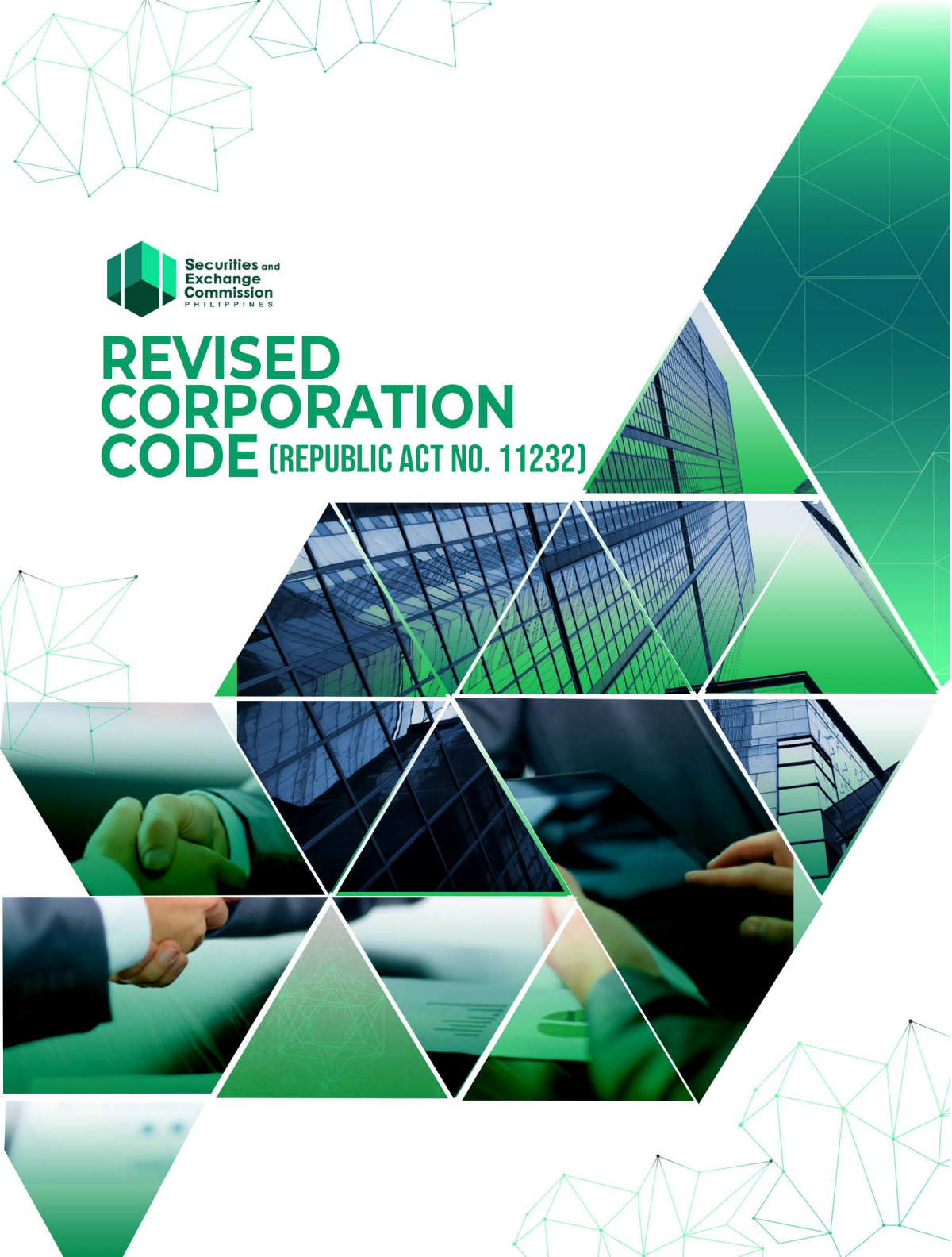




# REVISED CORPORATION CODE (REPUBLIC ACT NO. 11232)



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## FOREWORD



The enactment of Republic Act No. 11232, otherwise known as The Revised Corporation Code of the Philippines, is one giant leap forward. It fills the gaps in the almost four-decade-old Batas Pambansa Blg. 68 and supersedes provisions that have become obsolete and even hindersome in a fast-paced and highly competitive environment.

Enabling corporations to keep pace with the fast-evolving business landscape is imperative amid our pursuit for sustainable and inclusive growth, the centerpiece of the Philippine development agenda.

