in relation to current market price, and volume
10 limitations, where the Commission finds that there is a potential for market
11 manipulation.

12 (b) For the purpose of this section, a purchase by or for the issuer or
13 any person controlling, controlled by, or under common control with the
14 issuer, or a purchase subject to the control of the issuer or any such person,
15 shall be deemed to be a purchase by the issuer. The Commission shall have
16 the power to make rules and regulations implementing this subsection in the
17 public interest and for the protection of investors, including exemptive rules
18 and regulations covering situations in which the Commission deems it
19 unnecessary or inappropriate that a purchase of the type described in this
20 subsection shall be deemed to be a purchase by the issuer for the purpose of
21 some or all of the provisions of subsection (a) of this section.

22 SEC. 26. *Proxy Solicitations.* – With respect to any class of equity
23 security that satisfies the requirements of subsection (b) of Section 15:

24 (a) The Commission is authorized to promulgate rules and
25 regulations governing the solicitation of proxies, consents and authorizations
26 with respect to any such class of equity security. In addition to requirements
27 imposed under the Corporation Code, such rules and regulations may,
28 require the filing with the Commission of a proxy statement and other
29 materials proposed for use in any solicitation, prescribe the form and content
30 of such materials and of any proxy, consent or authorization, fix the periods
31 within which a solicitation may occur, impose restrictions on the time in
32 which and the purpose for which a proxy, consent or authorization may be
33 effective, and prevent fraudulent and deceptive practices in connection
34 therewith.

35 (b) The Commission is authorized to promulgate rules and
36 regulations governing the obligations of any member of an exchange, any
37 broker or dealer, or any bank, association, or other entity that exercises

1 fiduciary powers, to give, or to refrain from giving a proxy, consent or
2 authorization with respect to any such class of equity security, and which is
3 carried for the account of a customer thereof.

4 (c) Unless proxies, consents or authorizations with respect to any
5 such class of equity security are solicited by or on behalf of the management
6 of the issuer from the holders of record of such security in accordance with
7 the rules and regulations prescribed under subsection (a) of this section, such
8 issuer shall, prior to any annual or other meeting of the holders of such
9 security (or the taking of any action without a meeting) and in accordance
10 with rules and regulations prescribed by the Commission, file with the
11 Commission and transmit to all holders of record of such security an
12 information statement containing information substantially equivalent to that
13 which would be required in a proxy statement if a solicitation were made.

14 (d) Notwithstanding any provision of the Corporation Code to the
15 contrary, notice of any annual or special meeting of the holders of any equity
16 security of a class entitled to vote at such meeting shall be mailed or
17 otherwise transmitted at least fifteen (15) days prior thereto.

18 (e) No solicitation of a proxy, consent or authorization shall be made
19 by means of a proxy statement, form of proxy or consent, notice of meeting
20 or other communication, written or oral, which is materially false or
21 misleading, or which fails to disclose material facts necessary to correct any
22 statement in an earlier communication made with respect to the solicitation
23 of a proxy, consent or authorization for the same meeting or subject matter,
24 which has become false or misleading.

25 *SEC. 27. Fees for Tender Offers and Certain Proxy Solicitations. –*
26 At the time of filing with the Commission of any statement required under
27 Section 24 for any tender offer or Section 25 for issuer repurchases, or of
28 proposed proxy or consent solicitation materials under Section 26, the
29 Commission may require by rule that the person making such filing pay a fee
30 of not more than one-tenth of one per cent of:

31 (a) The proposed aggregate purchase price in the case of a
32 transaction under Section 24 or 25; or

33 (b) The proposed payment in cash, and the value of any securities or
34 property to be transferred in the acquisition, merger or consolidation, or the
35 cash and value of any securities proposed to be received upon the sale or
36 disposition of such assets in the case of a solicitation under Section 26.

1 SEC. 28. *Internal Record Keeping and Accounting Controls.* – (a)
2 Every issuer which has a class of securities that satisfies the requirements of
3 subsection (b) of Section 15 shall:

4 (1) Make and keep books, records and accounts which, in reasonable
5 detail accurately and fairly reflect the transactions and dispositions of assets
6 of the issuer; and

7 (2) Devise and maintain a system of internal accounting controls
8 sufficient to provide reasonable assurances that (i) transactions and access to
9 assets are pursuant to management authorization, (ii) financial statements are
10 prepared in conformity with generally accepted accounting principles that are
11 adopted by the accounting standards council and the rules promulgated by
12 the Commission with regard to the preparation of financial statements, and
13 (iii) recorded assets are compared with existing assets at reasonable intervals
14 and differences are reconciled.

15 SEC. 29. *Transactions of Directors, Officers and Principal*
16 *Stockholders.* – (a) Any person who is directly or indirectly the beneficial
17 owner of more than ten percent (10%) of any class of any equity security
18 which satisfies the requirements of subsection (b) of Section 15, or who is a
19 director or an officer of the issuer of such security, shall file, at the time
20 either such requirement is first satisfied or within ten (10) days after he
21 becomes such a beneficial owner, director or officer, a statement with the
22 Commission and, if such security is listed for trading on an exchange, also
23 with the exchange, of the amount of all equity securities of such issuer of
24 which he is the beneficial owner, and within ten (10) days after the close of
25 each calendar month thereafter, if there has been a change in such ownership
26 during such month, shall file with the Commission, and if such security is
27 listed for trading on an exchange, shall also file with the exchange, a
28 statement indicating his ownership at the close of the calendar month and
29 such changes in his ownership as have occurred during such calendar month.

30 (b) For the purpose of preventing the unfair use of information which
31 may have been obtained by such beneficial owner, director or officer by
32 reason of his relationship to the issuer, any profit realized by him from any
33 purchase and sale, or any sale and purchase, of any equity security of such
34 issuer within any period of less than six (6) months, unless such security was
35 acquired in good faith in connection with a debt previously contracted, shall
36 inure to and be recoverable by the issuer, irrespective of any intention of
37 holding the security purchased or of not repurchasing the security sold for a

1 period exceeding six (6) months. Suit to recover such profit may be
 2 instituted before the appropriate regional trial court by the issuer, or by the
 3 owner of any security of the issuer in the name and in behalf of the issuer if
 4 the issuer shall fail or refuse to bring such suit within sixty (60) days after
 5 request or shall fail diligently to prosecute the same thereafter, but no such
 6 suit shall be brought more than two (2) years after the date such profit was
 7 realized. This subsection shall not be construed to cover any transaction
 8 where such beneficial owner was not such both at the time of the purchase
 9 and sale, or the sale and purchase, of the security involved, or any transaction
 10 or transactions which the Commission by rules and regulations may exempt
 11 as not comprehended within the purpose of this subsection.

12 (c) It shall be unlawful for any such beneficial owner, director or
 13 officer, directly or indirectly, to sell any equity security of such issuer if the
 14 person selling the security or his principal (1) does not own the security sold,
 15 or (2) if owning the security, does not deliver it against such sale within the
 16 settlement period prescribed in the Commission, exchange and/or clearing
 17 agency rules.

18 (d) The provisions of subsection (b) of this section shall not apply to
 19 any purchase and sale, or sale and purchase, and the provisions of subsection
 20 (c) of this section shall not apply to any sale, of an equity security not then or
 21 thereafter held by him in an investment account, by a dealer in the ordinary
 22 course of his business and incident to the establishment or maintenance by
 23 him of a primary or secondary market, otherwise than on an exchange, for
 24 such security. The Commission may, by such rules and regulations as it
 25 deems necessary or appropriate in the public interest, define and prescribe
 26 terms and conditions with respect to securities held in an investment account
 27 and transactions made in the ordinary course of business and incident to the
 28 establishment or maintenance of a primary or secondary market.

29 CHAPTER VII

30 PROHIBITIONS ON FRAUD, MANIPULATION AND INSIDER TRADING

31 SEC. 30. *Manipulation of Security Prices; Devices and Practices.* -

32 (a) It shall be unlawful for any person, directly or indirectly:

33 (1) For the purpose of creating a false or misleading appearance of
 34 active trading in any security listed for trading on an exchange or transacted
 35 on any other trading market, or a false or misleading appearance with respect
 36 to the market for any such security:

1 (i) To effect any transaction in such security which involves no
2 change in the beneficial ownership thereof; or

3 (ii) To enter an order or orders for the purchase of such security with
4 the knowledge that an order or orders of substantially the same size, time and
5 price, for the sale of any such security, has or have been or will be entered by
6 or for the same or different parties; or

7 (iii) To enter any order or orders for the sale of any such security
8 with the knowledge that an order or orders of substantially the same size,
9 time and price for the purchase of any such security, has or have been or will
10 be entered by or for the same or different parties.

11 (2) To effect, alone or with one or more persons, a series of
12 transactions in securities that (i) raises their price for the purpose of inducing
13 the purchase of a security, whether of the same or a different class of the
14 same issuer or of a controlling, controlled or commonly controlled company
15 by others, (ii) depresses their price for the purpose of inducing the sale of a
16 security, whether of the same or a different class, of the same issuer or of a
17 controlling, controlled or commonly controlled company by others or (iii)
18 creates active trading, actual or apparent, for the purpose of inducing such a
19 purchase or sale.

20 (3) If a dealer or broker, or other person selling or offering for sale or
21 purchasing or offering to purchase the security, to induce the purchase or sale
22 of any security listed for trading on an exchange or transacted on any other
23 trading market by the circulation or dissemination in the ordinary course of
24 business of information to the effect that the price of any such security will or
25 is likely to rise or fall because of market operations of any one or more
26 persons conducted for the purpose of raising or depressing the price of such
27 security;

28 (4) If a dealer or broker or other person selling or offering for sale or
29 purchasing or offering to purchase the security, to make, regarding any such
30 security listed for trading on an exchange or transacted on any other trading
31 market, for the purpose of inducing the purchase or sale of such security, any
32 statement which was at the time and in the light of the circumstances under
33 which it was made, false or misleading with respect to any material fact, and
34 which he knew or had reasonable ground to believe was so false or
35 misleading;

36 (5) For a consideration received directly or indirectly from a dealer
37 or broker or other person selling or offering for sale or purchasing or offering

1 to purchase the security, to induce the purchase or sale of any security on an
2 exchange or transacted on any other trading market by the circulation or
3 dissemination of information to the effect that the price of any such security
4 will or is likely to rise or fall because of the market operations of any one or
5 more persons conducted for the purpose of raising or depressing the price of
6 such security; and

7 (6) To effect, either alone or with one or more other persons, any
8 series of transactions for the purchase and/or sale of any security listed for
9 trading on an exchange for the purpose of pegging, fixing or stabilizing the
10 price of such security in contravention of such rules and regulations as the
11 Commission may prescribe as necessary to promote the success of a
12 securities offering and ensure the protection of investors.

13 (b) No person, by use of any facility of any exchange or of any other
14 trading market, shall:

15 (1) Effect a short sale, or use or employ any stop-loss order in
16 connection with the purchase or sale of any security on an exchange or
17 effected on any other trading market except in accordance with such rules
18 and regulations as the Commission may prescribe as necessary or appropriate
19 to ensure that such transactions do not increase the potential for fraud and
20 manipulation and/or that investors understand, and are able to undertake,
21 attendant risks; and

22 (2) Use or employ, in connection with the purchase or sale of any
23 security, any manipulative or deceptive device or contrivance.

24 (c) It shall be unlawful for any exchange or any other self-regulatory
25 organization administering a trading market to adopt and enforce artificial
26 measures of price control of any nature whatsoever without the prior
27 approval of the Commission which may be given only if it serves the public
28 interest and benefits investors.

29 SEC. 31. *Regulation of Option Trading.* – (a) No person shall offer,
30 sell, enter into, acquire an interest in, or, in the case of a member of an
31 exchange, guarantee an option or privilege (including any put, call or
32 straddle) on a security, a certificate of deposit, or a group or index of
33 securities (including any interest therein or based on the value thereof) which
34 is traded on an exchange except in accordance with rules and regulations
35 promulgated by the Commission.

36 (b) The Commission is authorized to regulate trading of any option
37 or privilege on an exchange by permitting such transactions on such terms

1 and conditions as the Commission may prescribe, and may prohibit any such
2 option transaction if it determines that such prohibition is necessary and
3 appropriate in the public interest or for the protection of investors.

4 (c) The terms "put", "call", "straddle", "option" or "privilege" as
5 used in this section shall not include any registered warrant, right or
6 convertible security.

7 SEC. 32. *Fraudulent Transactions.* – (a) It shall be unlawful for any
8 person, directly or indirectly, in connection with the purchase or sale of any
9 securities:

10 (1) To employ any device, scheme or artifice to defraud; or

11 (2) To obtain money or property by means of any untrue statement of
12 a material fact of any omission to state a material fact necessary in order to
13 make the statements made, in the light of the circumstances under which they
14 were made, not misleading; or

15 (3) To engage in any act, transaction, practice or course of business
16 which operates or would operate as a fraud or deceit upon any person.

17 SEC. 33. *Insider's Duty to Disclose When Trading.* – (a) It shall be
18 unlawful for an insider to:

19 (1) Sell or buy a security of the issuer, while in possession of material
20 information with respect to the issuer, or companies to which that
21 information relates, or the security that is not generally available to the
22 public. A purchase or sale of a security of the issuer made by an insider, or
23 such insider's spouse, parents, siblings or children, shall be presumed to have
24 been effected while in possession of material non-public information if
25 transacted after such information came into existence but prior to
26 dissemination of such information to the public: *Provided, however,* That
27 this presumption may be rebutted upon a showing by the purchaser or seller
28 that he had no knowledge of the material non-public information at the time
29 of the purchase or sale;

30 (2) Disclose material non-public information about the issuer, or
31 companies to which that information relates, to any third party where the
32 insider communicating the information knows, or has reason to believe, that
33 such person will likely buy or sell such security of that issuer or company
34 while in possession of such information; and

35 (3) Recommend to or procure a third party, on the basis of material
36 non-public information about the issuer, or companies to which that
37 information relates, to buy or sell that issuer's securities.

1 (b) It shall be unlawful where a tender offer for the securities of an
2 issuer (target company) has commenced or is about to commence:

3 (1) For any person (other than the tender offeror with respect to the
4 shares tendered during the offering) who is in possession of material non-
5 public information relating to such tender offer, to buy or sell the securities
6 of the target company that are sought or to be sought by such tender offer if
7 such person knows or has reason to believe that the information is non-public
8 and has been acquired directly or indirectly from the tender offeror, those
9 acting on its behalf, target company, or any insider of such target company;
10 and

11 (2) For any tender offeror, those acting on its behalf, the target
12 company, and any insider of such target company to disclose material non-
13 public information relating to the tender offer to any other person where such
14 communication is likely to result in a violation of paragraph (a) (2) of this
15 section or recommend to or procure a third party, on the basis of material
16 non-public information relating to the tender offer, to buy or sell the target
17 company's securities.

