

# 2011

ANNUAL REPORT

## SECURITIES & EXCHANGE COMMISSION

*...Enhancing the moral fiber of the SEC human resources*

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### ABOUT THE COVER

A swirl denotes effortless motion, representing vitality and progress that the SEC as an institution sustained for the past 75 years.

This is the message the Commission wants to convey. Like the swirl, the SEC's evolution as a regulatory and development institution is intended to contribute not only to national progress but also to the inclusive growth of its stakeholders.



## OUR MISSION

To strengthen the corporate and capital market infrastructure of the Philippines, and to maintain a regulatory system based on international best standards and practices, that promotes the interests of investors in a free, fair and competitive environment.

We shall be guided in this mission by the values of Integrity, Professionalism, Accountability, Independence and Initiative.

## OUR VALUES

- Integrity** - We are morally upright, honest, sincere in our private and public lives.
- Professionalism** - We consistently implement the law, provide timely, efficient and competent service to the public.
- Accountability** - We abide by prescribed ethical and work standards in government service.
- Independence** - We act without fear or favor, and render sound judgment in the performance of our duties and responsibilities.
- Initiative** - We are strategic and forward-looking in the fulfillment of our developmental and regulatory functions.





## **VISION STATEMENT 2011**

By December 31, 2011, the Commission shall have enhanced the moral fiber of its human resources and the capabilities of its operational infrastructure to enable it to effectively and efficiently accomplish its mandate.



## MESSAGE FROM THE COMMISSION

We are pleased to present this report on the accomplishments of the Securities and Exchange Commission (SEC) for the year 2011.

The SEC has come a long way since its creation in 1936. As the regulatory agency charged to register and monitor corporations and partnerships, to develop and regulate the capital markets and its participants and to protect the investing public, it has undergone many changes. Over the years, it has had the scope of its functions re-defined and its attendant processes and operations reconfigured. These changes constitute milestones in its history, and have enabled the SEC to better deliver on its mandate, and respond to developments in corporate and investment activities, technology and the law.

The year 2011 marked the 75th anniversary of the SEC, and the appointment of a new Chairperson, the former signifying the endurance of an institution, while the latter symbolizing change and reform.

As an institution in the field of government regulation, the SEC has consistently pursued a dynamic and well-calibrated or “smarter” oversight of the capital markets. This is an environment where the agency’s actions can be as tight or as loose – as heavy or as light – as it needs to be, depending on what the prevailing situation requires. Market oversight should be well ahead of the curve, to avoid, among others, regulatory arbitrage and regulatory capture.

Under its new leadership, the SEC has sought to address, with greater resolve, concerns about the supposedly excessive regulation, as opposed to the development, of the capital markets. A developed capital market cannot be achieved without some form of intervention from a government agency. This has been validated in foreign jurisdictions. The issue, however, lies in the level and nature of government intervention. Where, as here, the local capital market has yet to mature in order to become a strategic partner complementing the banking and financial sector and a key component in the nation’s economic growth, the SEC is responsible for harnessing non-bank financial institutions’ and market participants’ efforts in the capital formation process, and easing local businesses’ need for long-term capital at a reasonable cost.

Furthermore, the SEC has sought to transform itself into a more potent institution in the future by building its internal capacity. With its concentrated focus on strategic human resource management, e-government initiatives, inter-agency involvements and deeper engagement with the key players in the capital markets, the SEC will be able to (1) enhance its role as the regulatory agency enforcing the laws and implementing rules governing the corporate and capital market infrastructure in the country and (2) reinforce its institutional credibility.

That said, we hope that the readers of this report will appreciate the renewed earnestness with which the SEC seeks to fulfill its mandate. While much has been done, much more is required to be done. The new directions that the SEC has taken during its 75th anniversary serve as the springboard for meaningful and substantial accomplishments in the coming years on the part of the new Chairperson, the incumbent Commissioners and the rest of the SEC.

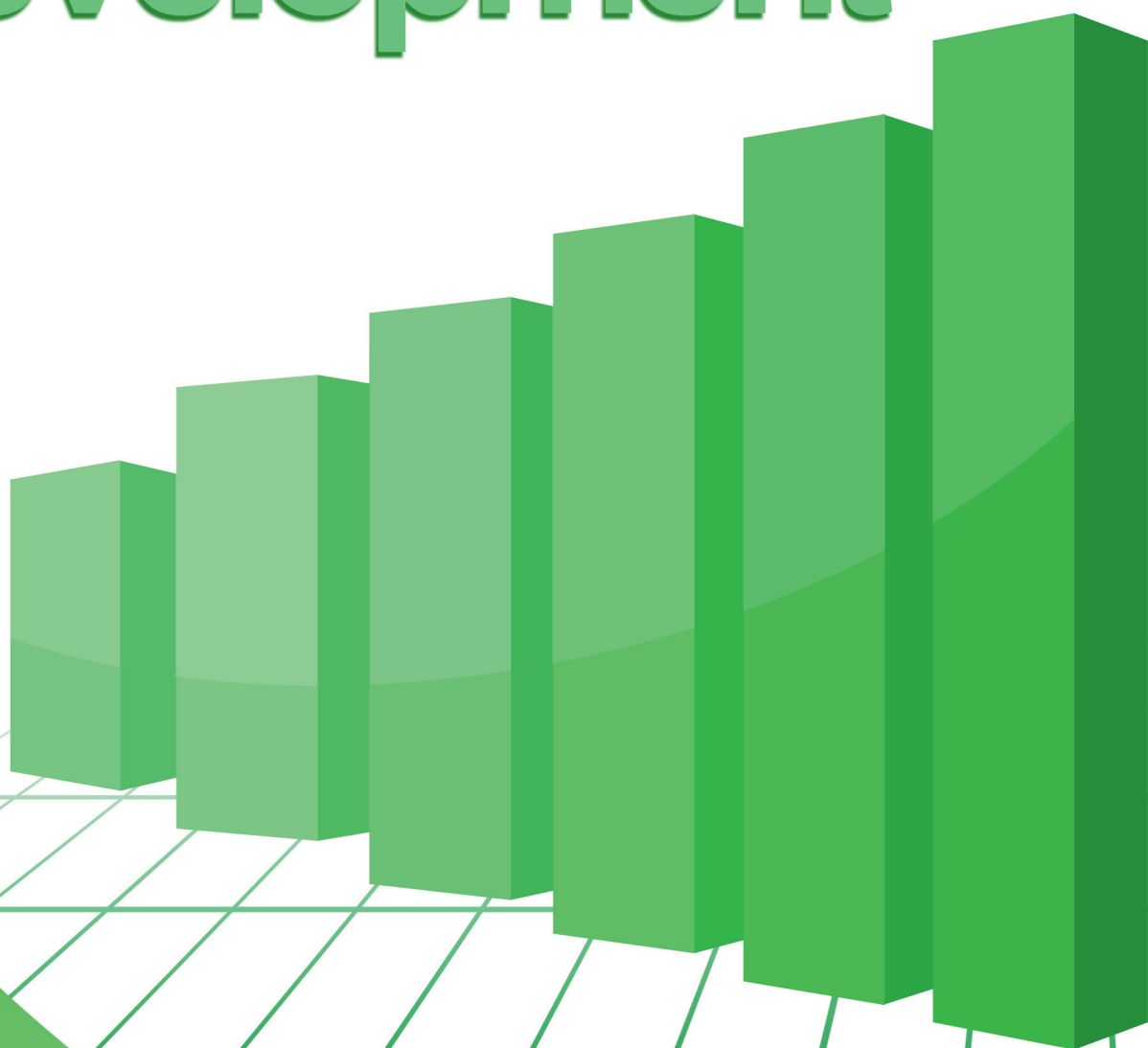
Mabuhay!

Chair Teresita J. Herbosa  
Commissioners Ma. Juanita E. Cueto,  
Raul J. Palabrica, Manuel Huberto B. Gaité  
and Eladio M. Jala

2011  
Annual Report



# Capital Market Development





# MARKET REGULATION DEPARTMENT (“MRD”)

## **Core functions**

- ☛ *Monitors compliance of market participants with the Securities Regulation Code*
- ☛ *Provides day-to-day oversight of the major securities market participants such as the securities exchanges, securities firms, Self-Regulatory Organizations (SROs), securities clearing agencies, and transfer agents*

## **ACCOMPLISHMENTS**

### **I. Market Development Initiatives**

Acting as direct overseer of the day-to-day operations and rule-making process of the Self-Regulatory Organizations (SROs), MRD supported the spin-off plan of the Philippine Stock Exchange (“PSE”) to turn over its audit, compliance and surveillance functions to a separate entity, named “Capital Markets Integrity Corporation” (“CMIC”). The Commission approved its articles of incorporation and by-laws on 14 March 2011.

The creation of CMIC was envisioned to maintain the integrity of the equities market and to minimize the risk of the investing public by ensuring that trading participants adhere to the rules and code of conduct of the PSE and the related legislative and regulatory requirements.

On 10 November 2011, the SEC granted CMIC a provisional authority to operate as an SRO after its Rules, Code of Ethics for Officials and Personnel and other requirements were approved by the Commission.

MRD also supported (1) the adoption of amended operational rules of the PSE as regards its extended trading hours to attract more investors and promote cross-border trading among investors in Southeast Asia and (2) the more stringent Minimum Public Ownership (MPO) rule to improve market liquidity and fair stock pricing. The MPO Rule prescribes all listed companies to maintain a minimum public ownership of 10% to avoid being delisted.

To encourage the petroleum and renewable energy (RE) companies to go public and list their shares at the PSE, MRD approved its rules on Supplemental Listing and Disclosure Requirements for Petroleum and Renewable Energy Companies. Under the Supplemental Rules, petroleum and RE companies that cannot comply with the rigid 1-year operating history requirement were accorded the option to comply instead with the following additional requirements to be considered for listing: service contract, DOE certification on the validity and subsistence of such contract, technical reports, joint venture agreement, commitment to service contract, escrow of funds and monitoring of funds, and the DOE-certified background reports of member-companies of consortia.

MRD also authorized the amendments to the PSE’s Listing Rules by Way of Introduction. The new rules highlighted the mandatory requirement for issuer-companies to indicate the listing price and to submit a report from an independent firm on the fairness and valuation thereof.

## II. Compliance Monitoring

MRD monitored, reviewed and analyzed the following reports for 2011:

Table 1. Number of Reports Monitored, 2011

Type of Report	Total for 2011
Risk Based Capital Adequacy (RBCA)	1,728
AP QCR	569
MCG 2002	137
Secretary's Certification on the attendance of the Board of Directors in the Meetings	138
Annual Audited Financial Report	143
SEC Form 30.1	110
SEC Form 28BDA	100
SEC Form 28-S Amendment	11
SEC Form 28-AP Amendment	3
SEC Form 28T-Notice of Termination	64
IG/Underwriter/GSEDs	775
ICAs/MFDs	98
Transfer Agents	125
PSE/PDEx	1,062
Other Market Participants (SCCP)	249
<b>TOTAL</b>	<b>5,312</b>

In 2011, MRD conducted routine audits of regulated entities including 22 investment houses, 7 universal banks registered as underwriters of securities, 1 investment company adviser, 17 government securities eligible dealers and 20 transfer agents.