The Revised Corporation Code, with its progressive provisions, fosters inclusive entrepreneurship, improves the ease of doing business in the country and subsequently the economy's competitiveness, promotes good corporate governance, and increases protection afforded to corporations, investors and other stakeholders.

Among others, it provides for the establishment of a corporation with single stockholder, perpetual existence of corporations, electronic filing and monitoring, alternative dispute resolution, stockholder participation through remote communication, election of independent directors for corporations vested with public interest, the concept of emergency board, and deterrence against corporate abuses, fraud and corruption.

### **One person corporation (OPC)**

Section 10 paves the way for the creation of an OPC by removing the minimum number of incorporators that may organize an ordinary corporation, which the old Code fixed at five. A whole chapter, Chapter III, in Title XII further defines the OPC.

The concept of OPC should encourage the formation of more businesses by making it easier for entrepreneurs to start a limited liability company. This is especially beneficial in an economy where micro, small and medium enterprises comprise more than 99 percent of business establishments and generate around 63 percent of jobs.

### **Perpetual corporate term**

The grant of perpetual corporate terms to corporations, under Section 11, should make the Philippines more conducive for business as well. Perpetual existence does not only ensure uninterrupted operation of legitimate and productive businesses, but also foster a sense of longevity that translates to long-term and sustainable projects and investments. Existing corporations, with certificates of incorporation issued prior to the enactment of the Revised Corporation Code, are likewise deemed to have perpetual existence.

Nonetheless, a corporation has the option to adopt specific corporate terms in their articles of incorporation. In the case of an existing corporation, it can elect to retain its specific corporate terms upon a vote of its stockholders representing a majority of its outstanding capital stock.

### **No minimum capital stock**

Section 12 further relaxes the requirements for incorporation by doing away with the minimum capital stock requirement for stock corporations, except as otherwise specifically provided by special law.

In the old Code, stock corporations were not likewise required to have any minimum authorized capital stock. However, at least 25 percent of the authorized capital stock stated in their articles of incorporation must

be subscribed at the time of incorporation and at least P5,000 or 25 percent of the total subscription must be paid upon subscription.

Removing such requirements benefits small enterprises, in particular, because it allows them to build and pursue a business with low capital or funding.

### **Independent directors**

To promote good governance, Section 22 requires corporations vested with public interest to have independent directors constituting at least 20 percent of their respective boards. The same section enumerates the corporations covered by the provision and defers to the Securities and Exchange Commission for the qualifications, voting requirements, terms, maximum number of board memberships and other requirements for independent directors.


Publicly listed companies and registered issuers of securities were previously required to have at least three independent directors or a number constituting one-third of their boards under the Revised Code of Corporate Governance, which likewise encouraged other corporations to have independent directors.

Such a requirement recognizes the important role of independent directors in ensuring the exercise of independent judgment on corporate affairs and proper oversight of managerial performance. It also promotes strong corporate governance culture, which has proven beneficial in maximizing a corporation's long-term success and creating sustainable value for stakeholders and the nation.

### **Emergency board**

Section 28, meanwhile, provides the board of directors means to immediately respond to unforeseen events or issues that could otherwise result in grave, substantial and irreparable loss or damage.





The said section allows a corporation to convene an emergency board when a vacancy in the board of directors prevents the remaining directors from constituting a quorum and consequently from making emergency actions.

In such situations, the vacancy may be temporarily filled from among the officers of the corporation by a unanimous vote of the remaining directors or trustees. The corporation must then notify the Commission within three days from the creation of the emergency board. The action by the designated director or trustee shall be limited to the emergency action necessary, and his or her term shall cease within a reasonable time from the termination of the emergency or upon the election of the replacement director or trustee.

#### **Remote communication**

The Revised Corporation Code also provides for more mechanisms to ensure optimal participation in the governance of corporations by allowing the use of remote communication such as videoconferencing and teleconferencing in stockholder and board meetings. In addition, it allows stockholders to participate and vote in absentia.

Section 23, for one, acknowledges the participation of stockholders in the election of directors or trustees through remote communication or in absentia. Section 49 further states that stockholders or members may exercise their right to vote through a proxy or remote communication in regular and special meetings.

For board meetings, Section 52 allows directors or trustees who cannot physically attend to participate and vote through remote communication. However, directors or trustees cannot participate or vote in such meetings by proxy.

#### **Electronic filing and monitoring**

The Revised Corporation Code makes doing business even easier, from applying for certificate of incorporation to complying with reportorial requirements, by mandating the Commission to develop and implement an electronic filing and monitoring system under Section 180.