18 (d) It shall be unlawful for a person controlling any person who
19 violates subsection (a) of this section to knowingly or recklessly disregard
20 that such controlled person was likely to engage in such violation and fail to
21 take appropriate steps or adopt procedures to prevent such violations.

22 SEC. 34 *Transparency in the Public Trading of Securities.* – (a)
23 Unless exempt from registration under Section 7 or 8 of this Act or
24 specifically permitted under other laws implemented by the Commission or
25 under Commission rules, regulations or orders, all purchases and sales of
26 securities of reporting companies shall be concluded through a broker or
27 dealer.

28 (b) Unless specifically permitted under rules, regulations or orders
29 adopted by the Commission, trading in securities of reporting companies
30 which are listed on a stock exchange is not permitted off the floor of the
31 stock exchange where the securities are traded: *Provided, however,* That
32 they may be admitted for trading on more than one exchange.

33 SEC. 35. *Damages.* – All suits to recover damages for fraud,
34 manipulation and insider trading shall be filed with and brought before the
35 appropriate regional trial courts which shall have exclusive jurisdiction to
36 hear and decide such suits. Except as provided in Section 21 (b), the court is

1 hereby authorized to award damages in an amount not exceeding double the
2 amount of the transaction plus actual damages.

3 Exemplary damages may also be awarded in cases of bad faith, fraud,
4 malevolence or wantonness in the violation of this Act or the rules and
5 regulations promulgated thereunder.

6 The court is also authorized to award attorney's fees not exceeding
7 twenty percent (20%) of the award.

8 CHAPTER VIII

9 REGULATION OF SECURITIES MARKET PROFESSIONALS

10 SEC. 36. *Registration of Brokers, Dealers, Salesmen and Associated*
11 *Persons.* – (a) No person shall engage in the business of purchasing or selling
12 securities in the Philippines as a broker or dealer, or act as a salesman, or an
13 associated person of any broker or dealer unless registered as such with the
14 Commission pursuant to the provisions of this section.

15 (b) No registered broker or dealer shall employ any salesman or any
16 associated person, and no issuer shall employ any salesman, who is not
17 registered as such with the Commission pursuant to the provisions of this
18 section.

19 (c) The Commission, by rule or order upon application, may
20 conditionally or unconditionally exempt from subsections (a) and (b) of this
21 section, any broker, dealer, salesman, associated person of any broker or
22 dealer, or any class of the foregoing, where it finds that based upon factors
23 such as experience, training and knowledge, limited nature of activities,
24 sophistication of clients, location of clients, capitalization, and/or oversight
25 by another regulatory agency, adequate investor protection exists and it is not
26 in the public interest to require registration.

27 (d) The Commission shall promulgate rules and regulations
28 prescribing the qualifications for registration of each category of applicant to
29 ensure that such persons have the necessary experience or training, integrity
30 and capital resources, which shall, require as a condition for registration that:

31 (1) If a natural person, the applicant satisfactorily pass a written
32 examination as to his proficiency and knowledge in the area of activity for
33 which registration is sought or meets the standards set forth in rules
34 governing relevant experience; and

35 (2) In the case of a broker or dealer, the applicant satisfy a minimum
36 net capital as prescribed in Section 58(a) of this Act, and provide a bond or

1 other security as the Commission may prescribe to secure compliance with
2 the provisions of this Act.

3 (e) A broker or dealer may apply for registration with the
4 Commission by filing a written application in such format and containing
5 information and documents describing the form and place of organization,
6 location of offices, qualifications, disciplinary history, business background,
7 names of controlling persons and nature of control, financial condition and
8 other information relevant to a determination whether the applicant is
9 qualified to act as a broker or dealer in the Philippines.

10 (f) Registration of a salesman or of an associated person of a
11 registered broker or dealer may be made upon written application filed with
12 the Commission by such salesman or associated person. The application
13 shall be separately signed and certified by the registered broker or dealer to
14 which such salesman or associated person is to become affiliated, or by the
15 issuer in the case of a salesman employed, appointed or authorized solely by
16 such issuer. The application shall be in such form and contain such
17 information and documents concerning the salesman or associated person as
18 the Commission by rule shall prescribe. For purposes of this section, a
19 salesman shall not include any employee of an issuer whose compensation is
20 not determined directly or indirectly on sales of securities of the issuer.

21 (g) Applications filed pursuant to subsections (e) and (f) of this
22 section shall be accompanied by a registration fee in such reasonable amount
23 as the Commission by rule shall prescribe.

24 (h) Within thirty (30) days after the filing of any application under
25 this section, the Commission shall (1) by order grant registration if it
26 determines that the requirements of this section and the qualifications for
27 registration set forth in its rules and regulations have been satisfied or (2)
28 institute proceedings to determine whether to refuse registration.

29 (i) The names and addresses of all persons approved for registration
30 as brokers, dealers, associated persons or salesmen and all orders of the
31 Commission with respect thereto shall be recorded in a register of securities
32 market professionals kept in the office of the Commission which shall be
33 open to public inspection.

34 (j) Every person registered pursuant to this section shall file with the
35 Commission, in such form as the Commission shall prescribe, information
36 necessary to keep the application for registration current and accurate,

1 including in the case of a broker or dealer, changes in salesmen, associated
2 persons and owners thereof.

3 (k) Every person registered pursuant to this section shall pay to the
4 Commission an annual fee at such time and in such reasonable amount as the
5 Commission shall prescribe. Upon notice by the Commission that such
6 annual fee has not been paid as required, the registration of such person shall
7 be suspended until payment has been made.

8 (l) The registration of a salesman or associated person shall be
9 automatically terminated upon the cessation of his affiliation with the
10 registered broker or dealer that employed him in that capacity, or with an
11 issuer in the case of a salesman employed, appointed or authorized by such
12 issuer. Promptly following any such cessation of affiliation, the registered
13 broker or dealer, or issuer, as the case may be, shall file with the Commission
14 a notification that such salesman or associated person is no longer affiliated
15 with it.

16 *SEC. 37. Revocation, Refusal or Suspension of Registration of*
17 *Brokers, Dealers, Salesmen and Associated Persons.* – (a) Registration under
18 Section 36 of this Act may be refused, or any registration granted thereunder
19 may be revoked, suspended, or limitations placed thereon, by the
20 Commission if, after due notice and opportunity for hearing, the Commission
21 determines that it is in the public interest and the applicant or registrant, or in
22 the case of a broker or dealer, any controlling person, officer or director, or
23 person performing a similar function of the applicant or registrant:

24 (1) Has willfully violated any provision of this Act, any rule,
25 regulation or order made hereunder, or any other law administered by the
26 Commission, or in the case of a registered broker, dealer or associated person
27 has failed reasonably to supervise, with a view to preventing such violation,
28 another person who commits such violation; or

29 (2) Has willfully made or caused to be made a materially false or
30 misleading statement in any application for registration or report filed with
31 the Commission or a self-regulatory organization, or has willfully omitted to
32 state any material fact that is required to be stated therein; or

33 (3) Has failed to satisfy the qualifications or requirements for
34 registration prescribed under Section 36 and the rules and regulations of the
35 Commission promulgated thereunder; or

36 (4) Has been convicted, by final judgment by a competent judicial or
37 administrative body of an offense involving moral turpitude, fraud,

1 embezzlement, counterfeiting, theft, *estafa*, misappropriation, forgery,
2 bribery, false oath, or perjury, or of willful violation of securities,
3 commodities, banking, real estate or insurance laws; or

4 (5) Is enjoined or restrained by a competent judicial or administrative
5 body from engaging in securities, commodities, banking, real estate or
6 insurance activities or from willfully violating laws governing such activities;
7 or

8 (6) Is subject to an effective order of a competent judicial or
9 administrative body refusing, revoking or suspending any registration,
10 license or other permit under this Act, the rules and regulations promulgated
11 thereunder, any other law administered by the Commission, or otherwise
12 required to engage in any activities involving securities, commodities,
13 banking, real estate or insurance; or

14 (7) Is subject to an effective order of a self-regulatory organization
15 suspending or expelling him from membership or participation therein or
16 from association with a member or participant thereof; or

17 (8) Has been found by a competent judicial or administrative body to
18 have willfully violated any provisions of securities, commodities, banking,
19 real estate or insurance laws, or have willfully aided, abetted, counseled,
20 commanded, induced or procured such violation; or

21 (9) Has been judicially declared insolvent.

22 For purposes of this subsection, the term "competent judicial or
23 administrative body" shall include a foreign court of competent jurisdiction
24 and a foreign financial regulator.

25 (b) Where the Commission decides to bring charges against a
26 salesman or associated person for violations of this Act or rules and
27 regulations promulgated hereunder, the Commission shall provide notice of
28 such charges to the broker, dealer or issuer employing such salesman or
29 associated person. Where such charges involve fraudulent or manipulative
30 conduct or willful violations of this Act and rules and regulations
31 promulgated hereunder, the Commission may order the suspension of such
32 associated person's or salesman's registration for a period of up to twelve
33 (12) months, during which time the Commission shall conduct a hearing on
34 the charges and issue its preliminary findings: *Provided*, That such order
35 shall state the cause for such suspension. Until the entry of a final order, the
36 suspension of such registration, though binding upon the persons notified

1 thereof, shall be deemed confidential, and shall not be published, unless it
2 shall appear that the order of suspension has been violated after notice.

3 (c) The order of the Commission refusing, revoking, suspending or
4 placing limitations on a registration as herein above provided, together with
5 its findings, shall be entered in the register of securities market professionals.
6 The suspension or revocation of the registration of a dealer or broker shall
7 also automatically suspend or revoke the registration of all salesmen and
8 associated persons affiliated with such broker or dealer for so long as the
9 suspension or revocation of such broker or dealer is in effect.

10 (d) It shall be sufficient cause for refusal, revocation or suspension of
11 registration in case of a broker or dealer that is a partnership or corporation, if
12 any associated person thereof has committed any act or omission or is subject
13 to any disability enumerated in paragraphs (1) through (9) of subsection (a)
14 hereof, which would be a cause for refusing, suspending or revoking the
15 registration of such associated person.

16 SEC. 38. *Transactions and Responsibilities of Brokers and Dealers.* –

17 (a) No broker or dealer shall effect any transaction in securities listed on an
18 exchange issued by any corporation where any stockholder, director,
19 nominee, associated person or salesman, or authorized clerk or any office of
20 trust and responsibility of said broker or dealer is at the time holding office in
21 said issuer corporation as a director, president, vice-president, manager,
22 treasurer, comptroller, secretary or any office of trust and responsibility, or is
23 a controlling person of the issuer.

24 (b) No broker or dealer shall effect any transaction in securities or
25 induce or attempt to induce the purchase or sale of any security except in
26 compliance with such rules and regulations as the Commission shall
27 prescribe to ensure fair and honest dealings in securities and provide
28 financial safeguards and other standards for the operation of brokers and
29 dealers, including without limitation the establishment of minimum net
30 capital requirements, the acceptance of custody and use of securities of
31 customers, and the carrying and use of deposits and credit balances of
32 customers.

33 SEC. 39. *Registration of Investment Advisers.* – All persons or
34 entities doing business or holding itself out, as an investment adviser shall
35 be required to register as an Investment Adviser with the Commission in
36 accordance with the rules the Commission may promulgate: *Provided,*
37 That such rules shall cover investment advisers conducting business in the

1 Philippines or giving advice to Philippine persons or entities which have
2 securities registered with the Commission or listed with an exchange in the
3 Philippines.

4 CHAPTER IX

5 EXCHANGES AND OTHER SECURITIES TRADING MARKETS

6 SEC. 40. *Prohibition on Use of Unregistered Exchange; Regulation*
7 *of Over-the-Counter Markets.* – (a) No broker, dealer, salesman, associated
8 person of a broker or dealer, or exchange, directly or indirectly, shall make
9 use of any facility of an exchange in the Philippines to effect any transaction
10 in a security, or to report such transaction, unless such exchange is registered
11 as such under Section 41 of this Act, or is exempted from such registration
12 upon application by the exchange because, in the opinion of the Commission,
13 by reason of the limited volume of transactions effected on the exchange, it is
14 not practicable and not necessary or appropriate in the public interest or for
15 the protection of investors to require such registration.

16 (b) (1) No broker, dealer, salesman or associated person of a broker
17 or dealer, singly or in concert with any other person, shall make, create or
18 operate, or enable another to make, create or operate, any trading market,
19 other than on a registered exchange, for both the purchase and sale of any
20 security, except in accordance with rules and regulations the Commission
21 may prescribe as necessary and appropriate in the public interest and for the
22 protection of investors. The Commission may make special provision for
23 trading with respect to any category of security or class thereof, whether for a
24 transitory or other period.

25 (2) The Commission may promulgate rules and regulations providing
26 for regulation of transactions by brokers, dealers, salesmen or associated
27 persons of a broker or dealer, over any facilities of such trading market and
28 may require such market to be administered by a self-regulatory organization
29 that the Commission by order declares is capable of insuring the protection
30 of investors comparable to that provided in the case of a registered exchange.
31 In order to declare that a self-regulatory organization is capable of
32 administering a trading market, the Commission shall accord preference to
33 organizations that provide a centralized marketplace for such trading, and
34 shall be required to find that such organization has satisfied requirements
35 comparable to those prescribed for registration of exchanges in Section 41 of
36 this Act.

1 SEC. 41. *Registration of Exchanges.* – (a) Any exchange may be
2 registered as such with the Commission under the terms and conditions
3 hereinafter provided in this section hereof, by filing an application for
4 registration in such form and containing such information and supporting
5 documents as the Commission by rule shall prescribe, including the
6 following:

7 (1) An undertaking to comply and enforce compliance by its
8 members with the provisions of this Act, and any amendment thereto, and the
9 implementing rules or regulations made or to be made thereunder,
10 concerning the public trading of securities, and the rules of the exchange;

11 (2) An undertaking to enforce compliance by officers and directors
12 of issuers, who listed on the exchange, with rules of the exchange;

13 (3) Where the exchange is organized as a stock corporation, names of
14 beneficial owners and ownership interest;

15 (4) Data as to its organization, rules of procedure, and membership;

16 (5) Copies of the rules of the exchange; and

17 (6) An undertaking that in the event a member firm of the exchange
18 becomes insolvent or when the exchange or a securities investor protection
19 fund regulated under Section 46 (f) of this Act finds that the financial
20 condition of an exchange member firm has so deteriorated that such firm
21 cannot readily meet the demands of its customers for the delivery of
22 securities and/or payment of sales proceeds, the exchange shall, upon order
23 of the Commission, take over the operation of the insolvent or otherwise
24 seriously financially impaired member firm and immediately proceed to
25 settle the member firm's liabilities to its customers.