## III. Inter-agency activities

During the year under review, MRD participated in exploratory discussions and joint meetings hosted by the IOSCO Asia Pacific Regional Committee and the ASEAN Capital Market Forum (ACMF) concerning developmental issues, current programs and future plans of the respective capital markets. MRD also met with the ASEAN CEOs on the ASEAN Economic Community Blueprint 2015, which serves as a master plan guiding the establishment of the ASEAN Economic Community by 2015, and on the ASEAN Exchange Linkage or Common Exchange Gateway Project that would lead to the harmonization of trading rules in the ASEAN exchanges. The objective is to provide a standardized regulatory framework under which exchanges in the region may operate.

MRD actively engaged in various initiatives and advocacies on capital market development with the Reporting, Information Exchange and Dissemination Committee of the Financial Sector Forum ("FSF"), the Department of Finance on the ASEAN Framework Agreement on Services (AFAS), the Money Market Association of the Philippines and the Bankers Association of the Philippines.



# CORPORATION FINANCE DEPARTMENT (“CFD”)

## Core functions

- ☛ Registers securities before they are sold or offered for sale to the public and ensures availability of adequate information thereon
- ☛ Ensures that investors have access to all material disclosures on securities of public companies and offering thereof to the public
- ☛ Monitors the compliance of the issuers with the SRC and its implementing rules and regulations embodied therein and reports infractions to the Enforcement and Prosecution Department

## ACCOMPLISHMENTS

### I. Securities Registration

The total value of securities registered during the year reached PhP83.55 billion, the bulk of which consisted of equity securities in the aggregate amount of PhP36.31 billion, followed by debt securities in the amount of PhP32.31 billion. Among these securities were new equity issuances through initial public offerings (IPOs) of several publicly-listed companies in the stock exchange. On the other hand, debt securities registered were in the form of bonds and short-term commercial papers (STCPs) with maturities of one year or less.

Table 1. Securities Registered, CY 2011 (in PhP billion)

Value by Type of Securities	
Equity Securities	36.31
Debt Securities	32.31
Proprietary and Non-proprietary Shares/Certificates	14.93
<b>Total</b>	<b>83.55</b>

### II. Monitoring Activities

In 2011, CFD monitored the compliance of 2,065 covered companies including their reports and disclosure statements filed within the year. The breakdown of companies monitored is shown below:

Table 2. Types of Companies Monitored, CY 2011

Listed Companies	256
Mutual Funds	52
Registered issuers of securities	21
Financing Companies	589
Lending Companies	1,113
Credit Rating Agencies	2
Public Companies	32
<b>Total</b>	<b>2,065</b>

CFD has operational and jurisdictional audit oversight over listed companies, registered issuers of securities, mutual funds, public companies and credit rating companies.

As part of its monitoring activities, CFD reviewed a total of 11,716 reports to verify their conformity with the existing applicable rules and regulations. The breakdown of the reports is shown below:

Table 3. Types and Number of Reports Monitored, 2011

Type of Report	Total for 2011
Annual Reports (SEC Form 17-A)	93
Quarterly Reports (SEC Form 17-Q)	268
Current Reports (SEC Form 17-C)	4,608
Beneficial Ownership Reports (23/18)	3,742
Information Statements	764
Mutual Fund companies' Reports	596
Interim Financial Statements	
a. Financing Companies	297
b. Lending Companies	167
Manual on Corporate Governance	101
Anti-Money Laundering Manual	40
Corporate Governance Scorecard	39
AMLA Compliance Form	60
Certifications	764
<b>Total</b>	<b>11,539</b>

### III. Contributions to capital market development

In order to strengthen the supervisory power and independence of the SEC as a capital market regulator, CFD provided research and technical assistance in proposing amendments to certain provisions of the SRC and the Corporation Code of the Philippines. CFD also took charge of proposing amendments in the Implementing Rules and Regulations of the SRC.

During the year, it provided inputs to the drafting of the bill provisionally called the Collective Investment Schemes Act which seeks to grant the SEC jurisdiction over collective investment schemes such as mutual funds, unit investment trust funds (UITFs) and variable contracts.

Furthermore, CFD spearheaded the establishment of an appropriate risk-based capital adequacy framework for selected providers of financial services.

### IV. Exercise of Regulatory Power

In its exercise of regulatory authority, CFD imposed administrative sanctions arising from violations of pertinent rules and regulations. The table on the next page shows the number of erring companies penalized and the nature/s of infractions committed.



Law/rules violated	No. of Erring Companies Penalized
Violations of SRC and its Implementing Rules and Regulations	
• 17	58
• 17.1, 20, 50, 54	9
• 23	7
• 54	3
• 68	27
• 10	1
• 20	3
• 9.2	1
• 8, 12	3
Financing Company Act and Lending Company Act and their IRRs	62
SRC Rule 68 and SEC Memorandum Circular No. 8, series of 2009	10
Investment Company Act	2
Corporation Code of the Philippines	49
SEC Memorandum Circulars	55
<b>TOTAL</b>	<b>290</b>

## V. Compliance to the Code of Corporate Governance

In 2007, the SEC introduced the use of the CG Scorecards as survey instruments, replacing the self-rating forms in the conduct of the Corporate Governance (CG) Survey of all publicly-listed companies. Conducted in collaboration with the Philippine Stock Exchange and the Institute of Corporate Directors (ICD), the CG survey provided the SEC with the empirical data on the current state of corporate governance within the covered industry group to be used in part as basis for policy and program interventions, helped covered companies develop or strengthen their CG structures or mechanisms at par with world standards and assisted the SEC in reviewing CG principles for possible adoption by public companies.

Since its implementation, the SEC has increased its efforts to monitor the meaningful compliance with the Code of Corporate Governance. In 2011, the SEC reviewed one hundred one (101) Manuals on Corporate Governance and thirty nine (39) CG Scorecards.

Likewise in 2011, CFD released an exposure draft of the SEC Form-AGCR (Annual Corporate Governance Report) for public comments. The draft, which it proposed to adopt as part of the reportorial requirements of listed and mutual fund companies in accordance with the Revised Code of Corporate Governance. The SEC Form-AGCR serves as the consolidated report for all corporate governance matters such as company capitalization and ownership structure, business conduct and ethics, family, commercial and contractual relations, directorships in other companies, related party transactions and conflicts of interests, risk management system, remuneration of executive and non-executive officers, audit and control, investor relations, internal breaches and, sanctions and corporate social responsibility initiatives.

## INVESTOR PROTECTION and SURVEILLANCE DEPARTMENT (“IPSD”)

### Core functions

- ☛ Conducts surveillance of transactions in the securities market and coordinates with other entities engaged in similar functions
- ☛ Monitors and supervises the compliance of financing companies, lending companies, issuers of proprietary shares, and foundations, with their legal and regulatory requirements
- ☛ Administers investor protection programs and special projects

## ACCOMPLISHMENTS

### I. Providing Additional Investment Outlets to Investors

IPSD drafted and disseminated for public exposure the proposed rules on interest rate swap derivatives and exchange-traded funds (ETFs). The interest rate swap derivatives are popular and highly liquid financial derivative instruments in which two parties agree to exchange interest rate cash flows based on a specified notional amount from a fixed rate to a floating rate (or vice-versa) or from a floating rate to another. On the other hand, ETFs are securities that track an index, a commodity or a basket of assets like an index fund but trade like equity stocks on an exchange. The ETFs were presented to the Technical Working Group for inclusion as Alternative Products in the Capital Market Development Plan Blueprint 2011-2016.

### II. Monitoring of Reports of Market Participants

The monitoring function of the CFD over Real Estate Investment Trusts (REITs), country club timeshares, and similar securities was transferred to IPSD on 01 September 2011 pursuant to SEC Resolution No 384, series of 2011. Since then, IPSD has evaluated reports of proprietary and non-proprietary corporations. The table below shows the number of reports evaluated:

Type of Report	Total for 2011
Quarterly Report (SEC Form 17-Q)	12
Information Statements (SEC Form 20-IS)	4

### III. SEC Assistance to the Insurance Commission

In the wake of the enactment of the Pre-Need Code, the SEC and IC entered into a Memorandum of Agreement (MOA) on 07 April 2011 to delineate their functions and authority over pre-need companies. The objectives of the MOA are as follows: (1) To provide an interpretation of Section 57 of the Pre-Need Code specifically on the extent of the residual authority of the SEC; and (2) To facilitate the implementation of Section 57 of the Pre-Need Code including the coordination among regulatory authorities in the performance of their respective mandate under the Pre-Need Code.



Furthermore, to effect the accelerated transfer to the IC of the knowledge, skill and experience of the SEC with regard to the regulation of pre-need companies, the Agreement on Detail of Personnel to the IC was signed. Consequently, five (5) IPSD personnel were initially detailed to the IC from 09 May 2011 to 08 November 2011; subsequently, two (2) of them were asked to extend their period of detail until May 2012.

#### **IV. Residual Power of the SEC over Pre-Need Corporations under the RA 9829 (otherwise known as the Pre-Need Code of the Philippines)**

Under Section 57 of the Pre-Need Code of the Philippines, the processing and review of all pending claims, complaints and cases filed with the SEC remain with the latter until their final disposition.

a) Accordingly, IPSD conducted mediation proceedings and issued Orders of Termination of 131 complaints filed by the planholders of the following: (1) Permanent Plans, Inc., (2) Comprehensive Annuity Plans and Pension Corporation (CAP Pension) (3) Grayline Plans, Inc., (4) Primeplan International Corporation, (5) Pryce Plans, Inc., (6) Ideal Pension Plan Corp., (7) Capitol Plans, Inc., (8) Classic Plans, Inc., (9) Phil Asia Care Plans, Inc., and (10) Primanila Plans, Inc.

b) Upon the instruction of the courts, IPSD submitted 15 comments, manifestations or other pleadings through the Office of the General Counsel (OGC) and Office of the Solicitor General (OSG) with respect to the rehabilitation/liquidation cases of the following pre-need companies:

- College Assurance Plan Phils., Inc.
- Ideal Pension Plan Corporation (IPPC)
- PET Plans, Inc.
- TPG Corporation

Furthermore, IPSD attended 17 hearings/meetings on the Petition for Corporate Rehabilitation of Permanent Plans, Inc. and the Petition for Voluntary Insolvency of the IPPC. As directed by the court, IPSD and the IC continued to assist the receiver of the IPPC in reconciling the list of planholders with the data indicated in the index cards of each planholder found at the IPPC office.

c) With respect to the trust funds of the LCPI, SPPI and AAPC, IPSD continues to receive and process 213 claims of planholders. The status of the funds is as follows:

*Legacy Consolidated Plans, Inc. (LCPI)*

The SEC stopped distribution of initial claims payments of the LCPI planholders in deference to the filing of a Petition for Certiorari with the Supreme Court to question the Order of the Regional Court of Makati (RTC-Makati) dated 26 June 2009 that prohibited the Commission from further validating the claims of planholders pertaining to their LCPI pre-need plans. The said Petition for Certiorari is pending resolution by the Supreme Court including the issue on the extent of rights of creditors over the trust funds.