It requires the Commission to facilitate and expedite, among others, corporate name reservation and registration, incorporation, submission of reports, notices, documents required under the Code, and sharing of pertinent information with other government agencies with the use of an electronic filing and monitoring system.

The provision affirms the Commission's ongoing efforts to streamline processes and procedures by, among others, adopting a fully automated and online company registration system for the pre-processing of corporations and partnerships, licensing of foreign corporations, amendments of the articles of incorporation and other corporate applications requiring its approval.

#### **Alternative dispute resolution**

The Revised Corporation Code also provides for the efficient settlement of intra-corporate disputes, except those involving criminal offenses and interests of third parties.

Section 181 states that corporations may include arbitration agreements in their articles of incorporation or bylaws. To be enforceable, such agreements must indicate the number of arbitrators and the procedure for their appointment.

The power to appoint arbitrators shall be granted to a designated independent third party. The parties may request the Commission to appoint arbitrators should the third party fail to appoint arbitrators in the manner and within the period specified in the arbitration agreement. In any case, arbitrators must be accredited or must belong to organizations vaccredited for the purpose of arbitration.

#### **Deterrence to abuses, fraud and corruption**

Furthermore, the Revised Corporation Code instills a greater sense of





accountability to corporations to deter abuses, fraud and corruption in the private sector.

Section 154, for one, empowers the SEC to investigate alleged violations of the Code, a rule or regulation, and its orders. Section 156 further enables the Commission to issue cease and desist orders and pursue administrative actions and/ or initiate criminal prosecution. Under Section 158, the Commission may impose administrative sanctions ranging from fines to dissolution and forfeiture of assets.

Offenses and their corresponding penalties are enumerated in Title XVI. These include engagement in or toleration of graft and corrupt practices as well as retaliation against whistleblowers, in line with global initiatives to tackle corporate corruption, which has been found to inflate the cost of doing business and discourages private investment.

The Revised Corporation Code was signed into law by President Rodrigo R. Duterte on 20 February 2019 and became effective on 23 February 2019 upon completion of its publication in two newspapers of general circulation.

The Revised Corporation Code provides the government another tool to advance its economic agenda, especially on increasing the economy's competitiveness and improving the ease of doing business in the country to attract job-generating investments and uplift the lives of Filipinos.

The Commission, as the overseer of the corporate sector, expresses its gratitude to the Office of the President, the Senate of the Philippines

and the House of Representatives for the passage of the Revised Corporation Code. The Commission also acknowledges the Department of Finance, other government agencies and organizations that have supported the measure.

Our efforts to enable the potential of the corporate sector as partners in nation building will not stop with the Revised Corporation Code. Moving forward, the Commission will pursue more initiatives that will further enable the corporate sector to thrive and contribute to the realization of our collective vision of a strongly-rooted, comfortable and secure life.

**EMILIO B. AQUINO**

Chairperson, Securities and Exchange Commission





## REVISED CORPORATION CODE SALIENT POINTS

1

### PERPETUAL TERM

There's forever with the Revised Corporation Code! Section 115 provides that corporations are now allowed to exist beyond the 50-year term provided in the old code. This will eliminate the possibility of legitimate and productive business prematurely closing down only because they have failed to renew their registration.

### ONE-PERSON CORPORATION

Build your corporation on your own, literally. The RCC removed the minimum number of incorporators required to organize a corporation and allowed the formation of one-person corporation, a corporation with a single stockholder and without a minimum authorized capital stock required.

3

### NO MINIMUM CAPITAL STOCK

Start your business with as little capital or funding possible. Section 12 provides that Corporations shall not be required to have a minimum capital stock, except as otherwise specifically provided by special law.

4

### PARTICIPATION VIA REMOTE COMMUNICATIONS, IN ABSENTIA

Be involved in the decision-making process whenever and wherever you are. The RCC has allowed the use of remote communication such as videoconferencing and teleconferencing during stockholder meetings. Stockholder may also participate and vote in absentia.