26 (b) No registration of an exchange shall be granted unless the rules of
27 the exchange, notwithstanding any provisions of the Corporation Code to the
28 contrary, provide for:

29 (1) That the applicant is organized as a stock corporation; provided
30 that any registered exchange existing prior to the effectivity of this Act shall
31 within three (3) years reorganize as a stock corporation;

32 (2) That the applicant is engaged solely in the business of operating
33 an exchange: *Provided, however,* That the Commission may adopt rules,
34 regulations or issue an order, upon application, exempting an exchange
35 organized as a stock corporation and owned and controlled by another
36 juridical person from this restriction;

1 (3) Where the exchange is organized as a stock corporation, that no
2 person may beneficially own or control, directly or indirectly, more than five
3 percent (5%) of the voting rights of the exchange and no industry or business
4 group may beneficially own or control, directly or indirectly, more than
5 twenty percent (20%) of the voting rights of the exchange: *Provided,*
6 *however,* That the Commission may adopt rules, regulations or issue an
7 order, upon application, exempting an applicant from this prohibition where
8 it finds that such ownership or control will not negatively impact on the
9 exchange's ability to effectively operate in the public interest;

10 (4) For the expulsion, suspension or disciplining of a member and
11 persons associated with a member for violations of provisions of this Act, or
12 any other Act administered by the Commission, the rules, regulations and
13 orders thereunder, or the rules of the exchange or any other designated self-
14 regulatory organization;

15 (5) For a fair procedure for the disciplining of members and persons
16 associated with members, the denial of membership to any person seeking to
17 be a member, the barring of any person from association with a member, and
18 the prohibition or limitation of any person from access to services offered by
19 the exchange;

20 (6) That the brokers in the Board of the exchange shall not comprise
21 of more than fifty percent (50%) of such board and shall proportionately
22 represent the exchange membership in terms of volume/value of trade and
23 paid up capital, and that any natural person associated with a juridical entity
24 that is a member shall himself be deemed to be a member for this purpose;

25 (7) For the board of the exchange to include in its composition (i) the
26 president of the exchange, and (ii) no less than fifty percent (50%) of the
27 remaining members of the board to be comprised of persons who represent
28 the interests of issuers, investors, and other market participants, and who are
29 not associated with any broker or dealer or member of the exchange for a
30 period of two (2) years prior to his appointment: *Provided, however,* That
31 the Commission may by rule, regulation, or order upon application, permit
32 the exchange organized as a stock corporation to use a different governance
33 structure and: *Provided, further,* That the Commission is satisfied that the
34 exchange is acting in the public interest and is able to effectively operate as a
35 self-regulatory organization under this Act;

36 (8) That the composition of any committee of the exchange (listing,
37 trading, compliance) proportionately reflect the composition of the exchange

1 board and that persons appointed to act thereon, act in the interest of all
2 securities market participants;

3 (9) That the nominating committee for the non-broker members of
4 the exchange board be comprised of two (2) representatives from the
5 Commission, two (2) representatives from the exchange, and the Secretary of
6 Finance as committee chair. Such committee shall choose from among
7 individuals with expertise and experience in business, who have proven their
8 probity, integrity, capability and independence in the practice of their
9 profession with the capital market and/or their related fields;

10 (10) For the president and other management of the exchange to
11 consist only of persons who are not members and are not associated, in any
12 capacity, directly or indirectly, with any broker or dealer or member or listed
13 company of the exchange: *Provided, however,* That the exchange may only
14 appoint, and a person may only serve, as an officer of the exchange if such
15 person has not been a member or affiliated with any broker, dealer or
16 member of the exchange for a period of at least two (2) years prior to such
17 appointment;

18 (11) A separately established compliance committee, overseen by
19 two (2) outside members of the board of directors of the exchange, which is
20 not subordinated or otherwise controlled in its activity by the board of
21 directors or management of the exchange. Such committee shall be
22 responsible for carrying out the enforcement function of the exchange,
23 including the investigation of violations of this Act and rules and regulations
24 adopted hereunder and exchange rules, making recommendations for the
25 appropriate discipline of the exchange members and participants for violation
26 thereof. Such recommendations shall be provided simultaneously to the
27 Commission and the exchange;

28 Where the exchange is organized as a stock corporation that no person
29 may beneficially own or control directly or indirectly, more than five percent
30 (5%) of the voting rights of the exchange and no industry or business group
31 may beneficially own or control directly or indirectly, more than twenty
32 percent (20%) of the voting rights of the exchange in the public interest.

33 (12) For the transparency of transactions and prices on the exchange;

34 (13) For the equitable allocation of reasonable dues, fees, and other
35 charges among members and issuers and other persons using any facility or
36 system which the exchange operates or controls;

1 (14) For prevention of fraudulent and manipulative acts and
2 practices, and, in general, protection of investors and the public interest;

3 (15) For the prompt and accurate clearance and settlement of
4 transactions effected on the exchange; and

5 (16) For additional duties of officers, directors and controlling
6 shareholders of issuers listed on an exchange including a requirement to
7 exercise their rights and perform their duties in a manner that they believe
8 to be in the interest of the company and its public shareholders, clarifying
9 specific rights and duties to shareholders, clarifying specific rights and
10 duties to shareholders and prohibited conduct, and providing for
11 appropriate sanctions for violations of such rights and duties.

12 (c) Registration of an exchange under this section may be refused
13 by the Commission if any of the applicant's controlling persons, officers or
14 directors, or a person performing similar functions:

15 (1) Has, during the past ten (10) years, been convicted, by a
16 competent judicial or administrative body, upon plea of guilty or
17 otherwise, of a crime involving fraud, embezzlement, counterfeiting, theft,
18 *estafa*, misappropriation, forgery, bribery, false oath, or perjury, or of a
19 violation of securities, commodities, banking, real estate or insurance laws;
20 or

21 (2) Is subject to a currently effective order of the Commission or
22 other competent judicial or administrative body refusing, revoking or
23 suspending any registration or other permit required under this Act, the
24 rules and regulations promulgated hereunder, or any law to engage in any
25 activity involving securities, commodities, banking, real estate or
26 insurance;

27 (3) Is subject to a currently effective order of a self-regulatory
28 organization, suspending or expelling him from membership or
29 participation therein or from association with a member or participant
30 thereof;

31 (4) Has been found by final order of the Commission or other
32 competent judicial or administrative body to have willfully violated any
33 provision of securities, commodities, banking, real estate or insurance laws
34 or have willfully aided, abetted, counseled, commanded, induced or
35 procured such violation.

36 For purposes of this subsection, the term "competent judicial or
37 administrative body" shall include a foreign court of competent

1 jurisdiction and a financial foreign regulator: *Provided, however,* That
2 where such disciplinary event involves a foreign court or regulator, it may
3 not serve as a bar to registration unless the Commission makes a finding
4 that such event reflects upon the integrity of the exchange applying for
5 registration.

6 (d) Nothing in this Act shall be construed to prevent any exchange
7 from adopting and enforcing any rule consistent with this Act and with the
8 rules and regulations thereunder, or with any other law.

9 (e) All provisions of this section shall apply for the registration and
10 licensing of all exchanges including those provided in Section 42.

11 (f) If the Commission finds that the exchange applying for
12 registration is so organized as to be able to comply, and enforce compliance
13 by its members, and persons associated with such members, with the
14 provisions of this Act, the rules and regulations thereunder, and the rules of
15 the exchange, and that the rules of the exchange are just and adequate to
16 insure fair dealing and to protect investors, the Commission shall cause such
17 exchange to be registered. If, after due notice and opportunity for hearing,
18 the Commission finds otherwise, it shall deny registration.

19 (g) Within ninety (90) days after the filing of the application, the
20 Commission shall issue an order either granting or, after due notice and
21 opportunity for hearing, denying registration as an exchange, unless the
22 exchange applying for registration shall withdraw its application or shall
23 consent to the Commission's deferring action on its application for a stated
24 longer period after the date of filing. The filing with the Commission of an
25 application for registration by an exchange shall be deemed to have taken
26 place upon the receipt thereof. Amendments to an application may be made
27 upon such terms as the Commission may prescribe.

28 (h) Upon the registration of an exchange pursuant to the provision of
29 this Act, it shall pay within twelve (12) months such reasonable fee as the
30 Commission may fix.

31 (i) Upon appropriate application in accordance with the rules and
32 regulations of the Commission and upon such terms as the Commission may
33 deem necessary for the protection of investors, an exchange may withdraw
34 its registration or suspend its operations or resume the same.

35 SEC. 42 *Registration of Innovative and Other Trading Markets.* -
36 The Commission, having due regard for national economic development,
37 shall encourage competitiveness in the market by promulgating within six (6)

1 months upon the enactment of this law, rules for the registration and
2 licensing of innovative and other trading markets or exchanges covering, but
3 not limited to, the issuance and trading of innovative securities, securities of
4 small, medium, growth and venture enterprises, and technology-based
5 ventures pursuant to Section 41 of this Act.

6 SEC. 43. *Limitation of Functions of Members, Brokers and Dealers.*

7 – (a) The Commission shall prescribe such rules and regulations as it deems
8 necessary or appropriate in the public interest or for the protection of
9 investors (1) to regulate floor trading by members of exchanges, and trading
10 by brokers and dealers, their salesmen, associated persons, employees and
11 floor traders, directly or indirectly, for their own account or for discretionary
12 accounts, and (2) to prevent such trading on the exchange but off the floor by
13 members, directly or indirectly, for their own account, as the Commission
14 may deem detrimental to the maintenance of a fair and orderly market.

15 (b) It shall be unlawful for a member, broker or dealer to effect any
16 transaction in a security in contravention of such rules and regulations, but
17 such rules and regulations may make such exemptions as the Commission
18 may deem necessary or appropriate in the public interest or for the protection
19 of investors.

20 (c) If, because of the limited volume of transactions effected on an
21 exchange, it is impracticable and not necessary or appropriate in the public
22 interest or for the protection of investors to apply any of the foregoing
23 provisions of this section or the rules and regulations thereunder, the
24 Commission shall have the power, upon application of the exchange and on a
25 showing that the rules of such exchange are otherwise adequate for the
26 protection of investors, to exempt such exchange and its members from any
27 such provision or rules and regulations.

28 SEC. 44 *Segregation of Broker-Dealer Functions.* – It shall be
29 unlawful for any broker of an exchange to effect any transaction or
30 transactions (collectively defined as “transaction”) on such exchange for
31 its own account, the account of an associated person thereof, or an account
32 with respect to which it or an associated person thereof exercises
33 investment discretion: *Provided, however,* That this section shall not make
34 unlawful:

35 (a) any transaction by a broker acting in the capacity of a market
36 maker;

1 (b) any transaction reasonably necessary to carry on odd-lot
2 transactions;

3 (c) any transaction to offset a transaction made in error;

4 (d) any transaction similar to those set forth in paragraphs (a), (b)
5 and (c) above: *Provided, however,* That the Commission may allow brokers
6 to deal for their own account subject to its rules promulgated for the purpose
7 of ensuring fair trading and transparency in such transactions and: *Provided,*
8 *further,* That they comply with the minimum net capital and paid up capital
9 requirements provided in Section 58 hereof.

10 SEC. 45. *Additional Fees of Exchanges.* – In addition to the
11 registration fee prescribed in Section 41 of this Act, every securities
12 exchange shall pay fees to the Commission for the privilege of doing
13 business as a securities exchange on a semestral basis, on or before the tenth
14 day after the end of every semester of the calendar year in an amount of not
15 more than one-hundredth of one percent (1/100 of 1%) of the aggregate
16 amount of the sales of securities transacted on such exchange during the
17 preceding semester.

18 SEC. 46. *Powers with Respect to Exchanges and Other Trading*
19 *Markets.* – (a) The Commission is authorized, if in its opinion such action is
20 necessary or appropriate for the protection of investors and the public interest
21 so requires, summarily to suspend trading in any listed security on any
22 exchange or other trading market for a period not exceeding thirty (30) days
23 or, with the approval of the President of the Philippines, summarily to
24 suspend all trading on any securities exchange or other trading market for a
25 period of more than thirty (30) but not exceeding ninety (90) days:
26 *Provided, however,* That the Commission, promptly following the issuance
27 of the order of suspension, shall notify the affected issuer of the reasons for
28 such suspension and provide such issuer with an opportunity for hearing to
29 determine whether the suspension should be lifted.

30 (b) The powers of the Commission under Section 48 shall apply to
31 every registered exchange notwithstanding that such exchange has not been
32 designated as a self-regulatory organization by the Commission.

33 (c) Wherever two or more exchanges or other trading markets exist,
34 the Commission may require and enforce uniformity of trading regulations in
35 and/or between or among said exchanges or other trading markets.

36 (d) The Commission shall have the authority to determine the
37 number, size and location of stock exchanges, other trading markets and

1 commodity exchanges and other similar organizations in the light of national
2 or regional requirements for such activities with the view to promote,
3 enhance, protect, conserve or rationalize investment.

4 (e) The Commission, having due regard to the public interest, the
5 protection of investors, the safeguarding of securities and funds, and
6 maintenance of fair competition among brokers, dealers, clearing agencies,
7 and transfer agents, shall promulgate rules and regulations for the prompt and
8 accurate clearance and settlement of securities transactions.

9 (f) (1) The Commission may establish or facilitate the establishment
10 of trust funds which shall be contributed by exchanges, brokers, dealers,
11 underwriters, transfer agents, salesmen and other persons transacting in
12 securities, as the Commission may require, for the purpose of compensating
13 investors for the extraordinary losses or damage they may suffer due to
14 business failure or fraud or mismanagement of the persons with whom they
15 transact, under such rules and regulations as the Commission may from time
16 to time prescribe or approve in the public interest.

17 (2) The Commission may, having due regard for the public interest
18 or the protection of investors, regulate, supervise, examine, suspend or
19 otherwise discontinue such and other similar funds under such rules and
20 regulations which the Commission may promulgate, and which may include
21 taking custody and management of the fund itself as well as investments in
22 and disbursements from the funds under such forms of control and
23 supervision by the Commission as it may from time to time require. The
24 authority granted to the Commission under this subsection shall also apply to
25 all funds established for the protection of investors, whether established by
26 the Commission or otherwise.

27 CHAPTER X

28 REGISTRATION, RESPONSIBILITIES AND OVERSIGHT OF 29 SELF-REGULATORY ORGANIZATIONS

30 SEC. 47. *Associations of Securities Brokers, and Dealers, and Other*
31 *Securities Related Organizations.* – (a) The Commission may designate as a
32 self-regulatory organization, impose conditions thereon, and regulate,
33 supervise, examine, suspend or otherwise discontinue, the operation of
34 organizations whose operations are related to or connected with the securities
35 market and whose members or participants are regulated under this Act. The
36 Commission may prescribe rules and regulations which are necessary or
37 appropriate in the public interest or for the protection of investors to govern

1 self-regulatory organizations and other organizations regulated pursuant to
2 the authority granted in subsection (a).