*All Asia Plans Corporation (AAPC)*

The SEC ordered the liquidation of the trust fund of the AAPC for distribution to its planholders and appointed on 28 July 2011 a liquidator who was tasked to manage the liquidation of AAPC assets and supervise the claims payment of its planholders. IPSD took charge of validating the final list of beneficiary planholders and assisted the liquidator in the payment distribution.

*Scholarship Plans Philippines, Inc. (SPPI)*

A liquidator, assisted by IPSD, was also appointed to oversee the liquidation proceedings of the assets of the SPPI.

- d) IPSD referred 46 complaints filed after the enactment of the Pre-Need Code to the IC, by the corporations under rehabilitation/liquidation, and 71 complaints filed before the Regional Trial Court. It also responded to 152 letters of queries from the LCPI, SPPI and AAPC planholders.
- e) IPSD caused the release of 61 checks representing claims to planholders of Metropolitan Life Plan, Inc. as part of its on-going liquidation program.
- f) IPSD also accommodated 2,428 walk-in and phone-in clients regarding the verification of the statuses of their claims against the LCPI, SPPI and AAPC and updates on other pre-need companies under rehabilitation/liquidation.



Corporate Name

Board of Trustees  
Stock Corporation

Articles of  
Incorporation



# Registration

## COMPANY REGISTRATION and MONITORING DEPARTMENT (“CRMD”)

### Core functions

- ☞ Processes the registration of domestic corporations and partnerships under the Corporation Code and related laws, foreign entities doing business in the Philippines under the Foreign Investment Act (FIA) of 1991 and multinationals establishing regional headquarters and regional operating headquarters in the Philippines under Book III of the Omnibus Investments Code, and monitoring compliance with said laws.
- ☞ Processes and grants licenses to the following capital market institutions and their respective capital market professionals: (1) Financing Companies, (2) Lending Companies, (3) Investment Houses, (4) Underwriters of Securities, (5) Government Securities Eligible Dealers, (6) Investment Company Advisers, (7) Mutual Fund Distributors, (8) Transfer Agents, (9) Associated Persons, (10) Compliance Officers, (11) Salespersons, (12) Certified Investment Solicitors, and (13) Real Estate Investment Trust (REIT) Fund and Property Managers.
- ☞ Processes applications for amendment of articles of incorporation/partnerships, by-laws, increase/decrease in capital stock, mergers and consolidations, reclassification/declassification/conversion of shares, equity restructuring, and quasi-reorganization.

## ACCOMPLISHMENTS

### I. Registration

During the year in review, CRMD registered 19,271 corporations and 2,419 partnerships, bringing the total number of registered firms to 757,027 as of December 31, 2011, including domestic corporations, partnerships and foreign companies licensed to do business in the Philippines.

Table 1. Company Registration, CY 2011

<b>Domestic Corporations</b>	
a. Stock (Regular Lane)	12,471
b. Stock (Green Lane)	972
c. Non-Stock (Regular Lane)	5,269
d. Non-Stock (Green Lane)	559
<b>TOTAL</b>	<b>19,271</b>
<b>Partnerships</b>	
a. Articles of Partnerships (Regular Lane)	2,104
b. Articles of Partnerships (Green Lane)	315
<b>TOTAL</b>	<b>2,419</b>

Table 2. Other Applications Approved, CY 2011

Amended Articles of Incorporations	8,632
Increase of Capital Stock	1,567
Amended By-Laws	1,218
Amended Articles of Partnership/Amended Articles of Partnership (FIA)/ Affidavit of Withdrawal/Dissolution of Partnership/Deed of Assignment of Partners	1,079
Dividend Declaration	173
Voting Trust Agreements	137
Dissolution	135
Extension of Corporate Term	111
By-Laws/new By-Laws	69
Increase in Foreign Equity	64
Merger and Consolidation	58
Decrease of Capital Stock	48
Reclassification/Declassification/conversion of Shares/Stock Split	44
Confirmation of Exemption/Valuation of Properties	39



Articles of Incorporation/By-Laws (FIA)	38
Amendment re: Reclassification of Shares	32
Appointment Letter	26
Articles of Partnership (FIA)	26
Equity Restructuring	19
Filing of Amendment (FIA)	13
Request for Exemption	10
Additional Paid-in Capital	3
<b>TOTAL</b>	<b>13,541</b>

In the first quarter of 2011, CRMD revived the Express Lane Unit (ELU), now renamed Green Lane Unit (GLU), pursuant to SEC Resolution Nos. 103 and 256, s. 2011, for faster processing of registration applications. Under the GLU, applications that are filed before 11:00 am are approved on the same day, and those filed after 11:00 am are approved on or before 12:00 noon of the following day. This operational innovation is in line with the streamlining of frontline service procedures as mandated by the Anti-Red Tape Law (R.A. 9485).

On 14 July 2011, the SEC entered into a Memorandum of Agreement with the Land Bank of the Philippines (LBP), which authorizes all LBP branches to accept and pre-process applications for registration of stock corporations. Pre-processed applications are then forwarded to the nearest SEC office for corresponding processing and approval.

## II. Licensing

With the issuance of SEC Resolution No. 160, perpetual licenses were issued to broker-dealer companies provided they comply with the qualification and monitoring requirements and pay the required annual fee. The perpetual license replaced the maximum 3-year license formerly granted.

During the year in review, CRMD granted licenses to the following market participants:

Table 3. Licensing, CY 2011

Foreign Corporations	
a. Branch Office	79
b. Representative Office	67
Multinational companies	
a. Regional or Area headquarters	5
b. Regional Operating headquarters	15
Financing Companies	
a. Head office	16
b. Branch Office	109
Lending companies	
a. Head Office	244
b. Branch Office	178
Capital Market Participants	
a. Institutions (New)	13
b. Institutions (Renewal)	236
c. Professionals (New)	981
d. Professionals (Renewal)	4,107



Table 4. Other Licensing Applications Approved, CY 2011

Substitution of Resident Agents	68
Withdrawal of license (foreign companies)	30
Amendment of license (foreign companies)	29
Filing of Amended Articles of Association (foreign companies)	18
Conversion from RHQ to ROHQ	2
<b>TOTAL</b>	<b>147</b>

### III. Monitoring

The scope of CRMD's monitoring jurisdiction is limited to corporations whose securities are not registered under the Securities Regulation Code, are not listed in the Philippine Stock Exchange, or are not grantees of a secondary license by the SEC.

CRMD's monitoring function includes the determination of the timeliness of the reportorial submission of companies and their possible violations of certain provisions of the Corporation Code. It encourages transparency in corporate transactions and public access to accurate data on the composition, management and financial standing of corporations.

During the last quarter of 2011, CRMD revoked the Certificates of Registration of 12,621 corporations (those registered in 2002 and 2003) on the strength of the Revocation Order dated 9 December 2011 [for those corporations based in the National Capital Region (NCR)] and the Revocation Order dated 14 November 2011 [for those corporations based in regions outside the NCR]. The two major grounds for the revocation were the following: (1) the non-submission of reportorial requirements for five consecutive years; and (2) the fraudulent procurement of Certificates of Incorporation and Amended Articles of Incorporation.

On the other hand, CRMD set aside 213 Revocation Orders upon presentation by the concerned companies of proof of retrospective operation or undertaking of prospective operation.

Table 5. Company Monitoring, CY 2011

Corporations Monitored	12,517
Corporations Fined	6,335
Certificates of Registration Revoked	12,621
Corporations whose Orders of Revocations were Set Aside	213

In response to letter-requests from the public including other government agencies, CRMD issued 6,517 certificates on the filings and status of registered corporations.

Table 6. Certifications Issued, CY 2011

Negative	2,484
Corporate Filing / Information	2,999
Good Standing	1,034
<b>TOTAL</b>	<b>6,517</b>





#### IV. Information Drive

CRMD continued to interact with other government agencies and the private sector. It regularly provided technical assistance to the Board of Investments (BOI) in dealing with prospective foreign investors and participated in lecture series given by the DSWD, DOE, DTI and DENR. It also conducted and joined public seminars and capacity-building workshops attended by professional groups such as the Philippine Institute of Certified Public Accountants (“PICPA”) or organized by various colleges and universities in the Philippines and various private organizations. For the year, CRMD conducted 66 lectures, meetings and/or seminars.

In celebration of the SEC’s 75th anniversary, CRMD participated in the lecture series given to the personnel of the SEC extension offices. Such lectures were intended to (1) enhance their competence in the implementation of company registration procedures, monitoring processes, and guidelines in the imposition of fines and (2) update them on the current policies of the SEC involving reportorial requirements and the processing of secondary license applications.

#### V. Inter-Agency Collaboration

CRMD assisted the Bureau of the Treasury (BTr) in the implementation of the required segregation of the broker and the dealer functions of SEC-licensed Government Securities Eligible Dealers (“GSEDs”) by revising the renewal application form and Certificate of Registration issued to them. The segregation applies to the opening, sponsorship and operation of a Registry of Scripless Securities (RoSS) client account.

To further promote the advancement of the Philippine capital market, CRMD regularly accommodated the requests of the following institutions for updates on the status of the license of capital market institutions and professionals: the Philippine Stock Exchange (PSE); Philippine Dealing System Holdings Corporation and its subsidiaries (PDS Group); Philippine Dealing and Exchange Corporation; National Association of Securities Broker Salesmen Inc.; and the BTr.

During the year, CRMD provided support to different government agencies such as the Committee on Legislative Franchise of the House of Representatives, Bangko Sentral ng Pilipinas (“BSP”), Technical Education and Skills Development Authority (“TESDA”), Department of Labor and Employment (“DOLE”), Commission on Audit (“COA”), Department of Social Welfare and Development (“DSWD”) and Philippine Commission on Good Government (“PCGG”). Specifically, it promptly acted on their requests for verification of the status of corporations and the compliance of such corporations with the reportorial requirements.

CRMD submitted monthly reports on SEC-registered export enterprises to the Board of Investments (“BOI”) and on SEC-registered entities with foreign investments to the BSP. The monthly reports to the BOI covered 234 companies whereas those to the BSP covered 148 companies.

In the last quarter of 2011, CRMD submitted the SEC Records Disposition Schedule (“RDS”) to the NAP Records Management Evaluation Committee (RMEC) for final evaluation. The RDS is a mandatory requirement of the National Archives of the Philippines (“NAP”) to enable government agencies to dispose their valueless records and to remit the sales proceeds from the disposal to the national government.



## SEC EXTENSION OFFICES

### Core functions

- ☞ Registers corporations and partnerships.
- ☞ Processes applications for amendments of articles of incorporation/partnership, and their respective by-laws.
- ☞ Processes petitions for correction of the articles of incorporation and by-laws and their amendments and petitions for revocation of certificates of filing of amended articles of incorporation and amended by-laws.
- ☞ Monitors compliance by corporations within their areas of responsibility.