### EMERGENCY BOARD

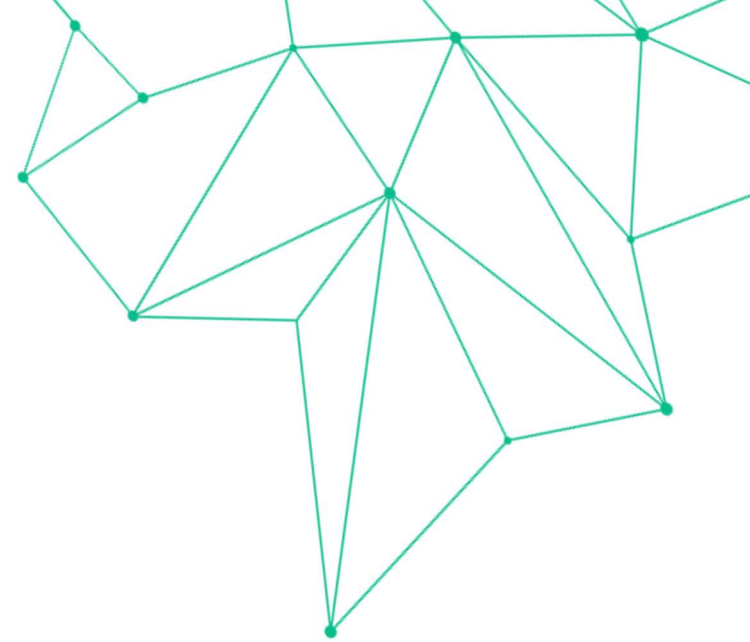
Be more decisive in times of emergency. Amendment also includes the provision of an emergency board when a vacancy in a corporation's board of directors prevents the remaining directors from consulting a quorum and consequently from making emergency action required to prevent grave, substantial and irreparable loss or damage.

5

### ELECTRONIC FILING AND MONITORING SYSTEM

Register, apply or file online. As part of efforts of doing business in the country, the Revised Corporation Code mandated the Commission to develop and implement an electronic filing and monitoring system. So far, the Commission has implemented an online company registration system.

6



## REVISED CORPORATION CODE

On February 23, 2019, Republic Act No. 11232 or the Revised Corporation Code became effective, replacing Batas Pambansa Blg. 68. The law introduces fresh and progressive concepts aimed at improving the ease of doing business in the country, promoting good corporate governance and afford protection to corporations, investors and consumers alike, amid a fast-evolving business landscape. Here are some of the key provisions of the new Code



**TITLE I**  
**GENERAL PROVISIONS**  
**DEFINITIONS AND CLASSIFICATIONS**

- Section 1. Title of the Code.
- Section 2. Corporation Defined.
- Section 3. Classes of Corporations.
- Section 4. Corporations Created by Special Laws or Charters.
- Section 5. Corporators and Incorporators, Stockholders and Members.
- Section 6. Classification of Shares.
- Section 7. Founders' Shares.
- Section 8. Redeemable Shares.
- Section 9. Treasury Shares.

**TITLE II**  
**INCORPORATION AND ORGANIZATION OF PRIVATE CORPORATIONS**

- Section 10. Number and Qualifications of Incorporators.
- Section 11. Corporate Term.
- Section 12. Minimum Capital Stock Not Required of Stock Corporations.
- Section 13. Contents of the Articles of Incorporation.
- Section 14. Form of Articles of Incorporation.
- Section 15. Amendment of Articles of Incorporation.
- Section 16. Grounds When Articles of Incorporation or Amendment May Be Disapproved.
- Section 17. Corporate Name.
- Section 18. Registration, Incorporation and Commencement of Corporate Existence.
- Section 19. De Facto Corporations.
- Section 20. Corporation by Estoppel.
- Section 21. Effects of Non-Use of Corporate Charter and Continuous Inoperation.

**TITLE III**  
**BOARD OF DIRECTORS, TRUSTEES, OFFICERS**

- Section 22. The Board of Directors or Trustees; Qualification and Term.
- Section 23. Election of Directors or Trustees.
- Section 24. Corporate Officers.
- Section 25. Report of Election of Directors, Trustees and Officers, Non-holding of Election  
and Cessation from Office.
- Section 26. Disqualification of Directors, Trustees or Officers.
- Section 27. Removal of Directors or Trustees.
- Section 28. Vacancies in the Office of Director or Trustee; Emergency Board.
- Section 29. Compensation of Directors or Trustees.
- Section 30. Liability of Directors, Trustees or Officers.
- Section 31. Dealings of Directors, Trustees or Officers with the Corporation.
- Section 32. Contracts Between Corporations with Interlocking Directors.
- Section 33. Disloyalty of a Director.
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**POWERS OF CORPORATION**

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- Section 36. Power to Extend or Shorten Corporate Term
- Section 37. Power to Increase or Decrease Capital Stock; Incur, Create or Increase Bonded Indebtedness.
- Section 38. Power to Deny Pre-Emptive Right.
- Section 39. Sale or Other Disposition of Assets.
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Section 46. Contents of By-Laws.

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