3 (b) An association or organization (hereinafter collectively referred
4 to as an "organization) may apply for designation as an SRO by filing with
5 the Commission an application for registration in such form and including
6 such other information and documents as the Commission, by rule, may
7 prescribe as necessary or appropriate in the public interest or for the
8 protection of investors.

9 (c) An organization shall not be designated as a self-regulatory
10 organization unless the Commission determines that:

11 (1) The organization is so organized and has the capacity to be able
12 to carry out the purposes of this Act and to comply with, and to enforce
13 compliance by its members, participants and persons associated with its
14 members and participants, with the provisions of this Act, the rules and
15 regulations thereunder, and the rules of the organization.

16 (2) None of the applicant's controlling persons, officers or
17 directors, or a person performing similar function:

18 (i) Has, during the past ten (10) years, been convicted after final
19 judgment by a competent judicial or administrative body, of an offense
20 involving fraud, embezzlement, counterfeiting, theft, *estafa*,
21 misappropriation, forgery, bribery, false oath or perjury;

22 (ii) Is currently enjoined or restrained by the Commission or other
23 competent judicial or administrative body from, or was subject to any such
24 order not subsequently reversed, suspended or vacated, within the last five
25 (5) years, permanently or temporarily enjoining or otherwise limiting him
26 from engaging in any activity involving securities, commodities, banking,
27 real estate or insurance or from willfully violating laws governing such
28 activities;

29 (iii) Is subject to an effective order of the Commission or other
30 competent judicial or administrative body, or within the last five (5) years
31 was subject to such order, refusing, revoking or suspending any
32 registration, license or other permit required under this Act, the rules and
33 regulations promulgated hereunder, or any law, to engage in any activity
34 involving securities, commodities, banking, real estate or insurance; or

35 (iv) Is subject to an effective order of a self-regulatory
36 organization, or was subject to such order within the last five (5) years,

1 suspending or expelling him from membership or participation therein or
2 from association with a member or participant thereof.

3 For purposes of this subsection, the term "competent judicial or
4 administrative body" shall include a foreign court of competent
5 jurisdiction and a financial foreign regulator: *Provided, however*, where
6 such disciplinary event involves a foreign court or regulator, it may not
7 serve as a bar to designation unless the Commission makes a finding that
8 such event reflects upon the integrity of the organization applying for
9 designation.

10 (3) The rules of the organization:

11 (i) Require fair, reasonable and non-discriminatory treatment of
12 members and participants, including a fair procedure for disciplining of
13 members and participants and people associated therewith, the denial of
14 membership or participation to any person, the barring of any person from
15 becoming associated with a member or participant thereof, and the
16 prohibition or limitation by the organization of any person with respect to
17 access for services offered by the organization or a member or participant
18 thereof;

19 (ii) Require the board of the SRO to include in its composition (i) the
20 president of the SRO and (ii) no less than fifty percent (50%) of its remaining
21 members to be comprised of persons who represent the interests of issuers,
22 investors, participants and the public who are not associated with any SRO
23 member: *Provided, however*, That an exchange seeking SRO designation
24 shall be subject to requirements governing its board set forth in Section 41
25 (b)(6) and (b)(7) of this Act;

26 (iii) Provide that the president and other management of the
27 association not be a member or associated with any member of the
28 organization;

29 (iv) Provide for the equitable allocation of reasonable dues, fees and
30 other charges among members, participants and other persons using any
31 facility or system which the organization operates or controls;

32 (v) Provide for the prevention of fraudulent and manipulative acts
33 and practices, and, in general, the protection of investors and the public
34 interest; and

35 (vi) Provide that its members and participants and persons associated
36 therewith shall be appropriately disciplined for violation of any provision of
37 this Act, the rules or regulations thereunder, or the rules of the organization.

1 (d) A designated self-regulatory organization may deny membership
2 to, or participation therein, or condition the membership of, or participation
3 in, if the applicant for membership or participation:

4 (i) Does not meet the standards of financial responsibility,
5 operational capability, training, experience or competence that are prescribed
6 by the rules of the organization; or

7 (ii) Has engaged, and there is a reasonable likelihood it will again
8 engage, in acts or practices inconsistent with just and equitable principles of
9 fair trade.

10 (2) A designated self-regulatory organization may deny membership
11 or participation to an applicant not engaged in a type of business in which the
12 rules of the organization require members to be engaged: *Provided,*
13 *however,* That no designated self-regulatory organization may deny
14 membership to an applicant by reason of the amount of business done by the
15 applicant.

16 A designated self-regulatory organization may examine and verify the
17 qualifications of an applicant to become a member in accordance with
18 procedures established by the rules of the organization.

19 (e) In any proceeding by designated self-regulatory organization to
20 determine whether a person shall be denied membership or participation, or
21 barred from association with a member or participant, the organization shall
22 provide notice to the person under review of the specific grounds being
23 considered for denial, afford him an opportunity to defend against the
24 allegations, and keep a record of the proceedings. A determination by the
25 organization to deny membership or participation shall be supported by a
26 statement setting forth the specific grounds on which the denial is based.

27 (f) For purposes of this section, the term "participant" refers to a
28 person who has been approved to use the SRO's services but is a not a
29 member therein.

30 SEC. 48. *Powers with Respect to Self-Regulatory Organizations.* –

31 (a) Upon the filing of an application for designation as a self-regulatory
32 organization under Section 47, the Commission shall have ninety (90) days
33 within which to either grant the designation or institute a proceeding to
34 determine whether designation should be denied. In the event proceedings
35 are instituted, the Commission shall have two hundred seventy (270) days
36 within which to conclude such proceedings at which time it shall, by order,
37 grant or deny such designation.

1 In the case of an application filed pursuant to this section, the
2 Commission shall grant designation if it finds that the requirements of this
3 Act and the rules and regulations thereunder with respect to the applicant
4 have been satisfied, and shall deny designation if it does not make such
5 finding.

6 (b) Every self-regulatory organization shall comply with the
7 provisions of this Act, the rules and regulations thereunder, and its own rules,
8 and absent reasonable justification or excuse enforce compliance therewith
9 by its members, persons associated with its members or its participants. A
10 self-regulatory organization shall comply with its own rules, and enforce
11 compliance therewith notwithstanding any provision of the Corporation
12 Code to the contrary.

13 (c)(1) Every self-regulatory organization shall submit to the
14 Commission for prior approval any proposed rule or amendment thereto,
15 together with a concise statement of the reason and effect of the proposed
16 amendment. If, in its opinion, the proposed amendment is of major
17 significance, at least thirty (30) days before approving such proposed
18 amendment, the Commission shall direct the self-regulatory organization to
19 publish the text of the proposed amendment and a statement of reason and
20 effect in a newspaper of general circulation, and shall afford interested
21 persons an opportunity to submit written data, views and argument.

22 (2) Within sixty (60) days after submission of a proposed
23 amendment, the Commission shall, by order, approve the proposed
24 amendment, or institute proceedings to determine whether the proposed
25 amendment should be disapproved. If the Commission does not institute
26 proceedings to disapprove the proposed amendment within sixty (60) days
27 after submission, the proposed amendment may be made effective by the
28 self-regulatory organization. If a proceeding is instituted, the Commission
29 shall provide notice to the self-regulatory organization of the proposed
30 grounds for disapproval, and an opportunity for hearing, at the conclusion of
31 which the Commission shall grant or deny approval of the proposed
32 amendment. The Commission shall approve a proposed amendment if it
33 finds that the proposed amendment is consistent with the requirement of this
34 Act and the rules and regulations thereunder applicable to such self-
35 regulatory organization, and shall disapprove if it does not make such
36 finding. If the proceeding is not concluded within ninety (90) days following

1 its commencement, the proposed amendment may be made effective by the
2 self-regulatory organization.

3 (3) Notwithstanding the provisions of paragraph (2) of this
4 subsection, a proposed amendment may take effect within ten (10) business
5 days after its submission to the Commission if designated by the self-
6 regulatory organization as constituting a policy, practice or interpretation of
7 an existing rule, establishing or concerning solely matters of administration
8 of the self-regulatory organization (including the setting of dues, fees and
9 charges) or such other matters as the Commission by rule may prescribe,
10 unless the Commission, within the ten (10)-day period, gives written notice
11 to the self-regulatory organization of its determination to review such
12 proposed amendment for prior approval pursuant to paragraphs (1) and (2).

13 (4) Notwithstanding any other provision of this subsection, in the
14 event of an emergency requiring action for the protection of investors, the
15 maintenance of fair and orderly markets, or the safeguarding of securities and
16 funds, a self-regulatory organization may summarily put into effect a
17 proposed amendment: *Provided, however,* That the proposed amendment
18 made effective shall be promptly submitted pursuant to paragraph (1) of this
19 subsection.

20 (d) If after making appropriate request in writing to a self-regulatory
21 organization that such self-regulatory organization effect on its own behalf
22 specified changes in its rules and practices and, after due notice of the
23 reasons and effect of the proposed change and opportunity for hearing, which
24 shall include notice to interested parties and an opportunity to present written
25 or oral data, views and arguments, it determines that such self-regulatory
26 organization has not made the changes so requested, and that such changes
27 are necessary or appropriate for the protection of investors, to insure fair
28 dealing in securities traded upon an exchange or other trading market, to
29 insure fair administration of the self-regulatory organization, to conform its
30 rules to requirements of this Act and the rules and regulations thereunder
31 applicable to such self-regulatory organization, or to otherwise further the
32 purposes of this Act, the Commission may alter, abrogate or supplement the
33 rules of such self-regulatory organization. The Commission may take such
34 action in respect of such matters as:

35 (1) Safeguards in respect of the financial responsibility of members
36 and adequate provision against the evasion of financial responsibility through
37 the use of corporate forms or special partnerships;

- 1 (2) The supervision of trading practices;
- 2 (3) The listing or striking from listing of any security;
- 3 (4) Hours of trading;
- 4 (5) The manner, method and place of soliciting business;
- 5 (6) Fictitious accounts;
- 6 (7) The time and method of making settlements, payments and
- 7 deliveries, and of closing accounts;
- 8 (8) The transparency of securities transactions and prices;
- 9 (9) The fixing of reasonable rates of fees, interest, listing and other
- 10 charges, but not rates of Commission;
- 11 (10) Minimum units of trading;
- 12 (11) Odd-lot purchases and sales;
- 13 (12) Minimum deposits on margin accounts; and
- 14 (13) The supervision, auditing and disciplining of members or
- 15 participants.

16 (e) The Commission is authorized, by order, if in its opinion, such
17 action is necessary or appropriate for the protection of investors and the
18 public interest so requires, summarily to suspend the designation of an
19 SRO and/or censure or impose limitations on the activities, functions and
20 operations of an SRO, for a period not exceeding six (6) months:
21 *Provided, however,* That the Commission promptly following the issuance
22 of the order shall notify the SRO of the reasons for such order and provide
23 such SRO with an opportunity for a hearing to determine whether the order
24 should be lifted.

25 (f) The Commission is authorized, by order, if in its opinion, an
26 SRO has willfully failed to comply with an order issued under this Act and
27 such action is necessary or appropriate for the protection of investors and
28 the public interest so requires, summarily to publicly censure any officer or
29 member of the board of such SRO and/or, where such person is registered
30 with the Commission under this Act, suspend such registration for a period
31 not exceeding six (6) months: *Provided, however,* That the Commission
32 promptly following the issuance of the order shall notify such persons of
33 the reasons for the order and provide such persons with an opportunity for
34 a hearing to determine whether the order should be lifted, a fine should be
35 imposed on such persons, and/or whether to remove such persons from
36 office pursuant to paragraph (g) of this section.

1 (g) The Commission is authorized, by order, if in its opinion such
2 action is necessary or appropriate in the public interest or for the protection
3 of investors, or otherwise in furtherance of the purposes of this Act, after due
4 notice and opportunity for hearing, withdraw for an indefinite period the
5 designation of a self-regulatory organization, or to censure or impose
6 limitations on the activities, functions and operations of such self-regulatory
7 organization for an indefinite period, if the Commission finds that such self-
8 regulatory organization has willfully violated or is unable to comply with any
9 provision of this Act or of the rules and regulations thereunder, or its own
10 rules, or without reasonable justification or excuse has failed to enforce
11 compliance therewith by a member of, person associated with a member, or a
12 participant in such self-regulatory organization.

13 (h) The Commission is authorized, by order, if in its opinion such
14 action is necessary or appropriate in the public interest, for the protection of
15 investors, or otherwise in furtherance of the purposes of this Act, after due
16 notice and opportunity for hearing, to suspend for a period not exceeding
17 twelve (12) months or to expel from a self-regulatory organization any
18 member thereof or any participant therein who is subject to an order of the
19 Commission under Section 37 of this Act or is found to have willfully
20 violated any provision of this Act, any other laws administered by the
21 Commission, or the rules and regulations thereunder, or effected, directly or
22 indirectly, any transaction for any person who, such member or participant
23 had reason to believe, was violating in respect of such transaction any of such
24 provisions.

25 (i) The Commission is authorized, by order, if in its opinion such
26 action is necessary or appropriate in the public interest, for the protection of
27 investors, or otherwise in furtherance of the purposes of this Act, after due
28 notice and opportunity for hearing, to remove from office any officer or
29 director of a self-regulatory organization if it finds that such officer or
30 director has willfully violated any provision of this Act, any other law
31 administered by the Commission, the rules or regulations or any order issued
32 thereunder, or the rules of such self-regulatory organization, willfully abused
33 his authority, or without reasonable justification or excuse has failed to
34 enforce compliance with any of such provisions.

35 (j) (1) A self-regulatory organization is authorized to discipline a
36 member of or participant in such self-regulatory organization, or any person
37 associated with a member, including the suspension or expulsion of such

1 member or participant, and the suspension or bar from being associated with
2 a member, if such person has engaged in willful violation of any provision of
3 this Act, any other law administered by the Commission, the rules or
4 regulations thereunder, or the rules of the self-regulatory organization. In
5 any disciplinary proceeding by a self-regulatory organization (other than a
6 summary proceeding pursuant to paragraph (2) of this subsection) the self-
7 regulatory organization shall bring specific charges, provide notice to the
8 person charged, afford the person charged with an opportunity to defend
9 against the charges, and keep a record of the proceedings. A determination
10 to impose a disciplinary sanction shall be supported by a written statement of
11 the offense, a summary of the evidence presented and a statement of the
12 sanction imposed.

13 (2) A self-regulatory organization may summarily (i) suspend a
14 member, participant or person associated with a member who has been or is
15 expelled or suspended from any other self-regulatory organization, or (ii)
16 suspend a member who the self-regulatory organization finds to be in such
17 financial or operating difficulty that the member or participant cannot be
18 permitted to continue to do business as a member with safety to investors,
19 creditors, other members, participants or the self-regulatory organization:
20 *Provided*, That the self-regulatory organization immediately notifies the
21 Commission of the action taken. Any person aggrieved by a summary action
22 pursuant to this paragraph shall be promptly afforded an opportunity for a
23 hearing by the association in accordance with the provisions of paragraph (1)
24 of this subsection. The Commission, by order, may stay a summary action
25 on its own motion or upon application by any person aggrieved thereby, if
26 the Commission determines summarily or after notice and opportunity for
27 hearing (which hearing may consist solely of the submission of affidavits or
28 presentation of oral arguments) that a stay is consistent with the public
29 interest and the protection of investors.