The Extension Offices of the SEC were established as a geo-strategic response to the corporate demands for registration services outside Metro Manila. As of 2011, there are seven (7) of these offices, and these are located in the following cities: Baguio (BEO), Legazpi (LEO), Cebu (CEO), Cagayan de Oro (CDEO), Iloilo (IEO), Zamboanga (ZEO), and Davao (DEO).

As shown in Table 1, the Extension Offices collectively registered 7,590 domestic corporations and recorded 545 Articles of Partnership. These figures constituted a gauge of the level of commercial activities and associative affairs throughout the country excluding Metro Manila.

Table 1. Company Registration, CY 2011

	BEO	LEO	CEO	CDEO	IEO	ZEO	DEO	Total
Registered Domestic Corporations (Stock and Non-Stock)	1,215	473	1,896	955	1,178	371	1,502	<b>7,590</b>
Recorded Articles of Partnership	78	91	125	48	80	15	108	<b>545</b>

Aside from that, the Extension Offices approved 3,344 applications for undertaking corporate activities that under existing laws required prior approval by the SEC. The breakdown of these applications is shown below.

Table 2. Other Applications Approved, CY 2011

	BEO	LEO	CEO	CDEO	IEO	ZEO	DEO	Total
Amended Articles of Incorporation	272	45	451	127	199	75	321	<b>1,490</b>
Amended By-Laws and/or New By-Laws	58	4	80	32	29	28	54	<b>285</b>
Amended Articles of Partnership	15	9	24	22	15	-	22	<b>107</b>
Dissolution	-	-	7	-	-	-	2	<b>9</b>
Increase of Capital Stock	15	13	78	14	38	4	48	<b>210</b>
Confirmation of Exemption	-	18	25	7	37	19	77	<b>183</b>
Certifications	-	33	186	291	108	18	384	<b>1,020</b>
Dividend Declaration	-	-	17	-	3	-	20	<b>40</b>

On compliance monitoring, the Extension Offices collectively assessed 22,356 corporations and penalized those corporations that were found to have been remiss in their reportorial obligations. Shown below is the number of corporations monitored by each Extension Office.

Table 3. Corporations Monitored, CY 2011

	BEO	LEO	CEO	CDEO	IEO	ZEO	DEO	Total
Number of corporations monitored	5,203	909	3,588	2,049	2,668	1,909	6,030	<b>22,356</b>







# Enforcement



## ENFORCEMENT and PROSECUTION DEPARTMENT (“EPD”)

### Core functions

- ☞ Enforces compliance with the rules and regulations of the Commission by corporations, partnerships and holders of secondary licenses
- ☞ Investigates motu proprio or upon complaint, violations of the rules and regulations of the Commission
- ☞ Initiates actions for revocation of certificates of registration other than those due to non-compliance with reportorial requirements
- ☞ Monitors and enforces compliance of reportorial requirements by foundations
- ☞ Acts as ex-officio Anti-Money Laundering Desk of the Commission
- ☞ Ensures that all market participants comply with Philippine laws, rules and regulations

### ACCOMPLISHMENTS

#### Enforcement Milestones

In 2011, EPD imposed administrative sanctions against five (5) broker-dealers and seven (7) beneficial owner/clients who were found to have committed market manipulations of listed securities.

#### I. Complaints Received

EPD received 158 complaints from the public, other government agencies and by way of referrals from the operating departments of SEC. This number is relatively higher as compared with the 94 complaints EPD received last year. Its participation in the BSP’s Financial Education Expo in five provinces accounted, in part, for the increase in the number of complaints received.

SOURCES OF COMPLAINTS	NUMBER OF COMPLAINTS	TOTAL
Public (through mail or personal filing)	51	
Public (through electronic mails)	7	
Motu proprio	13	
<b>Total</b>		<b>71</b>
Government Agencies		
Department of Trade and Industry (DTI)	2	
Office of the President	2	
Civil Service Commission	1	
National Bureau of Investigation	1	
Interpol NCB	1	
Securities Futures Commission - US	1	
Australian Federal Police	1	
<b>Total</b>		<b>9</b>
Operating Departments of the Commission		
Office of the Chairperson	25	
Office of the General Counsel	7	
Market Regulation Department	7	
Corporation Finance Department	12	
Company Registration and Monitoring Department	10	
Economic Research and Information Department	5	
Extension Offices	12	
<b>Total</b>		<b>78</b>
<b>TOTAL</b>		<b>158</b>





Majority of these complaints involved (1) the failure to register securities as required by the Securities Regulation Code and (2) the failure of lending companies to secure a secondary license from the SEC as required by the Lending Company Regulation Act of 2007.

NUMBER OF COMPLAINTS	VIOLATIONS
41	Securities Regulation Code
18	Corporation Code of the Philippines
11	Presidential Decree 902-A
1	Foreign Investment Act
1	Investment Company Act of the Philippines
3	Financing Company Act
56	Lending Company Regulation Act of 2007
2	No jurisdiction
<b>133</b>	<b>TOTAL</b>

## II. Results of Investigation

EPD exercised its coercive power through successful enforcement actions against entities or individuals found to have violated the above-stated laws. In 2011, it initiated forty-four (44) administrative actions against corporate respondents and four (4) criminal actions against individuals. In the process, it collected PhP5,144,575.00 in penalties from erring entities.

### A. Criminal Actions

	VIOLATIONS	NUMBER OF CASES
A. Complaint – Affidavits filed with the DOJ	Sec. 8 and 12 of the SRC (Requirement of Registration of Securities)	1
B. Criminal Information filed in Court	Sec. 16 – SRC in relation to Pre-Need Rules	2
	Article 172 – Revised Penal Code (Falsification of Public Documents)	1
	<b>TOTAL</b>	<b>4</b>

### B. Administrative Actions

	VIOLATIONS	NUMBER OF CASES
A. Petitions for Revocation	Sec. 6(l)(1) of PD 902-A (Fraud in the Procurement of Certificate of Registration)	4
	Sec. 6(l)(2) of PD 902- A (Serious Misrepresentation)	5
	Sec. 6(l)(2) of PD 902-A (Defiance of a Lawful Order)	6
	Sec. 6(l)(6) of PD 902-A (Non-submission of Reportorial Requirements)	1
	Sec. 4 of RA 9474 (Lending Company Regulation Act of 2007)	2

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B. Petitions for Suspension	Sec. 6(l)(6) of PD 902-A (Non-submission of Reportorial Requirements)	1
C. Motion for Cease and Desist Order Filed	Sec. 6(l)(3) of PD 902-A (Defiance of a Lawful Order)	1
D. Certificate of Registration Revoked/ Suspended	Sec. 6(l)(1) of PD 902-A (Fraud in the Procurement of Certificate of Registration)	4
	Sec. 6(l)(2) of PD 902-A (Serious Misrepresentation)	3
	Sec. 6(l)(3) of PD 902-A (Defiance of Lawful Order)	3
	Sec. 6(l)(3) of PD 902-A (Non-submission of Reportorial Requirements)	2
	Sec. 4 of RA 9474 (Lending Company Regulation Act of 2007)	1
E. Cease and Desist Order Issued	Sec. 6(l)(2) of PD 902-A (Serious Misrepresentation)	1
F. Orders Issued – Penalties (Imposition of Fines)	Violation of Sec. 4 and 5 of R.A. No. 9474 (Certificate of Authority; Required Capital)	3
	Violation of Sec. 24.1 of the SRC (Manipulation of Security Prices; Devices and Practices)	2
	Violation of Sec. 8 of the SRC (Unregistered Securities)	1
	Violation of Sec. 74 of the Corporation Code (Books to be kept)	1
	Violation of Sec. 17.1 and 17.2 of the SRC in relation to SRC Rule 17.1(1)(A)(i), (ii), and (iii); and SRC Rule 20, Sec. 68 of the SRC in relation to SRC Rule 68.1, Sec. 26 and 141 of the Corporation Code	1
	Violation of Sec. 68 of the SRC (Special Accounting Rules)	2
	<b>TOTAL</b>	<b>44</b>

In addition, EPD subjected 1,414 foundations to administrative review and examination. The figure, which was higher than last year's by 474 or 50%, could be attributed to an improvement in its efficiency in monitoring foundations. In the course of conducting its administrative review and examination, EPD managed to collect penalties amounting to PhP3, 939,684.50.

NUMBER OF FOUNDATIONS	CY 2011	CY 2010	Percentage Increase/(decrease)
Monitored yet pending compliance	1,414	940	50.43%
Monitored, assessed and cleared	376	322	16.78%
With payment	288	248	16.13%
With no violation	88	74	18.92%

## 2011 MEMORANDUM CIRCULARS

Number	Title:
1	<p style="text-align: center;"><b>AMENDMENT OF SEC MEMORANDUM CIRCULAR NO. 8 SERIES OF 2009</b></p> <p>Amendment to Section IV of MC 8 Series of 2009 on the scale of fines for non-compliance with the financial reporting requirements is to be read as follows:</p> <p>Section IV. Reckoning Date of Computation of Penalty</p> <p>“The daily penalty shall be computed from the date of receipt of the letter informing the company of its non-compliance with the reportorial requirements of Section 141 of the Corporation Code of the Philippines, Section 68 of the Securities Regulation Code, the Investment Company Act, the Lending Company Act and the Investment Houses Law up to the time the company has submitted the following documents: (a) sufficient explanation for the non-compliance; (b) an audit committee or board resolution taking cognizance for non-compliance; (c) corrective measures the company shall undertake to prevent future violations of SEC No. MC 8 s. 2009. In addition, the SEC may require the company to submit the revised financial statements or an addendum to the financial statements.”</p> <p><i>17 March 2011</i></p>
2	<p style="text-align: center;"><b>AMENDMENTS TO THE IMPLEMENTING RULES AND REGULATIONS (IRR) OF REPUBLIC ACT NO. 9856 OR THE REAL ESTATE INVESTMENT TRUST (REIT) ACT OF 2009</b></p> <p>Amendments are as follows:</p> <p><b>Section 5.1 (a), Rule 4:</b></p> <p><u>Minimum Public Ownership.</u> A REIT shall be a public company and to be considered as such, a REIT shall (a) maintain its status as a listed company; and (b) upon and after listing, have at least one thousand (1,000) public shareholders who each own at least (50) shares and who, in the aggregate, own at least forty percent (40%) of the outstanding capital stock of the REIT during the initial year; provided that the minimum ownership shall be increased to sixty seven percent (67%) within three (3) years from its listing.</p> <p><b>Section 1, Rule 7:</b></p> <p><u>Property Manager.</u> The REIT shall appoint a Property Manager who shall be independent from the REIT, its promoter/s or sponsor/s; provided that the Commission may exempt, upon application and for justifiable reasons, exempt the REIT from compliance with such requirement.</p> <p><i>27 April 2011</i></p>