30 (k) A self-regulatory organization shall promptly notify the
31 Commission of any disciplinary sanction on any member thereof or
32 participant therein, any denial of membership or participation in such
33 organization, or the imposition of any disciplinary sanction on a person
34 associated with a member or a bar of such person from becoming so
35 associated. Within thirty (30) days after such notice, any aggrieved person
36 may appeal to the Commission from, or the Commission on its own motion
37 within such period, may institute review of the decision of the self-regulatory

1 organization, at the conclusion of which, after due notice and opportunity for
2 hearing which may consist solely of review of the record before the self-
3 regulatory organization, the Commission shall affirm, modify or set aside the
4 sanction. In such proceeding the Commission shall determine whether the
5 aggrieved person has engaged or omitted to engage in the acts and practices
6 as found by the self-regulatory organization, whether such acts and practices
7 constitute willful violations of this Act, any other law administered by the
8 Commission, the rules or regulations thereunder, or the rules of the self-
9 regulatory organization as specified by such organization, whether such
10 provisions were applied in a manner consistent with the purposes of this Act,
11 and whether, with due regard for the public interest and the protection of
12 investors the sanction is excessive or oppressive.

13 CHAPTER XI

14 ACQUISITION AND TRANSFER OF SECURITIES AND SETTLEMENT OF 15 TRANSACTIONS IN SECURITIES

16 SEC. 49. *Prohibition on Use of Unregistered Clearing Agency.* – It
17 shall be unlawful for any broker, dealer, salesman, associated person of a
18 broker or dealer, or clearing agency, directly or indirectly, to make use of any
19 facility of a clearing agency in the Philippines to make deliveries in
20 connection with transactions in securities or to reduce the number of
21 settlements of securities transactions or to allocate securities settlement
22 responsibilities or to provide for the central handling of securities so that
23 transfers, loans, pledges and similar transactions can be made by
24 bookkeeping entry or otherwise to facilitate the settlement of securities
25 transactions without physical delivery of securities certificates, unless such
26 clearing agency is registered as such under Section 50 of this Act or is
27 exempted from such registration upon application by the clearing agency
28 because, in the opinion of the Commission, by reason of the limited volume
29 of transactions which are settled using the clearing agency, it is not
30 practicable and not necessary or appropriate in the public interest or for the
31 protection of investors to require such registration.

32 SEC. 50. *Registration of Clearing Agencies.* – (a) Any clearing
33 agency may be registered as such with the Commission under the terms and
34 conditions hereinafter provided in this section, by filing an application for
35 registration in such form and containing such information and supporting
36 documents as the Commission by rule shall prescribe, including the
37 following:

1 (1) An undertaking to comply and enforce compliance by its
2 participants of applicable provisions of this Act, and any amendment thereto,
3 and the relevant implementing rules or regulations made or to be made
4 thereunder, and the clearing agency's rules;

5 (2) Data as to its organization, rules of procedure, and participants;
6 and

7 (3) Copies of the clearing agency's rules.

8 (b) No registration of a clearing agency shall be granted unless the
9 rules of the clearing agency include provision for:

10 (1) The expulsion, suspension or disciplining of a participant for
11 violations of this Act, or any other Act administered by the Commission, the
12 rules, regulations and orders thereunder, or adjudged by the clearing agency
13 to have violated the clearing agency's rules;

14 (2) A fair procedure for the disciplining of participants, the denial of
15 participation rights to any person seeking to be a participant, and the
16 prohibition or limitation of any person from access to services offered by the
17 clearing agency;

18 (3) The equitable allocation of reasonable dues, fees, and other
19 charges among participants;

20 (4) To the extent applicable to the functions or operations of the
21 clearing agency, prevention of fraudulent and manipulative acts and
22 practices, and, in general, protection of investors and the public interest;

23 (5) The prompt and accurate clearance and settlement of transactions
24 in securities handled by the clearing agency; and

25 (6) The establishment and oversight of a fund to guarantee the
26 prompt and accurate clearance and settlement of transactions executed on an
27 exchange, including a requirement that members each contribute an amount
28 based on their volume and a relevant percentage of the daily exposure of the
29 four (4) largest trading brokers which adequately reflects trading risks
30 undertaken or pursuant to another formula set forth in Commission rules or
31 regulations or order, upon application: *Provided, however,* That a clearing
32 agency engaged in the business of a securities depository shall be exempt
33 from this requirement.

34 (c) Registration of a clearing agency under this section may be
35 refused by the Commission if any of the applicant's controlling persons,
36 officers or directors, or a person performing a similar function:

1 (1) Has, during the past ten (10) years, been convicted, by a
2 competent judicial or administrative body, upon plea of guilty or
3 otherwise, of a crime involving moral turpitude, fraud, embezzlement,
4 counterfeiting, theft, *estafa*, misappropriation, forgery, bribery, false oath,
5 or perjury, or of a violation of securities, commodities, banking, real estate
6 or insurance laws; or

7 (2) Is subject to a currently effective order of the Commission or
8 other competent judicial or administrative body refusing, revoking or
9 suspending any registration or other permit required under this Act, the
10 rules and regulations promulgated hereunder, or any law to engage in any
11 activity involving securities, commodities, banking, real estate or
12 insurance; or

13 (3) Is subject to a currently effective order of a self-regulatory
14 organization, suspending or expelling him from membership or
15 participation therein or from association with a member or participant
16 thereof; or

17 (4) Has been found by final order of the Commission or other
18 competent judicial or administrative body to have willfully violated any
19 provision of securities, commodities, banking, real estate or insurance laws
20 or have willfully aided, abetted, counseled, commanded, induced or
21 procured such violation.

22 For purposes of this subsection, the term "competent judicial or
23 administrative body" shall include a foreign court of competent
24 jurisdiction and a financial foreign regulator: *Provided, however*, where
25 such disciplinary event involves a foreign court or regulator, it may not
26 serve as a bar to registration unless the Commission makes a finding that
27 such event reflects upon the integrity of the exchange applying for
28 registration.

29 (d) Nothing in this Act shall be construed to prevent any clearing
30 agency from adopting and enforcing any rule consistent with this Act and
31 with the rules and regulations thereunder, or with any other law.

32 (e) In the case of an application filed pursuant to this section, the
33 Commission shall grant registration if it finds that the requirements of this
34 Act and the rules and regulations thereunder with respect to the applicant
35 have been satisfied, and shall deny registration if it does not make such
36 finding.

1 (f) Upon appropriate application in accordance with the rules and
2 regulations of the Commission and upon such terms as the Commission may
3 deem necessary for the protection of investors, a clearing agency may
4 withdraw its registration or suspend its operations or resume the same.

5 (g) Section 48 of this Act shall apply to every registered clearing
6 agency notwithstanding that such clearing agency has not been designated as
7 an SRO by the Commission.

8 SEC. 51. *Uncertificated Securities.* – Notwithstanding Section 63 of
9 the Corporation Code of the Philippines:

10 (a) A corporation whose securities are registered pursuant to this Act
11 or listed on a securities exchange may:

12 (1) If so resolved by its board of directors and agreed by a securities
13 intermediary, issue shares to, or record the transfer of some or all of its shares
14 into the name of, that securities intermediary in the form of uncertificated
15 securities. The use of uncertificated securities in these circumstances shall be
16 without prejudice to the rights of the securities intermediary subsequently to
17 require the corporation to issue a certificate in respect of any shares recorded
18 in its name; and

19 (2) If so provided in its articles of incorporation and by-laws, issue
20 all of the shares of a particular class in the form of uncertificated securities
21 and subject to a condition that investors may not require the corporation to
22 issue a certificate with respect to any shares recorded in their name.

23 (b) The Commission by rule may allow other corporations to provide
24 in their articles of incorporation and by-laws for the use of uncertificated
25 securities.

26 (c) Transfers of securities, including uncertificated securities, may be
27 validly made by appropriate book-entries in the securities accounts
28 maintained by securities intermediaries and such bookkeeping entries shall
29 be binding on the parties to the transfer. A transfer under this subsection has
30 the effect of the delivery of a security in bearer form or duly indorsed in
31 blank representing the quantity or amount of security or right transferred,
32 including the unrestricted negotiability of that security by reason of such
33 delivery. However, transfers of uncertificated shares shall only be valid, so
34 far as the corporation is concerned, when a transfer is recorded in the books
35 of the corporation so as to show the names of the parties to the transfer, the
36 date of the transfer and the number of shares transferred.

1 However, nothing in the provisions of this Act shall preclude
2 compliance by banking and other institutions under the supervision of the
3 Bangko Sentral ng Pilipinas and their stockholders with the applicable
4 ceilings on shareholdings prescribed under pertinent banking laws and
5 regulations.

6 SEC. 52. *Best Evidence.* – Notwithstanding Section 63 of the
7 Corporation Code, the official records and the book-entries of a securities
8 intermediary in which the securities of an issuer have been lodged shall
9 constitute the best evidence of title to such securities.

10 SEC. 53. *Pledging a Security or Interest Therein.* – In addition to
11 other methods recognized by law, a pledge of, or release of a pledge of, a
12 security, including an uncertificated security, is properly constituted and the
13 instrument proving the right pledged shall be considered delivered to the
14 creditor under Articles 2093 and 2095 of the Civil Code if a securities
15 intermediary indicates by book-entry that such security has been credited to a
16 specially designated pledge account in favor of the pledgee. A pledge under
17 this subsection has the effect of the delivery of a security in bearer form or
18 duly indorsed in blank representing the quantity or amount of such security
19 or right pledged. In the case of a registered clearing agency, the procedures
20 by which, and the exact time at which, such book-entries are created, as well
21 as the mode in which such transfer can be documented for legal purposes,
22 shall be governed by the registered clearing agency's rules.

23 SEC. 54. *Issuer's Responsibility for Wrongful Transfer to Registered*
24 *Clearing Agency.* – (a) The registration of a transfer of a security into the
25 name of a registered clearing agency or its nominee shall be final and
26 conclusive unless the clearing agency had notice of an adverse claim before
27 the registration was made.

28 (b) Subsection (a) shall be without prejudice to any rights which the
29 claimant may have against the issuer for wrongful registration in such
30 circumstances.

31 SEC. 55. *Power of the Commission with Respect to Securities*
32 *Ownership.* – The Commission is authorized, having due regard to the public
33 interest and the protection of investors, to promulgate rules and regulations
34 which:

35 (a) Validate the transfer of securities by book-entries rather than the
36 delivery of physical certificates;

1 (b) Establish when a person acquires a security or an interest therein
2 and when delivery of a security to a purchaser occurs;

3 (c) Establish which records constitute the best evidence of a person's
4 interests in a security and the effect of any errors in electronic records of
5 ownership;

6 (d) Codify pursuant to the law the rights of investors who choose to
7 hold their securities indirectly through a registered clearing agency and/or
8 other securities intermediaries;

9 (e) Codify pursuant to the law the duties on securities intermediaries
10 (including clearing agencies) who hold securities on behalf of investors; and

11 (f) Give first priority to any claims of a registered clearing agency
12 against a participant arising from a failure by the participant to meet its
13 obligations under the clearing agency's rules in respect of the clearing and
14 settlement of transactions in securities, in a dissolution of the participant, and
15 any such rules and regulations shall bind the issuers of the securities,
16 investors in the securities, any third parties with interests in the securities, and
17 the creditors of a participant of a registered clearing agency.

18 SEC. 56. *Regulation of Transfer Agents.* – All persons doing business
19 or holding themselves out as a transfer agent shall be required to register as a
20 transfer agent with the Commission in accordance with rules the Commission
21 may promulgate and comply with Commission rules governing their
22 activities: *Provided, however,* That the Commission may exempt a person
23 from registration and/or any rule or regulation promulgated under this section
24 where the Commission finds that application thereof is not necessary to
25 ensure the prompt and accurate clearance and settlement of securities
26 transactions and the safeguarding of securities and funds.

27 CHAPTER XII

28 MARGIN AND CREDIT

29 SEC. 57. *Margin Requirements.* – (a) For the purpose of preventing
30 the excessive use of credit for the purchase or carrying of securities, the
31 Commission, in accordance with the credit and monetary policies that may
32 be promulgated from time to time by the agency of the government of the
33 Philippines authorized to set such policies, shall prescribe rules and
34 regulations with respect to the amount of credit that may be extended on any
35 security. For the extension of credit, such rules and regulations shall be
36 based upon the following standard:

1 An amount not greater than whichever is the higher of --

2 (1) Sixty-five percent (65%) of the current market price of the
3 security, or

4 (2) One hundred percent (100%) of the lowest market price of the
5 security during the preceding thirty-six (36) calendar months, but not more
6 than seventy-five percent (75%) of the current market price.

7 However, the agency of the government which sets credit and
8 monetary policies may increase or decrease the above percentages, in order
9 to achieve the objectives of the government with due regard for promotion of
10 the economy and prevention of the use of excessive credit.

11 Such rules and regulations may make appropriate provision with
12 respect to the carrying of undermargined accounts for limited periods and
13 under specified conditions; the withdrawal of funds or securities; the transfer
14 of accounts from one lender to another; special or different margin
15 requirements for delayed deliveries, short sales, arbitrage transactions, and
16 securities to which number 2 of the second paragraph of this subsection does
17 not apply; the bases and the methods to be used in calculating loans, and
18 margins and market prices; and similar administrative adjustments and
19 details.

20 (b) No member of an exchange or broker or dealer shall, directly or
21 indirectly, extend or maintain credit or arrange for the extension or
22 maintenance of credit to or for any customer:

23 (1) On any security unless such credit is extended and maintained in
24 accordance with the rules and regulations which the Commission shall
25 prescribe under subsection (a) of this section including rules setting credit in
26 relation to net capital of such member, broker or dealer; and

27 (2) Without collateral or on any collateral other than securities,
28 except (i) to maintain a credit initially extended in conformity with the rules
29 and regulations of the Commission and (ii) in cases where the extension or
30 maintenance of credit is not for the purpose of purchasing or carrying
31 securities or of evading or circumventing the provisions of paragraph (1) of
32 this subsection.

33 (c) Any person not subject to subsection (b) hereof shall extend or
34 maintain credit or arrange for the extension or maintenance of credit for the
35 purpose of purchasing or carrying any security, only in accordance with such
36 rules and regulations as the Commission shall prescribe to prevent the
37 excessive use of credit for the purchasing or carrying of or trading in

1 securities in circumvention of the other provisions of this section. Such rules
2 and regulations may impose upon all loans made for the purpose of
3 purchasing or carrying securities limitations similar to those imposed upon
4 members, brokers or dealers by subsection (b) of this section and the rules
5 and regulations thereunder. This subsection and the rules and regulations
6 thereunder shall not apply (i) to a credit extension made by a person not in
7 the ordinary course of business, (ii) to a loan to a dealer to aid in the
8 financing of the distribution of securities to customers not through the
9 medium of an exchange, or (iii) to such other credit extension as the
10 Commission shall, by such rules and regulations as it may deem necessary or
11 appropriate in the public interest or for the protection of investors, exempt,
12 either unconditionally or upon specified terms and conditions or for stated
13 period, from the operation of this subsection and the rules and regulations
14 thereunder.

15 **SEC. 58. *Restrictions on Borrowings by Members, Brokers and***
16 ***Dealers.*** – (a) A broker or dealer that is an exchange member shall
17 maintain a net capital of not less than Ten million pesos (P10,000,000.00)
18 or five percent (5%) of his aggregate indebtedness, whichever is higher
19 and in no case shall his aggregate indebtedness including customers' credit
20 balances exceed 1500% of the net capital (exclusive of fixed assets and
21 value of exchange membership) employed in the business. Additionally, the
22 following shall maintain a minimum paid-up capital of:

23 (1) Fifty million pesos (P50,000,000.00) for a broker that is an
24 exchange member;

25 (2) One hundred million pesos (P100,000,000.00) for a broker that is
26 an exchange member authorized to trade for its own account under Section
27 44 of this Act;

28 (3) One hundred million pesos (P100,000,000.00) for a foreign
29 broker that is an exchange member, and

30 (4) Two hundred million pesos (P200,000,000.00) for a foreign
31 broker that is an exchange member authorized to trade for its own account
32 under Section 44 of this Act: *Provided*, That the Commission may
33 prescribe such other amount in the operation as broker or dealer. The
34 Commission is authorized by rule to prescribe such minimum net capital
35 and paid-up capital requirements and set such limitations on the aggregate
36 indebtedness of non-exchange member brokers and dealers as is necessary
37 or appropriate in the public interest or for the protection of investors.

1 Brokers or dealers shall have one (1) year from the effectivity of this Act
2 to comply with the minimum net capital and paid-up capital requirement.
3 For purposes of this subsection, a "foreign broker or dealer" refers to
4 brokers or dealers whose majority subscribed voting capital stock is owned
5 or controlled by non-Filipinos.

6 (b) It shall be unlawful for any registered broker or dealer, or
7 member of an exchange, directly or indirectly to pledge, mortgage, or
8 otherwise encumber or arrange for the pledge, mortgage or encumbrance of
9 any security carried for the account of any customer under circumstances:

10 (1) That will permit the commingling of his securities, without his
11 written consent, with the securities of any customer,

12 (2) That will permit such securities to be commingled with the
13 securities of any person other than a bona fide customer; or

14 (3) That will permit such securities to be pledged, mortgaged or
15 encumbered, or subjected to any lien or claim of the pledgee, for a sum in
16 excess of the aggregate indebtedness of such customers in respect of such
17 securities. However, the Commission, having due regard to the protection of
18 investors, may, by rules and regulations, allow certain transactions that may
19 otherwise be prohibited under this subsection.

20 (c) It shall be unlawful for any registered broker or dealer, or
21 member of an exchange, directly or indirectly to lend or arrange for the
22 lending of any security carried for the account of any customer without the
23 written consent of such customer or in contravention of such rules and
24 regulations as the Commission shall prescribe for the protection of investors.

25 *SEC. 59. Enforcement of Margin Requirements and Restrictions on*
26 *Borrowing.* - To prevent indirect violations of the margin requirements
27 under Section 57 hereof, the broker or dealer shall require the customer in
28 non-margin transactions to pay the price of the security purchased for his
29 account within such period as the Commission may prescribe, which shall in
30 no case exceed three (3) trading days; otherwise, the broker shall sell the
31 security purchased starting on the next trading day but not beyond ten (10)
32 trading days following the last day for the customer to pay such purchase
33 price, unless such sale cannot be effected within said period for justifiable
34 reasons. The sale shall be without prejudice to the right of the broker or
35 dealer to recover any deficiency from the customer. To prevent indirect
36 violation of the restrictions on borrowings under Section 58 of this Act, the
37 broker shall, unless otherwise directed by the customer, pay the net sales

1 price of the securities sold for a customer within the same period as above
2 prescribed by the Commission: *Provided*, That the customer shall be
3 required to deliver the instruments evidencing the securities as a condition
4 for such payment upon demand by the broker.

5 CHAPTER XIII

6 SPECIAL PROVISIONS FOR LISTED COMPANIES AND

7 SECURITIES ORGANIZATIONS

8 SEC. 60. *Special Provisions for Publicly-Held Companies,*
9 *Exchanges, Clearing Agencies and/or Self Regulatory Organizations.* – (a)
10 Notwithstanding any provision in the Corporation Code to the contrary and
11 to the extent required by Commission rule and the provisions of this Act, the
12 following shall apply to corporations of the types specified in subsection (b)
13 of this section:

14 (1) Founders' shares classified as such in the articles of incorporation
15 of such a corporation shall not, by reason of such classification, possess
16 voting or other rights and privileges not enjoyed by the owners of other
17 stock.

18 (2) The authorized capital stock of such a corporation may through
19 amendment to the articles of incorporation be increased or decreased, and
20 bonded indebtedness may be incurred, created or increased, upon approval
21 by a majority vote of the board of directors and by a majority of the votes of
22 outstanding capital stock entitled to vote at a stockholders' meeting called for
23 such purpose, or upon the vote of such greater percentage as may be
24 provided in the articles of incorporation.

25 (3) The articles of incorporation of such a corporation may deny pre-
26 emptive rights to its stockholders upon approval of an amendment providing
27 for such denial by a majority of the votes of outstanding capital stock entitled
28 to vote at a stockholders' meeting called for such purpose, or upon the vote
29 of such greater percentage as may be provided in the articles of
30 incorporation.

31 (4) (i) Unless otherwise provided in its articles of incorporation or
32 by-laws, the board of directors of such a corporation may declare and pay
33 stock and property dividends out of unrestricted retained earnings without the
34 approval of stockholders; and

35 (ii) The board of directors of such a corporation is permitted to retain
36 surplus profits for any lawful purpose.

1 (5) (i) Unless a greater percentage is provided in its articles of
2 incorporation, and without prejudice to protection of the results of
3 cumulative voting, a director of such a corporation may be removed from
4 office by a majority of the votes of outstanding capital stock entitled to vote
5 at a stockholders' meeting called for such purpose; and

6 (ii) The board of directors may fix reasonable compensation for
7 service as a director, which may be a per diem, annual stipend or other
8 remuneration: *Provided, however,* That such compensation may be changed
9 or rescinded by a majority of the votes of outstanding capital stock entitled to
10 vote at a regular or special stockholders' meeting at which such action is
11 considered. The fixing of compensation of directors shall not be limited to
12 any percentage of net income before income tax of such corporation during
13 the preceding year.

14 (6) Every officer and director shall exercise such care in the
15 management of the affairs of such a corporation as is required of a prudent
16 man in the management of his own property, and shall be liable to the
17 corporation and its shareholders for damages resulting from the intentional or
18 negligent failure to exercise such care: *Provided, however,* That no liability
19 shall be incurred for any business judgment exercised in good faith and upon
20 consideration of all facts material to the act or transaction.

21 (b) Subsection (a) of this section shall apply to:

22 (1) Any corporation with a class of equity securities listed for trading
23 on an exchange;

24 (2) Any corporation with assets in excess of Fifty million pesos
25 (P50,000,000.00) and having two hundred (200) or more holders each
26 holding at least one hundred (100) shares of a class of its equity securities;
27 and

28 (3) Any corporation which has sold a class of equity securities to the
29 public pursuant to an effective registration statement in compliance with
30 Section 9 hereof.

31 (c) In conjunction with the filing of a registration statement for a
32 public offering of a class of equity securities pursuant to Section 9 hereof, a
33 corporation shall be subject to paragraphs (2), (3) and (6) of subsection (a) of
34 this section: *Provided, however,* That if, prior to its effectivity, such
35 registration statement is refused or withdrawn, or if the sale of such class of
36 equity security does not occur after the registration statement is declared

1 effective, such paragraphs shall have no further application or effect with
2 respect to such corporation.

3 (d) Pursuant to rules, the Commission may exempt an exchange
4 and/or a self regulatory organization from any provision of the Corporation
5 Code requiring directors to be shareholders or members thereof.

6 CHAPTER XIV

7 GENERAL PROVISIONS

8 SEC. 61. *Liabilities of Controlling Persons; Aider and Abettor and*
9 *Other Secondary Liability.* – (a) Any person who, by or through stock
10 ownership, agency, or otherwise, or in connection with an agreement or
11 understanding with one or more other persons, controls any person liable
12 under this Act or the rules or regulations adopted hereunder, shall also be
13 liable jointly and severally with and to the same extent as such controlled
14 persons to any person to whom such controlled person is liable, unless the
15 controlling person acted in good faith and did not directly or indirectly
16 induce the act constituting the violation or cause of action.

17 (b) It shall be unlawful for any person, directly or indirectly, to do
18 any act or thing which it would be unlawful for such person to do under the
19 provisions of this Act or any rule or regulation thereunder through or by
20 means of any other person.

21 (c) It shall be unlawful for any director or officer of, or any owner of
22 any securities issued by, any issuer required to file any document, report or
23 other information under this Act or any rule or regulation of the Commission
24 thereunder, without just cause, to hinder, delay or obstruct the making or
25 filing of any such document, report or information.

26 (d) It shall be unlawful for any person to aid, abet, counsel,
27 command, induce or procure any violation of this Act, or any rule, regulation
28 or order of the Commission thereunder.

29 (e) Any person who substantially assists the act or omission of any
30 person primarily liable under Sections 17, 18, 19 and 21, of this Act, with
31 knowledge or in reckless disregard that such act or omission is wrongful,
32 shall be jointly and severally liable as an aider and abettor for damages
33 resulting from the conduct of the person primarily liable: *Provided, however,*
34 *That an aider and abettor shall be liable only to the extent of his relative*
35 *contribution in causing such damages in comparison to that of the person*
36 *primarily liable, or the extent to which the aider and abettor was unjustly*
37 *enriched thereby, whichever is greater.*

1 SEC. 62. *Accounts and Records, Reports, Examination of Exchanges,*
2 *Members, and Others.* – (a) Subject to existing laws, every exchange,
3 member thereof, broker, or dealer, clearing agency, and other self- regulatory
4 organization, and every transfer agent, investment adviser, pre-need
5 company, investment company, investment house, and investor protection
6 fund regulated under this Act shall make, keep and preserve for such periods,
7 such records, furnish such copies thereof, and make such reports, as the
8 Commission by its rules and regulations may prescribe. Such records shall
9 be subject at any time or from time to time to such reasonable periodic,
10 special, or other examinations by examiners or other representatives of the
11 Commission as it may deem necessary or appropriate in the public interest or
12 for the protection of investors.

13 (b) Any broker, dealer or other person extending credit, who is
14 subject to the rules and regulations prescribed by the Commission pursuant to
15 this Act, shall make such reports to the Commission as may be necessary or
16 appropriate to enable it to perform the functions conferred upon it by this
17 Act.

18 (c) For purposes of this section, the term “records” refers to accounts,
19 correspondence, memoranda, tapes, discs, papers, books and other
20 documents or transcribed information of any type, whether expressed in
21 ordinary or machine readable form.

22 SEC. 63. *Investigations, Injunctions and Prosecution of Offenses.* –
23 (a) The Commission may, in its discretion, make such investigations as it
24 deems necessary to determine whether any person has violated or is about to
25 violate any provision of this Act, any rule, regulation or order thereunder, or
26 any rule of an exchange, clearing agency, other self-regulatory organization,
27 and may require or permit any person to file with the Commission a
28 statement in writing, under oath or otherwise, as the Commission shall
29 determine, as to all facts and circumstances concerning the matter to be
30 investigated. The Commission is authorized, in its discretion, to publish
31 information concerning any such violations, and to investigate any fact,
32 condition, practice or matter which it may deem necessary or proper to aid in
33 the enforcement of this Act, in the prescribing of rules and regulations
34 thereunder, or in securing information to serve as a basis for recommending
35 further legislation concerning the matters to which this Act relates:
36 *Provided, however,* That any person requested or subpoenaed to produce
37 documents or testify in any investigation shall simultaneously be notified in

1 writing of the purpose of such investigation: *Provided, further*, That all
2 criminal complaints for violations of this Act, and the implementing rules
3 and regulations enforced or administered by the Commission shall be
4 referred to the Department of Justice for preliminary investigation and
5 prosecution before the proper court; and: *Provided, finally*, That the
6 investigation, prosecution and trial of such cases shall be given priority.

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

14 (c) Whenever it shall appear to the Commission that any person has
15 engaged or is about to engage in any act or practice constituting a violation
16 of any provision of this Act, any rule, regulation or order thereunder, or any
17 rule of an exchange, registered securities association, clearing agency or
18 other self-regulatory organization, it may, in its discretion, undertake to
19 determine whether to order such person to desist from committing such act or
20 practice and enforce the same under this Act and other laws as are in effect
21 from time to time: *Provided, however*, That the Commission shall not charge
22 any person with violation of the rules of an exchange or other self regulatory
23 organization unless it appears to the Commission that such exchange or other
24 self-regulatory organization is unable or unwilling to take action against such
25 person. Upon showing, that such person has engaged in any such act or
26 practice and that there is a reasonable likelihood of continuing, further or
27 future violations by such person, the Commission may issue (i) an order of
28 permanent or temporary injunction after proper notice and hearing or (ii) an
29 *ex parte* temporary restraining order for a maximum period of twenty (20)
30 days, enjoining the violation and compelling compliance with such
31 provision. The Commission may transmit such evidence as may be available
32 concerning any violation of any provision of this Act, or any rule, regulation
33 or order thereunder, to the Secretary of Justice, who, in his discretion, may
34 institute the appropriate criminal proceedings under this Act.

35 (d) Any person who, without cause, fails or refuses to comply with
36 any order, decision or subpoena issued by the Commission, in the proper
37 exercise of its authority and jurisdiction under subsection (b) or subsection

1 (c) of this section or Section 65 of this Act, if in the power of such person to
2 do so, shall after due notice and hearing, be guilty of contempt of the
3 Commission and shall be subject to discipline by the Commission as in the
4 case of contempt of court, either by a fine in such reasonable amount as the
5 Commission may determine, or when such failure or refusal is a clear and
6 open defiance of the Commission's order, decision or subpoena, by detention
7 under an arrest order, as may be issued by the Commission, at the discretion
8 of the Commission, until such order, decision or subpoena is complied with.

9 (e) The powers of the Commission under this section shall be in
10 addition to any powers granted under existing laws.