<p>3</p>	<p style="text-align: center;"><b>GUIDELINES ON THE IMPLEMENTATION OF THE PFRS 9 (FINANCIAL INSTRUMENTS: RECOGNITION AND INSTRUMENTS)</b></p> <p>Large Corporations with total assets of more than PhP350 million and total liabilities of PhP250 million publicly-accountable entities and small and medium entities that availed of exemptions from Philippine Financial Reporting Standards (PFRS) for SMEs and have opted to adopt PFRS are mandated to adopt either PFRS (2009/2010) annual reporting rules for CY 2011 or 2012.</p> <p>For entities that decided not to defer adopting the PFRS 9 (2009/2010) for their 2011 annual financial reporting, they shall conduct early in 2012 another impact evaluation using the outstanding balance as of 31 December 2011, and shall provide the following information in their interim Financial Statements as of 30 September 2011.</p> <p><i>16 May 2011</i></p>
<p>4</p>	<p style="text-align: center;"><b>AMENDMENTS OF SRC RULE 9.2(2) (D)</b></p> <p>The Rule now reads as follows:</p> <p>“2. The registration requirement shall not likewise apply to any of the following: xxx</p> <p>D. Evidence of indebtedness e.g. short or long term commercial papers, meeting the following conditions:</p> <ul style="list-style-type: none"><li>i. Issued to not more than nineteen (19) non-institutional lenders including directors, officers, stockholders and related interests (DOSRI);</li><li>ii. Payable to a specific person;</li><li>iii. Neither negotiable or assignable and shall be held on to maturity; and</li><li>iv. <b>In an amount not exceeding Fifty Million Pesos (P50,000,000.00); provided, that if the amount exceeds Fifty Million Pesos (P50,000,000.00), the issuance shall be considered as an exempt transaction requiring prior approval by the Commission.</b></li></ul> <p><i>16 June 2011</i></p>



<p><b>5</b></p>	<p><b>AMENDMENT OF SEC MEMORANDUM CIRCULAR NO. 5 SERIES OF 2008 (GUIDELINES AND PROCEDURES ON THE USE OF CORPORATE AND PARTNERSHIP NAMES)</b></p> <p>Deleting Section 8 thereof, which reads as follows:</p> <p>“8. A subsidiary or affiliate of a foreign corporation that applies for the registration of all or substantially all of the name of its parent company shall use the word “Philippines” as part of its name which shall be written as “(Philippines)” or “(Phil)” after the name.”</p> <p><i>4 August 2011</i></p>															
<p><b>6</b></p>	<p><b>2012 SCHEDULE OF FILING OF ANNUAL FINANCIAL STATEMENTS</b></p> <p>All corporations, including branch offices, representative offices, regional headquarters and regional operating headquarters of foreign corporations shall file their FS at the Commission’s Head Office, Baguio, Iloilo, Davao and Cebu Extension Offices, depending on the last numerical digit of their SEC registration or license number, be governed by the following schedule:</p> <table data-bbox="677 1281 1197 1451"> <tr> <td>April 16-20</td> <td>ending</td> <td>“1”, “2”</td> </tr> <tr> <td>April 23-27</td> <td></td> <td>“3”, “4”</td> </tr> <tr> <td>April 30, May 2-4</td> <td></td> <td>“5”, “6”</td> </tr> <tr> <td>May 7-11</td> <td></td> <td>“7”, “8”</td> </tr> <tr> <td>May 14-18</td> <td></td> <td>“9”, “0”</td> </tr> </table> <p>Prior to 16 April 2011, all corporations may file their FS regardless of their last numerical digit. Late filings shall be accepted starting May 21 and shall be subjected to the prescribed penalties.</p> <p><i>15 August 2011</i></p>	April 16-20	ending	“1”, “2”	April 23-27		“3”, “4”	April 30, May 2-4		“5”, “6”	May 7-11		“7”, “8”	May 14-18		“9”, “0”
April 16-20	ending	“1”, “2”														
April 23-27		“3”, “4”														
April 30, May 2-4		“5”, “6”														
May 7-11		“7”, “8”														
May 14-18		“9”, “0”														





<p><b>7</b></p>	<p align="center"><b>IMPLEMENTATION OF THE TRUTH IN LENDING ACT TO ENHANCE LOAN TRANSACTION TRANSPARENCY</b></p> <p>With a view to protect the uninformed use of credit by borrowers or users of the true costs of credit the commission shall adopt BSP Circular No. 730 dated 20 July 2011 on updated rules implementing the Truth in Lending Act to enhance loan transparency, and subject the non-complying creditors concerned to the following penalties:</p> <p>First Offense - Basic fine of PhP20,000.00 and PhP100.00 of each day of continuous violation</p> <p>Second Offense - Basic fine of PhP25,000.00 and PhP100.00 of each day of continuous violation</p> <p>Third Offense - Basic fine of PhP30,000.00 and PhP100.00 of each day of continuous violation</p> <p>Fourth Offense - Suspension/revocation of the Certificate of Authority to Operate as a Lending Company</p> <p><i>September 2011</i></p>
<p><b>8</b></p>	<p align="center"><b>GUIDELINES ON REPORTING AND FILING OF APPLICATIONS FOR A CERTIFICATE OF ELIGIBILITY UNDER THE SPECIAL PURPOSE VEHICLE ACT, AS AMENDED</b></p> <p>All registered special purpose vehicle (SPV) corporations are to submit printed and digital copies of their status report signed under oath by the CEO and Chief Financial Officer/treasurer not later than December 15, 2011. The report should cover non-performing assets (NPAs) that were acquired under the amended SPV Act (RA 9343) and that remained unsold as of October 30, 2011. The forms and templates are provided for in Annex "A" and "B". Failure to fully comply with this reportorial requirement shall subject the erring SPV corporation to a basic penalty of PhP25,000.00 plus a daily fine of PhP100.00 until it submits a report to the Commission.</p> <p><i>14 October 2011</i></p>

**TERM LIMITS FOR INDEPENDENT DIRECTORS**

In order to enhance effectiveness of independent directors and encourage the infusion of fresh ideas in the board of directors, the following rules shall apply in the election of independent directors in listed, public and mutual fund companies:

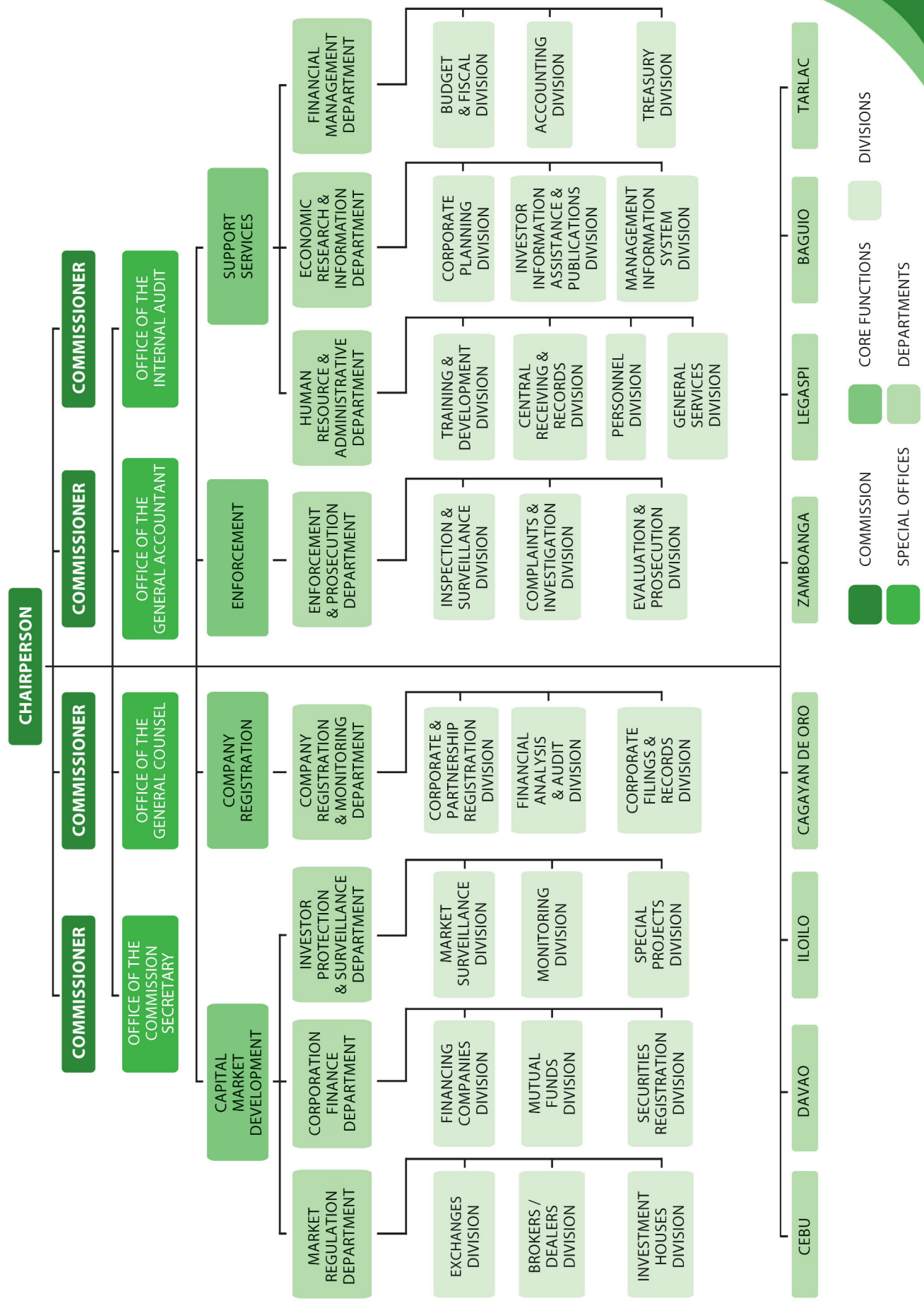
1. There shall be no limit in the number of covered companies that a person may be elected as Independent Director (ID), except in business conglomerates where an ID can be elected to only five (5) companies of the conglomerate, i.e. parent company, subsidiary or affiliate;
2. An ID can serve as such for five (5) consecutive years, provided the service for a period of at least six (6) months shall be equivalent to one (1) year, regardless of the manner by which the ID position was relinquished or terminated;
3. After the completion of the five-year service period, an ID shall be ineligible for election as such in the same company unless the ID has undergone a “cooling off period” of two years; provided that during such period, the ID has not engaged in any activity that under existing rules disqualifies a person from being elected as ID in the same company;
4. An ID re-elected as such in the same company after the “cooling off” period can serve for another five consecutive years under the conditions mentioned in paragraph 2 above;
5. After serving as ID for ten (10) years, the ID shall be permanently barred from being elected as such in the same company, without prejudice to being elected as ID in other companies outside of the business conglomerate, where applicable, under the same conditions provided for in this Circular;
6. The foregoing rules shall take effect on January 2, 2012. All previous terms served by existing IDs shall not be included in the application of the term limit subject of this Circular;
7. All past resolutions or circulars of the Commission inconsistent with this Circular shall be deemed repealed or modified accordingly.

*5 December 2011*



# SEC ORGANIZATIONAL CHART

as of June 2012



COMMISSION  
 SPECIAL OFFICES  
 CORE FUNCTIONS  
 DEPARTMENTS  
 DIVISIONS

- CEBU
- DAVAO
- ILOILO
- CAGAYAN DE ORO
- ZAMBOANGA
- LEGASPI
- BAGUIO
- TARLAC





## SEC DIRECTORS AND HEADS OF SPECIAL OFFICES



**Standing (L-R):** Camilo S. Correa, Javey Paul D. Francisco, Benito A. Cataran, Lindeza R. Rogero-Gavino, Renato V. Egypto, Annie G. Tesoro, CA Gerard M. Lukban, Vicente Graciano P. Felizmenio Jr., Marylou I. Duka-Castillo, Virgilio V. Salentes, Marcos G. Florendo Jr., Jose P. Aquino

**Seated (L-R):** Ma. Gracia F. Casals-Diaz, Marilyn M. Peneyra-Lim, Adelaida C. Navarro-Banaria, Justina F. Callangan





The background features a complex financial chart with a grid. A prominent green line trends downwards from the top left. Below it, a candlestick chart shows price fluctuations. A purple line trends upwards from the bottom left. Various numerical values are scattered across the chart, including 1.7900, 1.7855, 1.7810, 1.7765, 14.56, and 19.00. The text 'Special Offices' is overlaid in a large, bold, green font on the left side.

# Special Offices

# OFFICE OF THE GENERAL ACCOUNTANT (“OGA”)

## Core functions

- ☞ Acts as the lead office in the adoption and implementation of financial reporting standards and in adherence to with auditing standards and practices.
- ☞ Accredits actuaries, valuers, external auditors and auditing firm, appraisal companies and credit rating agencies.
- ☞ Monitors compliance by external auditors and auditing firms, appraisal companies and credit rating agencies.
- ☞ Evaluates financial statements of corporations that may be referred by the Departments.
- ☞ Evaluates applications for, and issues certificates of eligibility under the Special Purpose Vehicle Law.
- ☞ Renders advise to the Departments, upon request, on accounting matters.
- ☞ Replies to queries from the public that involve accounting issues.

## ACCOMPLISHMENTS

### I. CAPITAL MARKET DEVELOPMENT

#### Policy Formulation and Rulemaking

(A) OGA prepared proposals on key amendments to Rule 68 of the Securities Regulation Code (SRC), viz:

- Increase in the amount of thresholds for coverage

The criteria on reporting will depend on the amount of paid-in capital stock, total assets or total receipts.

Public companies should meet ALL these criteria: shall possess total assets of PhP50 Million or more; should be composed of 200 or more stockholders, with all stockholders owning 100 or more shares each to be covered. An apparent increase of foreign corporations threshold consists of the following: (a) In terms of paid-in capital stock the assigned capital of branch offices of foreign stock corporations should be the equivalent amount of PhP1 million or more, (b) In terms of total assets, branch offices of non-stock corporations should have total assets in the equivalent amount of PhP1 million or more, (c) In terms of total receipts, the threshold should be equivalent to the amount of PhP1 million or more for regional operating headquarters of foreign corporations. For those corporations not covered by this Rule, their respective financial statements need not be audited but should at least be certified under oath by their Treasurers or the Chief Finance Officers.

- Emphasis on management’s responsibility on financial statements

The amended rule on the Statement of Management Responsibility (SMR) has been modified to align with the Philippine Standards on Auditing (PSA) 700 standard, which requires that the Chairman of the Board, Chief Executive Officer and Chief Financial Officer be signatories to this undertaking, unless the company’s by-laws allow persons holding equivalent positions to do so in their absence. Failure to meet any of the prescribed signatories would constitute a material deficiency of the financial statements. For branch offices or regional operating headquarters of foreign corporations, the SMR would have to be signed by the local manager in charge of its operations within the Philippines.

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- *Adoption of more defined accreditation and operational requirements for external auditors accredited by the Commission including rotation and cooling-off periods*

External auditors are required to be compliant with auditing standards. They should possess competence and objectivity and be knowledgeable of auditing procedures and documentation.

With regard to the appointment of accredited external auditors, only those auditors who satisfy the following conditions can be appointed by the regulated entities, viz:

a) Auditors should be independent, with no conflict of interest with the audited corporation; and b) Auditors should be subjected to a mandatory two (2) year cooling off period after five (5) years of continuous service to the audited corporation. This is to discourage illicit fraternization between the auditor and the audited corporation.

- *Alignment of the provisions of the Rule with global framework and standards on financial reporting*
- *Submission of schedules to supplement information in the financial statements such as financial soundness indicators, data on compliance with prudential and capitalization requirements, and other related matters*
- *The auditor shall render an unqualified opinion on financial statements of listed corporations or issuers of registered securities to the public. In cases where such company deviates from existing accounting rules that should compel an auditor to render a qualified opinion shall be constitute a violation of this Rule. (Rule 68.2 of the SRC)*

(B) OGA adopted International Standards and Best Practices on Financial Reporting and Audit:

- *The General Accountant participated in the monthly meetings of the following standard-setting bodies:*
  - Philippine Financial Reporting Standards Council
  - Auditing and Assurance Standards Council
  - Philippine Interpretation Council
- *The following guidelines and notices were approved by the Commission, as recommended by OGA:*
  - Guidelines on the Implementation of Philippine Financial Reporting Standards (PFRS) No. 9 on Financial Instruments



- Deferral of the Implementation of IFRIC 15 (Agreements for the Construction of Real Estate)
- Adoption of the following standards and practice statements:
  - ✓ PFRS 1: *Severe Hyperinflation and Removal of Fixed Date of First-time Adopters*
  - ✓ Amendments to PFRS 2: *Group Cash-settled Share-based Payment Transactions*
  - ✓ PFRS 10: *Consolidated Financial Statements*
  - ✓ PFRS 11: *Joint Arrangements*
  - ✓ PFRS 12: *Disclosure of Interests in Other Entities*
  - ✓ PFRS 13: *Fair Value Measurement*
  - ✓ Amendments to PAS 1: *Presentation of Items of Other Comprehensive Income*
  - ✓ PAS 12: *Deferred Tax-Recovery of Underlying Assets*
  - ✓ PAS 19 (amended): *Employee Benefits*
  - ✓ PAS 27 (amended): *Separate Financial Statements*
  - ✓ PAS 28 (amended): *Investments in Associates and Joint Ventures*
  - ✓ PFRS Practice Statement on Management Commentary



(C) OGA came out with Other Issuances:

- *On International Best Practices for Credit Rating Agencies*
  - Drafted a set of international best practices for adoption by credit rating agencies and released it for critiquing by concerned parties.
  - Incorporated feedback into the proposed amendments to the IRR of the the Securities Regulation Code.
- *Guidelines on Reporting and Filing of Applications for a Certificate of Eligibility (COE) under the Special Purpose Vehicle Act (SPV), as amended*
  - The Guidelines required the submission of a status report on non-performing assets that were acquired under the amendatory SPV Law. This is to monitor second leg transfers of qualified non-performing assets under the Act;
  - A deadline for the filing of applications for COE was set for those qualified non performing assets that were acquired within the 5-year limit but have not applied for eligibility under the SPV Act.
- *SEC Resolution on Security Deposits of Branch Offices of Foreign Corporations*
  - A modified formula was allowed for the computation of “Gross Income” for branch offices that have transactions with foreign suppliers and related parties, subject to the submission of reliable supporting documents



## II. STRENGTHENING REGULATORY COMPLIANCE

### Accreditation of External Auditors and Auditing Firms

#### 3 – year Accreditation

Category	Auditing Firm		External Auditor	
	2011	2010	2011	2010
A	53	51	277	258
B	23	21	66	56
C	130	119	621	565
D	32	25	210	184
<b>TOTAL</b>	<b>238</b>	<b>216</b>	<b>1174</b>	<b>1063</b>

#### Probationary Accreditation

Category	Auditing Firm		External Auditor	
	2011	2010	2011	2010
A	12	9	43	33
B	4	1	9	3
C	52	44	277	231
D	10	7	175	151
<b>TOTAL</b>	<b>78</b>	<b>61</b>	<b>504</b>	<b>418</b>

OGA penalized 28 accredited external auditors for violations of the Guidelines on Accreditation and Reportorial Requirements of External Auditors. The penalties, which amounted to PhP391,250.00, were assessed due to the material deficiencies and deviations noted on the financial statements of the auditor's corporate clients.

During the year in review, OGA granted probationary accreditation and three-year accreditation to various auditing firms and external auditors. The following tables show comparative number of accredited auditors and firms as of end of 2011 and 2010 by category:

### Accreditation of Appraisal Companies

OGA processed and approved five (5) applications for accreditation of appraisal companies.

As of December 31, 2011, there were ten (10) accredited appraisal companies. Their annual reports were evaluated on the basis of the requirements of the Guidelines on Property Valuation (SEC Memorandum Circular No. 4, Series of 2010).

### Evaluation of Financial Statements of Registered Corporations

OGA reviewed the 2010 audited financial statements (AFS) of 831 corporations to determine their compliance with the requirements of applicable accounting standards and rules of the SEC:



TYPE	Number Covered
Companies listed with the Philippine Stock Exchange	25
Registered and Unlisted Companies	25
Broker-Dealer of Securities	25
Investment House Companies	25
Financing Companies	50
Lending Companies	50
Ordinary Corporations*	100
Various Corporations (the AFS were reviewed relative to applications for accreditation as external auditors)	440
Various Corporations (the AFS were referred by Other Departments/Offices for Comments/ Analysis)	91
<b>TOTAL</b>	<b>831</b>

OGA issued comment-letters to corporations whose AFS were found to be deficient or misstated. They were directed to submit written explanation with corresponding Board or Audit Committee resolutions on the matter. The concerned operating departments of the SEC were informed of the findings on the AFS of companies under their supervision.

### Compliance Monitoring

OGA monitored and reviewed the reports of the following regulated entities:

Reporting Entities	No. of Reports Due	No. of Reports Monitored / Reviewed
Appraisal Companies	10	10
Credit Rating Companies	2	2
External Auditors/Firms	1	1
Special Purpose Vehicle Corporations	20	20
<b>Total</b>	<b>33</b>	<b>33</b>

### Implementation of SPV Law

The OGA evaluated applications for Certificates of Eligibility (COE) pursuant to the Special Purpose Vehicle (SPV) Act, as amended, and its Implementing Rules and Regulations.

One Hundred Thirteen (113) COEs were issued in 2011, covering non-performing assets with an aggregate amount of One Billion Six Hundred Thirty-Three Million Five Hundred Fifteen Thousand Two Hundred Twenty-Two Pesos and Twenty Cents (PhP1,633,515,222.20).

\* Companies with total assets and total liabilities of more than P350 Million;  
Companies that were not audited by big four (4) auditing firms;  
Companies that are not issuers of registered securities; and  
Companies that are not holders of any secondary license from the Commission.

# OFFICE OF THE GENERAL COUNSEL (“OGC”)

## Core functions

- ☞ Serves as the legal adviser to the Commission.
- ☞ Renders decisions on cases filed before it.
- ☞ Provides legal research and technical assistance to the Commission En Banc.
- ☞ Issues legal opinions.
- ☞ Reviews contracts.
- ☞ Handles liaison work with legislative bodies for proposed legislation and initiatives to amend the Corporation Code, the Securities Regulation Code (SRC) and other laws the Commission implements.
- ☞ Files pleadings and represents the Commission before trial courts, and coordinates with its external counsel in proceedings filed before the Court of Appeals and the Supreme Court challenging Orders/Decisions issued by the Commission En Banc.