11 SEC. 64. *Administrative Sanctions.* – (a) If, after proper notice and
12 hearing, the Commission finds that there is a violation of this Act, its rules, or
13 its orders; or that any registered broker or dealer, or associated person thereof
14 has failed reasonably to supervise, with a view to preventing violations,
15 another person subject to supervision who commits any such violation; or
16 that any registrant or other person has, in a registration statement or in other
17 reports, applications, accounts, records or documents required by law or rules
18 to be filed with the Commission, made any untrue statement of a material
19 fact, or omitted to state any material fact required to be stated therein or
20 necessary to make the statements therein not misleading; or, in the case of an
21 underwriter, has failed to conduct an inquiry with reasonable diligence to
22 insure that a registration statement is accurate and complete in all material
23 respects; or that any person has refused to permit any lawful examinations
24 into its affairs, it shall, in its discretion, and subject only to the limitations
25 hereinafter prescribed, impose any or all of the following sanctions as may be
26 appropriate in light of the facts and circumstances:

27 (1) Suspension or revocation of any registration for the offering of
28 securities;

29 (2) A fine of not less than Ten thousand pesos (P10,000.00) nor more
30 than One million pesos (P1,000,000.00) plus not more than Two thousand
31 pesos (P2,000.00) for each day of continuing violation;

32 (3) In the case of a violation of Sections 24(e), 26(e), 30, 32 and 33,
33 disqualification from being an officer, member of the board of directors, or
34 person performing similar functions, of an issuer required to file reports
35 under Section 15 of this Act or any other Act, rule or regulation administered
36 by the Commission;

1 (4) In the case of a violation of Section 33, a fine of no more than
2 three times the profit gained or loss avoided as a result of the purchase, sale
3 or communication proscribed by such section; and

4 (5) Other penalties within the power of the Commission under laws
5 as are in effect from time to time.

6 (b) The imposition of the foregoing administrative sanctions shall be
7 without prejudice to the filing of criminal charges against the individuals
8 responsible for the violation.

9 (c) The Commission shall have the power to issue writs of execution
10 to enforce the provisions of this section and to enforce payment of the fees
11 and other dues collectible under this Act.

12 SEC. 65. *Cease and Desist Order.* – (a) The Commission, after
13 proper investigation or verification, *motu proprio*, or upon verified complaint
14 by any aggrieved party, may issue a cease and desist order without the
15 necessity of a prior hearing if in its judgment the act or practice, unless
16 restrained, will operate as a fraud on investors or is otherwise likely to cause
17 grave or irreparable injury or prejudice to the investing public.

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

24 (c) Any person aggrieved by a cease and desist order issued pursuant
25 to this section shall have five (5) days after service of the cease and desist
26 order upon him within which to demand in writing a hearing. No later than
27 fifteen (15) days after such person files a demand in writing for such hearing,
28 the Commission shall provide such hearing and no later than ten (10) days
29 thereafter determine whether or not to lift such order. If the Commission
30 fails to act within the time herein above prescribed, the cease and desist order
31 shall automatically be lifted.

32 SEC. 66. *Substituted Service Upon the Commission.* – Service of
33 summons or other process may be made upon the Commission in actions or
34 legal proceedings against an issuer or any person liable under this Act who is
35 not domiciled in the Philippines. Upon receipt by the Commission of such
36 summons, the Commission shall within ten (10) days thereafter, transmit by
37 registered mail a copy of such summons and the complaint or other legal

1 process to such issuer or person at his last known address or principal office.
2 The sending thereof by the Commission, the expenses for which shall be
3 advanced by the party at whose instance it is made, shall complete such
4 service.

5 *SEC. 67. Revelation of Information Filed with the Commission.* – (a)

6 All information filed with the Commission in compliance with the
7 requirements of this Act shall be made available to any member of the
8 general public, upon request, in the premises and during regular office hours
9 of the Commission, except as set forth in this section.

10 (b) Nothing in this Act shall be construed to require, or to authorize
11 the Commission to require, the revealing of trade secrets or processes in any
12 application, report or document filed with the Commission.

13 (c) Any person filing any such application, report or document may
14 make written objection to the public disclosure of information contained
15 therein, stating the grounds for such objection, and the Commission is
16 authorized to hear objections in any such case as it deems advisable. The
17 Commission may, in such cases, make available to the public the information
18 contained in any such application, report or document only when a disclosure
19 of such information is required in the public interest or for the protection of
20 investors; and copies of information so made available may be furnished to
21 any person having a legitimate interest therein at such reasonable charge and
22 under such reasonable limitations as the Commission may prescribe.

23 (d) It shall be unlawful for any member, officer or employee of the
24 Commission to disclose to any person other than a member, officer or
25 employee of the Commission or to use for personal benefit, any information
26 contained in any application, report or document filed with the Commission
27 which is not made available to the public pursuant to subsection (c) of this
28 section.

29 (e) Notwithstanding anything in subsection (d) to the contrary, on
30 request from a foreign enforcement authority of any country whose laws
31 grant reciprocal assistance as herein provided, the Commission may provide
32 assistance in accordance with this subsection, including the disclosure of any
33 information filed with or transmitted to the Commission, if the requesting
34 authority states that it is conducting an investigation which it deems
35 necessary to determine whether any person has violated, is violating, or is
36 about to violate any laws relating to securities or commodities matters that
37 the requesting authority administers or enforces. Such assistance may be

1 provided without regard to whether the facts stated in the request would also
2 constitute a violation of law of the Philippines.

3 **SEC. 68. *Effect of Action of Commission and Unlawful***
4 ***Representations with Respect Thereto.*** – (a) No action or failure to act by the
5 Commission in the administration of this Act shall be construed to mean that
6 the Commission has in any way passed upon the merits of or given approval
7 to any security or any transaction or transactions therein, nor shall such
8 action or failure to act with regard to any statement or report filed with or
9 examined by the Commission pursuant to this Act or the rules and
10 regulations thereunder to be deemed a finding by the Commission that such
11 statements or report is true and accurate on its face or that it is not false or
12 misleading. It shall be unlawful to make, or cause to be made, to any
13 prospective purchaser or seller of a security any representation that any such
14 action or failure to act by the Commission is to be so construed or has such
15 effect.

16 (b) Nothing contained in subsection (a) shall, however, be construed
17 as an exemption from liability of an employee or officer of the Commission
18 for any nonfeasance, misfeasance or malfeasance in the discharge of his
19 official duties.

20 **SEC. 69. *Special Accounting Rules.*** – The Commission shall have the
21 authority to make, amend and rescind such accounting rules and regulations
22 as may be necessary to carry out the provisions of this Act, including rules
23 and regulations governing registration statements and prospectuses for
24 various classes of securities and issuers, and defining accounting, technical
25 and trade terms used in this Act. Among other things, the Commission shall
26 have authority for the purpose of this Act, to prescribe the form or forms in
27 which required information shall be set forth, the items or details to be shown
28 in the balance sheet and earning statement, and the methods to be followed in
29 the preparation of accounts, appraisal or valuation of assets and liabilities,
30 determination of depreciation and depletion, differentiation of recurring and
31 non-recurring income, differentiation of investment and operating income,
32 and in the preparation, where the Commission deems it necessary or
33 desirable, of consolidated balance sheets or income accounts of any person
34 directly or indirectly controlling or controlled by the issuer, or any person
35 under direct or indirect common control with, the issuer.

36 **SEC. 70. *Effect on Existing Law.*** – The rights and remedies provided
37 by this Act shall be in addition to any and all other rights and remedies that

1 may now exist. However, except as provided in Sections 17 and 35 hereof,
2 no person permitted to maintain a suit for damages under the provisions of
3 this Act shall recover, through satisfaction of judgment in one or more
4 actions, a total amount in excess of his actual damages on account of the act
5 complained of: *Provided*, That exemplary damages may be awarded in cases
6 of bad faith, fraud, malevolence or wantonness in the violation of this Act or
7 the rules and regulations promulgated thereunder and that attorney's fees in
8 an amount not exceeding twenty percent (20%) of the award may be
9 awarded.

10 SEC. 71. *Class Actions; Consolidation of Actions.* – The Commission
11 may promulgate rules and regulations as may be necessary or appropriate in
12 the public interest or for the protection of investors which will govern (1)
13 class actions involving any violation of this Act or the rules promulgated by
14 the Commission (2) the consolidation of actions brought pursuant to this Act
15 or rules promulgated by the Commission; and (3) the compensation of
16 counsel in class actions.

17 SEC. 72. *Judicial Review of Commission Orders.* – Any person
18 aggrieved by an order of the Commission may appeal the order to the Court
19 of Appeals by petition for review in accordance with the pertinent provisions
20 of the rules of court.

21 SEC. 73. *Validity of Contracts.* – (a) Any condition, stipulation,
22 provision binding any person to waive compliance with any provision of this
23 Act or of any rule or regulation thereunder, or of any rule of an exchange
24 thereby, as well as the waiver itself, shall be void.

25 (b) Every contract made in violation of any provision of this Act or
26 of any rule or regulation thereunder, and every contract, including any
27 contract for listing a security on an exchange heretofore or hereafter made,
28 the performance of which involves the violation of, or the continuance of any
29 relationship or practice in violation of, any provision of this Act, or any rule
30 or regulation thereunder, shall be void:

31 (1) As regards the rights of any person who, in violation of any such
32 provision, rule or regulation, shall have made or engaged in the performance
33 of any such contract; and

34 (2) As regards the rights of any person who, not being a party to such
35 contract, shall have acquired any right thereunder with actual knowledge of
36 the facts by reason of which the making or performance of such contract was
37 in violation of any such provision, rule or regulation.

1 (c) Nothing in this Act shall be construed;

2 (1) To affect the validity of any loan or extension of credit made or
3 of any lien created prior or subsequent to the effectivity of this Act, unless at
4 the time of the making of such loan or extension of credit or the creating of
5 such lien, the person making such loan or extension of credit or acquiring
6 such lien shall have actual knowledge of the facts by reason of which the
7 making of such loan or extension of credit or the acquisition of such lien is a
8 violation of the provisions of this Act or any rules or regulations thereunder;
9 or

10 (2) To afford a defense to the collection of any debt, obligation or the
11 enforcement of any lien by any person who shall have acquired such debt,
12 obligation or lien in good faith, for value and without actual knowledge of
13 the violation of any provision of this Act or any rule or regulation thereunder
14 affecting the legality of such debt, obligation or lien.

15 SEC. 74. *Rules and Regulations Effectivity.* – (a) In addition to the
16 rulemaking powers otherwise provided herein, the Commission is authorized
17 to make, issue, amend and rescind such rules and regulations after public
18 hearing and such orders as are necessary or appropriate to effectuate the
19 provisions and purposes of this Act, including rules and regulations defining
20 accounting, technical, trade and other terms used but not otherwise defined in
21 this Act, and prescribing the form or forms in which information required in
22 registration statements, applications, reports to, and records required to be
23 maintained by the Commission, the content thereof within the scope of such
24 requirement, and the timing for making such filing, disclosure or
25 maintenance of such records, shall be set forth. For purposes of its rules or
26 regulations, the Commission may classify persons, securities, and other
27 matters within its jurisdiction, and prescribe different requirements for
28 different classes of persons, securities or matters, and to enable the
29 Commission to respond to unforeseen market developments without the need
30 to amend this Act and consistent with the purposes fairly intended by the
31 policy and provisions of this Act, by rule or order upon application,
32 conditionally or unconditionally exempt any person, security or transaction,
33 or class or classes of persons, securities or transactions, from any or all
34 provisions of this Act or any rule or regulation adopted hereunder, and to the
35 extent such exemption is necessary or appropriate in the public interest and
36 consistent with the protection of investors.

1 (b) The rules and regulations promulgated by the Commission shall
2 be published in two (2) newspapers of general circulation in the Philippines,
3 and unless otherwise prescribed by the Commission, the same shall be
4 effective fifteen (15) days after the date of the last publication.

5 SEC. 75. *Penalties.* – Any person who violates any of the provisions
6 of this Act, or the rules and regulations promulgated by the Commission
7 under authority thereof, or any person who, in a registration statement filed
8 under this Act, makes any untrue statement of a material fact or omits to state
9 any material fact required to be stated therein or necessary to make the
10 statements therein not misleading, shall, upon conviction, suffer a fine of not
11 less than Fifty thousand pesos (P50,000.00) nor more than Five million pesos
12 (P5,000,000.00) or imprisonment of not less than seven (7) years nor more
13 than twenty-one (21) years, or both in the discretion of the court. If the
14 offender is a corporation, partnership or association or other juridical entity,
15 the penalty may in the discretion of the court be imposed upon such juridical
16 entity and upon the officer or officers of the corporation, partnership,
17 association or entity responsible for the violation, and if such officer is an
18 alien, he shall in addition to the penalties prescribed, be deported without
19 further proceedings after service of sentence.

20 SEC. 76. *Partial Use of Income.* – To carry out the purposes of this
21 Act and its effective implementation and enforcement, the Commission is
22 hereby authorized to retain and spend, in addition to its annual budget
23 which shall at least be equal to the previous year's annual budget, an
24 additional amount equal to not more than twenty-five percent (25%) of its
25 total income of the year preceding the budget year, based on a program of
26 expenditures.

27 The use of such additional budget shall be subject to the auditing
28 requirements, standards and procedures under existing laws.

29 SEC. 77. *Transitory Provisions.* – The Commission, as organized
30 under existing laws, shall continue to exist and exercise its powers, functions
31 and duties under such laws and this Act.

32 All further requirements of this Act shall be complied with upon
33 approval of this Act: *Provided, however,* That compliance may be deferred
34 for such reasonable time as the Commission may determine but not to exceed
35 one (1) year from approval of this Act: *Provided, further,* That securities
36 which are being offered at the time of effectivity of this Act pursuant to an
37 effective registration and permit, may continue to be offered and sold in

1 accordance with the provisions of the Revised Securities Act in effect
2 immediately prior to approval of this Act: *Provided, further,* That any
3 licensed stock exchange which has received self-regulatory organization
4 status under the Revised Securities Act shall upon the approval of this Act,
5 obtain designation as a self-regulatory organization under this Act: and:
6 *Provided, finally,* That any securities intermediary, including a stock
7 exchange, licensed or registered under the Revised Securities Act shall within
8 six (6) months from the approval of this Act, obtain a new license or
9 registration under this Act, except that the Commission may, pursuant to
10 rules, exempt natural persons who have substantial market experience, have
11 received training on the new requirements under this Act, and who are
12 currently registered or licensed, from the requirement to pass a written
13 examination under Section 36 (d) (1) of this Act; and provided finally, that
14 within two (2) years from the approval of this Act, the Commission shall
15 submit a plan to Congress to make the Commission an institution that is
16 financially independent.