In addition to legal work rendered for the Commission and its operating departments during the year in review, OGC issued 63 orders and decisions majority of which involved petitions for calling of meeting and disputes on the use of similar/same corporate names. It prepared 11 position papers on proposed pieces of legislation. On top of all of these, it drafted the proposed amendments to the Corporation Code and the SRC.

In addition, OGC actively handled the landmark case of Wilson P. Gamboa vs. Finance Secretary Margarito Teves, et al. (G.R. No. 176579) involving the interpretation of “capital” in determining corporate nationality. The Motion for Reconsideration of the 28 June 2011 decision of the Supreme Court is pending consideration.

Finally, the OGC rendered a total of 49 opinions, the most notable of which are the following:

### Issue:

### SALE OF SECURITIES, INVESTMENT CONTRACT

*Is the revised business plan of a hotel and resort corporation for a condotel project considered as “sale of securities” under the SRC?*

The assignment of leasehold rights over the lot and condotel units with the concomitant enrollment of these units under a management contract or with an authorized condotel operator with an expectation of profits from the lease of the units to the public is an investment contract that is subject to regulation by, and registration with, the SEC.

***(SEC-OGC Opinion No. 11-49 addressed to Mr. Fabio Moretti and Mr. Roldan M. Antonio dated 21 December 2011)***

### AUTHORITY TO ENGAGE IN MINING ACTIVITIES

*Can a holding corporation although specific to mining companies engage in the business of mining?*

A holding company organized for the specific purpose of investing in mining companies cannot, by itself, engage in mining activities if its primary or secondary purpose does not categorically state that it shall engage in the business of mining.

***(SEC-OGC Opinion No. 11-46 addressed to Atty. Jaime T. De Vera, dated 11 November 2011)***





## **NATIONALITY RESTRICTIONS; CONTROL TEST AND GRANDFATHER RULE; COMPOSITION OF THE BOARD**

*Can individuals of a 100% Filipino owned entity, organized and existing under Philippine laws, own and hold 38,128,778 redeemable preferred shares with a par value of PhP1.00 per share comprising 60% of the total outstanding capital stock and the remaining 49% thereof composed of 25,418,719 common shares with a par value of PhP100 per share, be owned by a joint venture between two foreign companies?*

The proposed arrangement of nominating ten members of the Board, and electing the directors is such that the foreign corporate stockholder is absolutely allowed to nominate four (4) alien directors, while the Filipino corporate stockholder is only allowed to nominate four (4) Filipino directors defeats the mandate of the Anti-Dummy Law and gives the foreign corporate stockholder undue advantage over its Filipino counterpart. Allowing such nomination would grant the foreign stockholder equal say in the nomination of two (2) independent directors. Accordingly, the proposed manner creates an unfair and anomalous situation wherein a Philippine national is placed on equal footing with a foreigner in terms of participation in the Board, a corporation engaged in a partially nationalized activity, thereby providing a means to circumvent our nationalization laws. Thus, the procedure for the nomination and election of the members of the Board should not permit the circumvention of the rules on allowable foreign participation as prescribed under the Constitution and pertinent laws. **(SEC-OGC Opinion No. 11-44 addressed to Atty. Wilfredo M. Peñaflor, dated 27 October 2011)**

## **RETAIL TRADE; INCIDENTAL TO PRIMARY PURPOSE**

*Is the sale of drinks, sundry apparel and articles of hygiene within the gym premises owned and operated exclusively to persons who have enrolled as gym members incidental to the business of the gym and should not be considered as retail trade?*

A gym operation, by its nature, involves transacting with gym members or guests who need to be attired properly, require hydration and rehydration, and make use of the shower facilities the sale of drinks, sundry apparel, and articles of hygiene sold within the premises of the gym, is incidental to its primary purpose of operating as a gym, and thus, such sale by the corporation is not considered as engaging in retail trade. **(SEC-OGC Opinion No. 11-34 addressed to Atty. Ma. Adelina S. Gatdula, dated 03 August 2011)**



*Are the businesses that may be carried out by a corporation limited to that provided in its purpose/s?*

### PRIMARY PURPOSE; SECONDARY PURPOSE

The secondary purpose or the proposed activity of “purchas(ing), acquir(ing), own(ing), leas(ing), sell(ing) and convey(ing) real properties such as lands xxx” is qualified by the phrase “as may be necessary or incidental to the conduct of the corporate business” - is substantially the same as Section 36, par. 7 of the Corporation Code of the Philippines, and is actually a general power of every corporation. Hence, it may not be strictly construed as a secondary purpose independent or distinct from its primary purpose. However, absent the qualifying phrase “as may be necessary or incidental to the conduct of the corporate business,” the buying and selling of real estate, done in the ordinary course of business would then be considered as a business in itself, distinct and separate from the primary purpose. **(SEC-OGC Opinion No. 11-33 addressed to Mr. Jesus B. Lapuz, dated 29 July 2011)**

*Is an operating lease covered by the 30% limit of extending credit to a single borrower?*

### OPERATING LEASE; RA NO 8556-FINANCING ACT OF 1998

An operating lease is “a lease agreement usually cancellable, which provides the lessee the use of the asset for a period of time which is considerably shorter than the usual life span of the asset. Unlike a capital lease, the lessee in an operating lease does not assume the economic risks of ownership, and the lessor generally provides all of the maintenance and services on the leased asset. Hence, an operating lease is not covered by the 30% limit on extending credit to a single borrower since operating lease is not covered by the Financing Company Act (RA 8556), which only covers financial/capital lease. **(SEC-OGC Opinion No. 11-32 addressed to Atty. Emmanuel F. Ocsing, dated 12 July 2011)**

*Are corporations that are subject to the reportorial requirements under section 17 of the SRC, exempt from filing the GIS pursuant to Section 17.4 of the SRC?*

### EXEMPTION FROM THE FILING OF THE GIS

A corporation subject to the reportorial requirements under Section 17 of the Securities Regulation Code is not exempt from the filing of the General Information Sheet and other reports required by the Corporation Code. Being a domestic corporation whose shares are listed and traded on the Philippine Stock Exchange, the same is still required to file its reports with the Commission as mandated in SEC Memorandum Circular No. 6, series of 2006. **(SEC-OGC Opinion No. 11-20 Letter to Atty. Barbara Anne C. Migallos and Atty. Maria Monica L. Jimenez, dated 08 April 2011)**

### **MASS MEDIA: NATIONALIZED ACTIVITIES, ALIEN DIRECTOR**

*Can a foreigner be qualified to sit in the Board of Directors of a corporation engaged in a wholly nationalized activity?*

An alien cannot sit as a Board of Director in a corporation that is organized to provide production services and act as a producer, and engage in the creation of motion pictures, radio and TV programs which generally engages in mass media, a wholly nationalized activity. **(SEC-OGC Opinion No. 11-08 addressed to Atty. Nelson G. Leyco, dated 03 March 2011)**

### **LICENSING OF FOREIGN CORPORATION, DOING BUSINESS, PURCHASE OF CONDOMINIUM UNITS**

*Can a foreign-registered company not doing business in the Philippines acquire a condominium unit in the Philippines without necessarily securing with the SEC a license to transact business here?*

A foreign corporation, subject to the provisions of RA 4726, known as the Condominium Act of the Philippines, may acquire condominium units in the Philippines without necessarily securing from the SEC a license to transact business here. It must be emphasized that when the condominium units are to be used for commercial transactions, such activity is considered as doing business in the Philippines that would require securing a license with the SEC. Hence, mere acquisition of condominium units by a foreign-registered entity does not per se amount to doing business in the Philippines so as to require registration by that entity with the SEC. **(SEC-OGC Opinions No. 11-06 and 11-40 addressed to Mr. Romeo C. Escobar Jr., dated 26 January 2011 and Mr. Lee Soon Kook, dated 30 September 2011)**



# Strategic Support







## HUMAN RESOURCES and ADMINISTRATIVE DEPARTMENT (“HRAD”)

### Core functions

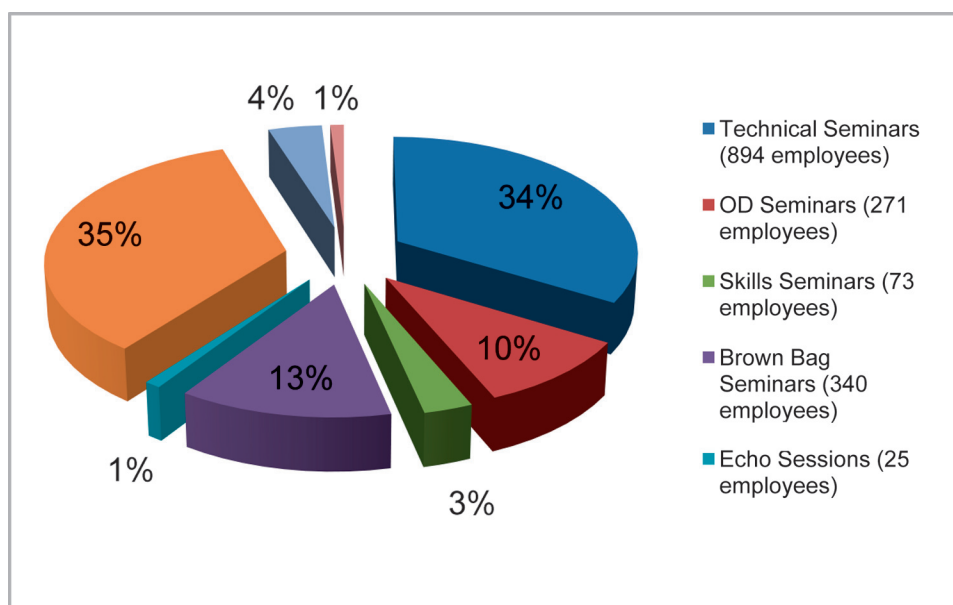
- ☞ Implements the laws and policies relating to recruitment, employment and promotion and personnel actions
- ☞ Recommends and implements programs for employee welfare, career growth, and human resource development.
- ☞ Receives and releases official documents, and maintains the integrity of the official records in its custody.
- ☞ Provides timely and effective administrative and maintenance support to the Departments and Offices of the Commission.
- ☞ Ensures the safe and proper maintenance of official properties and equipment.

### ACCOMPLISHMENTS

#### I. SEC Personnel Development

In line with the renewed capacity-building thrust of the SEC under the new chairmanship, HRAD made substantial human capital investments. This is best evidenced by its conduct of eighty-three (83) staff development training activities for two thousand five hundred seventeen (2,517) participants across all levels. Such trainings are classified into technical, organizational development (OD), skills, brown bag and echo sessions. Public seminars and education initiatives were also conducted in response to requests and invitations from professional organizations and the academe. The chart below shows the details of these training activities.