17 Violations committed prior to the effectivity of this Act shall be
18 punished in accordance with the provisions of the laws then in force and any
19 suit brought after the effectivity of this Act to enforce any liability or duty
20 created by the Revised Securities Act shall be subject to such limitations on
21 the prosecution of such actions as provided by the Revised Securities Act as
22 then in effect.

23 *SEC. 78. Repealing Clause.* – The Revised Securities Act (Batas
24 Pambansa Blg. 178), in its entirety, as amended, and Sections 2, 4 and 8 as
25 regards to the organization of the Commission of Presidential Decree 902-A,
26 as amended, are hereby repealed. All other laws, orders, rules and
27 regulations, or parts thereof, inconsistent with any provision of this Act are
28 hereby repealed or modified accordingly.

29 *SEC. 79. Separability Provisions.* – If any provision of this Act shall
30 be held invalid, the remainder of the Act not otherwise affected shall remain
31 in full force and effect.

32 *SEC. 80. Effectivity.* – This Act shall take effect immediately upon its
33 approval.

34 Approved,

SCHEDULE A

1
2 (1) Name of issuer and, if incorporated, place of incorporation.

3 (2) The location of the issuer's principal business office, and if such
4 issuer is a nonresident or its place of office is outside of the Philippines, the
5 name and address of its agent in the Philippines authorized to receive notice.

6 (3) The names and addresses of the directors or persons performing
7 similar functions, and the chief executive, financial and accounting officers
8 and other principal executive officers, chosen or to be chosen, if the issuer be
9 a corporation, association, trust or other entity; of all the partners, managing
10 agents, trustees or other persons performing similar functions, if the issuer be
11 a partnership, trust, unincorporated association or similar entity; and of the
12 issuer, if the issuer be an individual; and also of the promoters in the case of a
13 business to be formed.

14 (4) The names and addresses of the underwriters.

15 (5) The general character of the business actually transacted or to be
16 transacted by, and the organization and financial structure of, the issuer
17 including identities of all companies controlling, controlled by or commonly
18 controlled with the issuer.

19 (6) The names and addresses of all persons, if any, owning of record
20 or beneficially, if known, more than ten percent (10%) in the aggregate of the
21 outstanding stock of the issuer, or in excess of such lesser percent the
22 Commission by rule may prescribe, as of a date within twenty days prior to
23 the filing of the registration statement.

24 (7) The amount of securities of the issuer held by any person
25 specified in subparagraph (3), (4) and (6) of this subsection, as of a date
26 within twenty (20) days prior to the filing of the registration statement, and
27 the amount of the securities, for which the registration statement is filed, to
28 which such persons have indicated their intention to subscribe.

29 (8) A statement of the capitalization of the issuer and of all
30 companies controlling, controlled by or commonly controlled with the issuer,
31 including the authorized and outstanding amounts of its capital stock and the
32 proportion thereof paid up; the number and classes of shares in which such
33 capital stock is divided; par value thereof, or if it has no par value, the stated
34 or assigned value thereof; a description of the respective voting rights,
35 preferences, conversion and exchange rights, rights to dividends, profits or
36 capital of each class, with respect to each other class, including the retirement
37 and liquidation rights or values thereof.

1 (9) A specimen certificate, if applicable, of the security to be offered.

2 (10) A copy of any circular, prospectus, advertisement, letter or other
3 communication to be used for the public offering of the security.

4 (11) A statement of the securities, if any, covered by options
5 outstanding or to be created in connection with the security to be offered,
6 together with the names and addresses of all persons, if any, to be allotted
7 more than ten percent (10%) in the aggregate of such options, or in excess of
8 such lesser percent the Commission by rule may prescribe.

9 (12) The amount of capital stock of each class issued or included in
10 the shares of stock to be offered.

11 (13) The amount of the funded indebtedness outstanding and to be
12 created by the security to be offered, with a brief statement of the date,
13 maturity and character of such debt, rate of interest, character or amortization
14 provisions, other terms and conditions thereof and the security, if any,
15 therefor. If substitution of any security is permissible, a summarized
16 statement of the conditions under which such substitution is permitted. If
17 substitution is permissible without notice, a specific statement to that effect.

18 (14) The specific purposes in detail and the approximate amounts to
19 be devoted to such purposes, so far as determinable, for which the security to
20 be offered is to supply funds, and if the funds are to be raised in part from
21 other sources, the amounts and the sources thereof.

22 (15) The remuneration paid, or estimated to be paid, by the issuer or
23 its predecessor, directly or indirectly, during the past year and the ensuing
24 year to (a) the directors or persons performing similar functions, and (b) its
25 officers or such other persons, naming each of them whose remuneration
26 exceeded during any such year such amount as the Commission by rule may
27 prescribe.

28 (16) The amount of issue of the security to be offered.

29 (17) The estimated net proceeds to be derived from the security to be
30 offered.

31 (18) The price at which the security is proposed to be offered to the
32 public or the method by which such price is computed and any variation
33 therefrom at which any portion of such security is proposed to be offered to
34 persons or classes of persons, other than the underwriters, naming them or
35 specifying the class. A variation in price may be proposed prior to the date
36 of the public offering of the security by filing an amended registration
37 statement.

1 (19) All commissions or discounts paid or to be paid, directly or
2 indirectly, by the issuer to the underwriters with respect to the sale of the
3 security to be offered. Commissions shall include all cash, securities,
4 contracts, or anything of value, paid, to be set aside, or disposed of, or
5 understandings with or for the benefit of any other person in which any
6 underwriter is interested, made in connection with the sale of such security.
7 A commission paid or to be paid in connection with the sale of such security
8 by a person in which the issuer has an interest or which is controlled by, or
9 under common control with, the issuer shall be deemed to have been paid by
10 the issuer. Where any such commission is paid, the amount of such
11 commission paid to each underwriter shall be stated.

12 (20) The amount or estimated amounts, itemized in reasonable detail,
13 of expenses, other than commission specified in the next preceding
14 paragraph, incurred or to be incurred by or for the account of the issuer in
15 connection with the sale of the security to be offered or properly chargeable
16 thereto, including legal, engineering, certification, authentication and other
17 charges.

18 (21) The net proceeds derived from any security sold by the issuer
19 during the two (2) years preceding the filing of the registration statement, the
20 price at which such security was offered to the public or sold in any exempt
21 transaction under Section 6 hereof, and the names of the principal
22 underwriters of such security if any.

23 (22) Any amount paid within two (2) years preceding the filing of the
24 registration statement or intended to be paid to any promoter and the
25 consideration for any such payment.

26 (23) The names and addresses of the vendors and the purchase price
27 of any property or goodwill, acquired or to be acquired, not in the ordinary
28 course of business, which is to be defrayed in whole or in part from the
29 proceeds of the security to be offered, the amount of any commission
30 payable to any person in connection with such acquisition, and the name or
31 names of such person or persons, together with any expense incurred or to be
32 incurred in connection with such acquisition, including the cost of borrowing
33 money to finance such acquisition.

34 (24) Full particulars of the nature and extent of the interest, if any, of
35 every director, principal executive officer, and of every stockholder holding
36 more than ten percent (10%) in the aggregate of the stock of the issuer, or in
37 excess of such other lesser percent the Commission by rule may prescribe, in

1 any property acquired, not in the ordinary course of business of the issuer,
2 within two (2) years preceding the filing of the registration statement or
3 proposed to be acquired at such date.

4 (25) The names and addresses of independent counsels who have
5 passed on the legality of the issue.

6 (26) Dates of and parties to, and the general effect concisely stated of
7 every material contract made, not in the ordinary course of business, which
8 contract is to be executed in whole or in part at or after the filing of the
9 registration statement or which has been executed not more than two (2)
10 years before such filing. Any management contract or contracts providing
11 for special bonuses or profit-sharing arrangements, and every material patent
12 or contract for a material patent right, and every contract by or with a public
13 utility company or an affiliate thereof, providing for the giving or receiving
14 of technical or financial advice or service shall be deemed a material
15 contract.

16 Any contract, whether or not made in the ordinary course of business
17 with any director or officer, or any stockholder, whether a natural or juridical
18 person, owning more than ten percent (10%) of the shares of the issuer, or in
19 excess of such lesser percent as the Commission by rule may prescribe,
20 involving in excess of an amount prescribed by the Commission, shall be
21 deemed a material contract for the purpose of this subparagraph.

22 (27) A balance sheet as of a date not more than ninety (90) days prior
23 to the date of the filing of the registration statement showing all of the assets
24 of the issuer, the nature and cost thereof, whenever determinable with
25 intangible items segregated, including any loan to or from any officer,
26 director, stockholder or person directly or indirectly controlling or controlled
27 by the issuer, or person under direct or indirect common control with the
28 issuer. In the event any such assets consist of shares of stock in other
29 companies, the balance sheet and profit and loss statements of such
30 companies for the past three (3) years shall likewise be enclosed. All the
31 liabilities of the issuer, including surplus of the issuer, showing how and
32 from what sources such surplus was created, all as of date not more than
33 ninety (90) days prior to the filing of the registration statement. If such
34 statement is not certified by an independent certified public accountant, in
35 addition to the balance sheet required to be submitted under this schedule, a
36 similar detailed balance sheet of the assets and liabilities of the issuer,
37 certified by an independent certified public accountant, of a date not more

1 than one (1) year prior to the filing of the registration statement, shall be
2 submitted.

3 (28) A profit and loss statement of the issuer showing earnings and
4 income, the nature and source thereof, and the expenses and fixed charges in
5 such detail and such form as the Commission shall prescribe for the latest
6 fiscal year for which such statement is available and for the two (2)
7 preceding fiscal years, year by year, or, if such issuer has been in actual
8 business for less than three (3) years, then for such time as the issuer has
9 been in actual business, year by year. If the date of the filing of the
10 registration statement is more than six (6) months after the close of the last
11 fiscal year, a statement from such closing date to the latest practicable date.
12 Such statement shall show what the practice of the issuer has been during the
13 three (3) years or less period as to the character of the charges, dividends or
14 other distributions made against its various surplus accounts, and as to
15 depreciation, depletion and maintenance charges, and if stock dividends or
16 avails from the sale of rights have credited to income, they shall be shown
17 separately with statement of the basis upon which credit is computed. Such
18 statement shall also differentiate between recurring and nonrecurring income
19 and between any investment and operating income. Such statement shall be
20 certified by an independent certified public accountant.

21 (29) Any liabilities of the issuer to companies controlling or
22 controlled by the issuer shall be disclosed in full detail as to use of the
23 proceeds thereof, the maturity and repayment schedule, nature of security
24 thereof, the rate of interest and other terms and conditions thereof. If the
25 proceeds or any part of the proceeds of the security to be issued is to be
26 applied directly or indirectly to the purchase of any business, a profit and loss
27 statement of such business, certified by an independent certified public
28 accountant, meeting the requirements of subparagraph (28) hereof, for the
29 three (3) preceding fiscal years, together with a balance sheet, similarly
30 certified, of such business, meeting the requirements of subparagraph (27)
31 hereof of a date not more than ninety (90) days prior to the filing of the
32 registration statement or at the date such business was acquired by the issuer
33 more than ninety (90) days prior to the filing of the registration statement.

34 (30) A copy of any agreement or agreements or, if identical
35 agreements are used, the forms thereof made with any underwriter, including
36 all contracts and agreements referred to in subparagraph (19) hereof.

1 (31) A copy of the opinion or opinions of independent counsel in
2 respect to the legality of the issue.

3 (32) A copy of all material contracts referred to in subparagraph (26)
4 hereof, but no disclosure shall be required by the Commission of any portion
5 of any such contract if the disclosure of such portion would impair the value
6 of the contract and would not be necessary for the protection of the investors.

7 (33) A detailed statement showing the items of cash, property,
8 services, patents, goodwill, and any other consideration for which securities
9 have been or are to be issued in payment.

10 (34) The amount of cash to be paid as promotion fees, or of capital
11 stock which is to be set aside and disposed of as promotion stock, and a
12 statement of all stock issued from time to time as promotion stock.

13 (35) In connection with securities issued by a person engaged in the
14 business of developing, exploiting or operating mineral claims, a sworn
15 statement of a mining engineer stating the ore possibilities of the mine and
16 such other information in connection therewith as will show the quality of
17 the ore in such claims, and the unit cost of extracting it.

18 (36) Unless previously filed and registered with the Commission and
19 brought up to date:

20 (a) A copy of its articles of incorporation with all amendments
21 thereof and its existing by-laws or instruments corresponding thereto,
22 whatever the name, if the issuer be a corporation;

23 (b) A copy of all instruments by which the trust is created or
24 declared and in which it is accepted and acknowledged, if the issuer is a trust;

25 (c) A copy of its articles of partnership or association and all the
26 papers pertaining to its organization, if the issuer is a partnership,
27 unincorporated association, joint-stock company, syndicate, or any other
28 form of organization.

29 (37) A copy of the underlying agreements or indentures affecting any
30 stock, bonds or debentures offered or to be offered by the issuer and
31 outstanding on the part of companies controlling or controlled by the issuer.

32 (38) Where the issuer or registrant is not formed, organized and
33 existing under the laws of the Philippines or is not domiciled in the
34 Philippines, a written power of attorney, certified and authenticated in
35 accordance with laws, designating some individual person, who must be a
36 resident of the Philippines, on whom any summons and other legal processes
37 may be served in all actions or other legal proceedings against him, and

1 consenting that service upon such resident agent shall be admitted as valid
2 and proper service upon the issuer or registrant, and if at anytime that service
3 cannot be made upon such resident agent, services shall be made upon the
4 Commission.

5 (39) For each promoter, director, chosen or to be chosen, principal
6 executive officer, partner, managing agent or other person performing similar
7 functions, and for each underwriter and each director and principal executive
8 officer of such underwriter, a description of the following events (whether or
9 not occurring in the Philippines) insofar as they are material to an evaluation
10 of the ability or integrity of such person:

11 (a) The filing of a petition for, or a judicial declaration of insolvency
12 or bankruptcy with respect to any business with which such person was
13 associated, or a judicial declaration that such person is a spendthrift or
14 incapacitated to contract.

15 (b) The conviction of such person, whether after trial, upon plea of
16 guilty or similar plea, or the pendency of a pending criminal proceeding
17 against such person (excluding traffic and other minor offenses).

18 (c) The issuance of a judicial or administrative order, judgment or
19 decree, not subsequently reversed, suspended or vacated, prohibiting or
20 limiting the involvement of such person in any type of securities,
21 commodities, banking, real estate, insurance or other business activities, or
22 enjoining or sanctioning such person for violations of applicable law in
23 connection with such activities.

24 (d) The judicial or administrative finding in a civil proceeding, hether
25 after hearing or upon consent, that such person has violated securities,
26 commodities, banking, real estate or insurance laws, or has engaged in fraud,
27 embezzlement, theft or *estafa*.

28 (40) A statement of risk factors associated with the business of the
29 issuer and with investing in the securities to be offered by the registration
30 statement.

Approved,