2011 Summary of Training

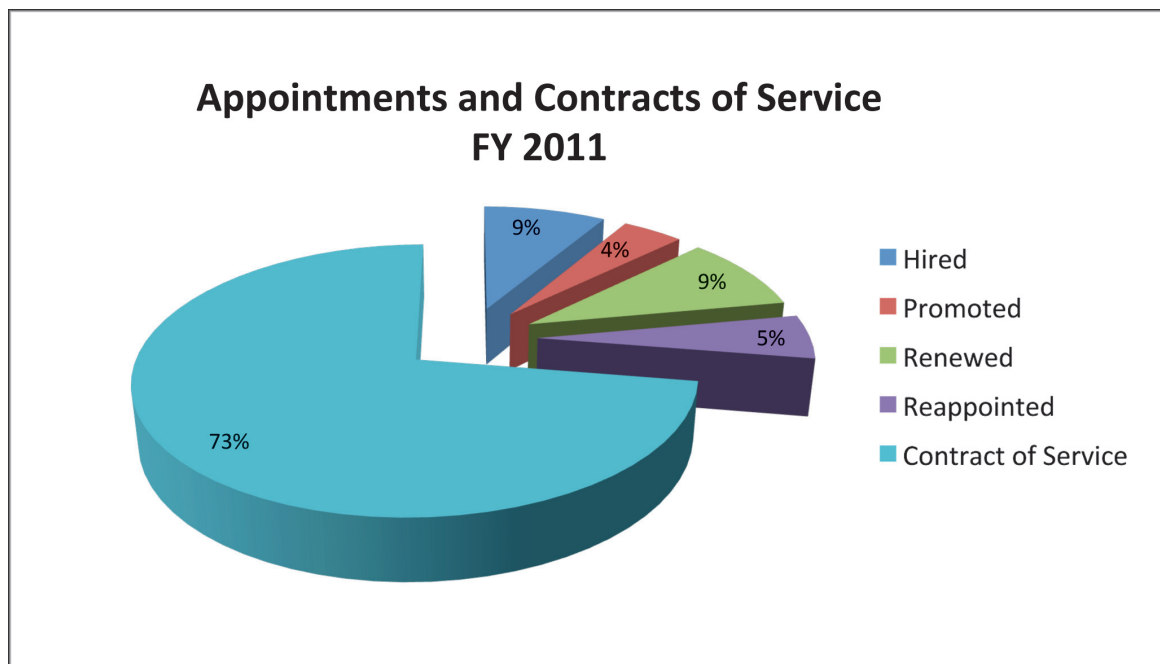




On top of staff development trainings, HRAD likewise carried out a variety of activities in aid of personnel development and employee welfare. The most significant of these activities were the following:

- Submission of the Qualification Standards review and recommendations to the Commission
- Preparation of Personnel Selection Board (PSB) matrix and materials
- Preparation of Report on Appointments Issued (RAI) and CESB quarterly report
- Implementation of the mechanics of grievance machinery standard procedures
- Printing of the Employees Handbook
- Issuance of 259 appointments and contracts of service

Appointments and contracts of service issued in 2011 as shown in the graph increased the manpower complement of the organization to 396.



## II. Delivery of Public Reference Services

On records management and public reference services, HRAD, through its Central Receiving and Records Division (CRRD), supervised the digitization of documents and effected the following improvements over the previous year: (1) sustained an hourly 91% turnover rate of public requests for corporate information, (2) a 6% improvement in public waiting time, and (3) a 5% improvement in the processing time for requests for a Certified Machine Copy. Consequently, HRAD generated an income of PhP26,194,295, which is 24



percent higher than that of the previous year of PhP21,124,431. The table below shows the details.

Reports/other documents received	241,657 reports
Approved documents released	35,560 documents
Approved documents sorted/distributed	33,633 documents
Documents Prepared	237,058 documents
Documents Scanned/filmed	241,657 documents
Requests for Company filed processed	183,365 company files
Requests for CTC served	37,481 company files
Income Generated	PhP26,194,295

### III. Provision of General Services

To further enhance service to the investing public and even to SEC employees, HRAD took the lead in several construction and renovation projects of the Commission. The area formerly occupied by the BDO on the ground floor of the SEC building was completely refurbished. This newly renovated area provided the clients with a convenient and spacious place for the receiving and monitoring of their corporate and partnerships filings. The Transient Employee Center (TEC) located on the 10th floor of the SEC building, where the officers and staff of SEC extension offices usually stay during seminars/meetings held at the Head Office was also renovated. The Multi-Purpose Hall on the 12th floor, which serves as the traditional venue for the Commission's several activities (such as seminars for employees, special occasions, and even other celebrations), was equipped with better ventilation.

In addition to the renovation and upgrading of facilities at the SEC Head Office, HRAD also participated in the initial phase of the renovation and refurbishment projects intended for the SEC Extension Offices.



## ECONOMIC RESEARCH and INFORMATION DEPARTMENT (“ERID”)

### Core functions

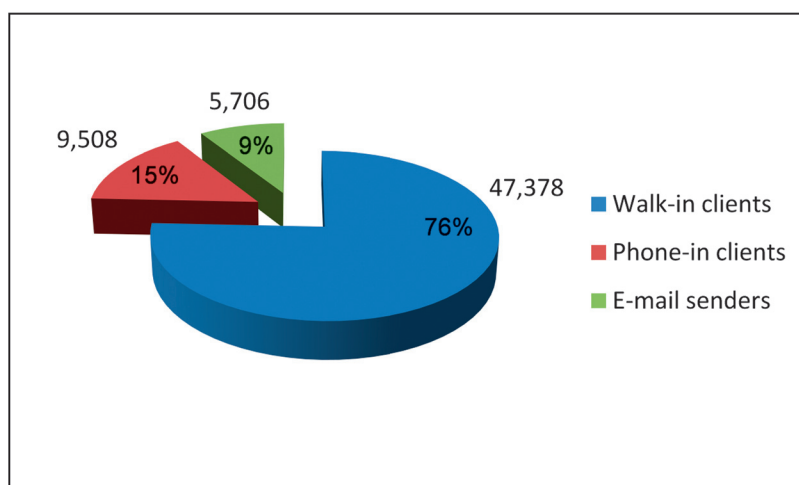
- ☞ Provides the public with investor information and assistance, and prepares and disseminates relevant investment information.
- ☞ Prepares and disseminates information materials on the policies, plans, programs and accomplishments of the Commission.
- ☞ Maintains and develops an efficient management information system.
- ☞ Provides inter-agency coordination on matters relating to trade and financial services and information linkage.
- ☞ Provides in-house budget planning and support.
- ☞ Assists in the conduct of strategic corporate planning and implementation of programs.
- ☞ Monitors the accomplishment of the commitments of the Commission under the Capital Market Development Blueprint.

### ACCOMPLISHMENTS

#### I. Provision of information and assistance to the public

In its continuing task of providing investor information and assistance to the public, ERID, through its Investor Information Assistance and Publication Division (IIAPD), consistently attended and responded to queries of the transacting public and investors alike. It transacted business with walk-in clients, phone-in clients, and even email senders. Investor information materials as well as SEC News Service Articles were also made available on-line for viewing and downloading.

2011 Queries/Inquiries Attended To







To complement its investor information and public assistance services, the SEC Library responded to the research-related concerns of its employees and to other external users. Different library materials such as Laws, Rules, Philippines' Top Corporations, SEC issuances, and other reference materials were made available to researchers.

#### ERID STATISTICS 2011

<b>Investor Information Services</b>	<b>Total</b>
No. of clients provided with Library Services	10,872
Researchers attended to	2,666
Library resources availed of	8,206
Info. Materials posted on the web	1,622
Info. Materials Disseminated	30,773
Books & Other References, SEC & Govt. Issuances (Circulars, Orders, Opinions, Bills, & Republic Acts)	15, 024
No. of callers, walk-in clients, and email senders entertained	62,592

## II. Management of Information Systems

Insofar as information systems management is concerned, ERID, through its Management Information System Division, sustained activities related to the development, implementation, evaluation, and enhancement of the SEC-iRegister and SEC-iReport systems. These systems provided the public with a convenient facility for online verification and reservation of company names, filling out of partnership and corporate papers, and even accessing the SEC's database through the use of the PIN mailer, a device that works just like the mobile phone pre-paid cards. Notable activities undertaken were as follows:

- Coordination with the Commission's operating departments and third-party service providers for system's development and enhancement
- Generation of reports, listings, and statistics on SEC-registered companies/individuals and company affiliations
- Administration of the SEC's website through uploading of official pronouncements of the Commission and Document Images and Indexes
- Administration and monitoring of the SEC-iReport/SEC-iRegister systems through (1) regular back-up for SEC databases, (2) monitoring of disk utilization status of database servers, and (3) monitoring of SEC systems record count
- Completion of the i-MoDe 2 (Legal Workbench for the Office of the General Counsel and Enforcement and Prosecution Department)



- The MIS provided technical secretariat support services to the Bids and Awards Committee regarding the procurement of IT-related goods and services.
- Assistance in the development of new systems, like the SEC database cleanup, and the bar coding project.
- Management, development, implementation and maintenance of information systems, databases, and the SEC website.

### III. Strategic Planning and Research

ERID, through its Corporate Planning Division (CPD), coordinated and facilitated (1) the actual conduct of the 2011 Strategic Planning Conference held on 15-17 February 2011 in Tagaytay City and (2) the 2011 Mid-year Performance Review. Such events aimed to review and decide on the operational plans and capacity-building measures proposed by the SEC departments and offices. It even assisted in the conduct of strategic corporate planning and implementation programs. Significant accomplishments include the following:

- Provision of inputs to the outline and content of the proposed “Assessment of the Philippine Corporate Financial Intermediation Sector”.
- Submissions to the Department of Budget and Management (DBM) of additional planning documents (e.g. Agency Performance Measures) for use during technical budget hearings
- Preparation of preparatory materials on the Capital Market Development Blueprint Action Plan 2011-2016 including the Terminal Report on the predecessor Blueprint
- Preparation and submission of materials to the House of Representatives and Senate to support the SEC 2012 budget proposal
- Preparation of the SEC 2011 Accomplishment Report for submission to the Department of Finance (DOF)
- Conducted studies and researches on corporate performance and industry trends

ERID, through the CPD, participated in inter-agency work concerning matters related to trade in financial services, development plan formulation for the financial services sector and investments.

### IV. Incidental Revenues Generated

Interestingly, even though ERID is essentially a service-oriented, strategic support office, it managed to generate revenue in the course of its work. From the sales of PIN mailers, the payment for photocopying services rendered, and the issuance of other SEC materials and listings, it earned PhP25, 094,079.00 in 2011.



## FINANCIAL MANAGEMENT DEPARTMENT (“FMD”)

### Core functions

- ☛ Implements the financial policies and procedures in accordance with the existing government rules and regulations.
- ☛ Prepares, recommends and executes budgetary plans and programs for the Commission.
- ☛ Evaluates existing policies on budgetary and fiscal matters.
- ☛ Recommends measures to improve the financial management of the Commission.
- ☛ Acts as the liaison of the Commission to other government agencies on financial and related matters.

### ACCOMPLISHMENTS

#### I. Pre-audit, recording and reporting of financial transactions

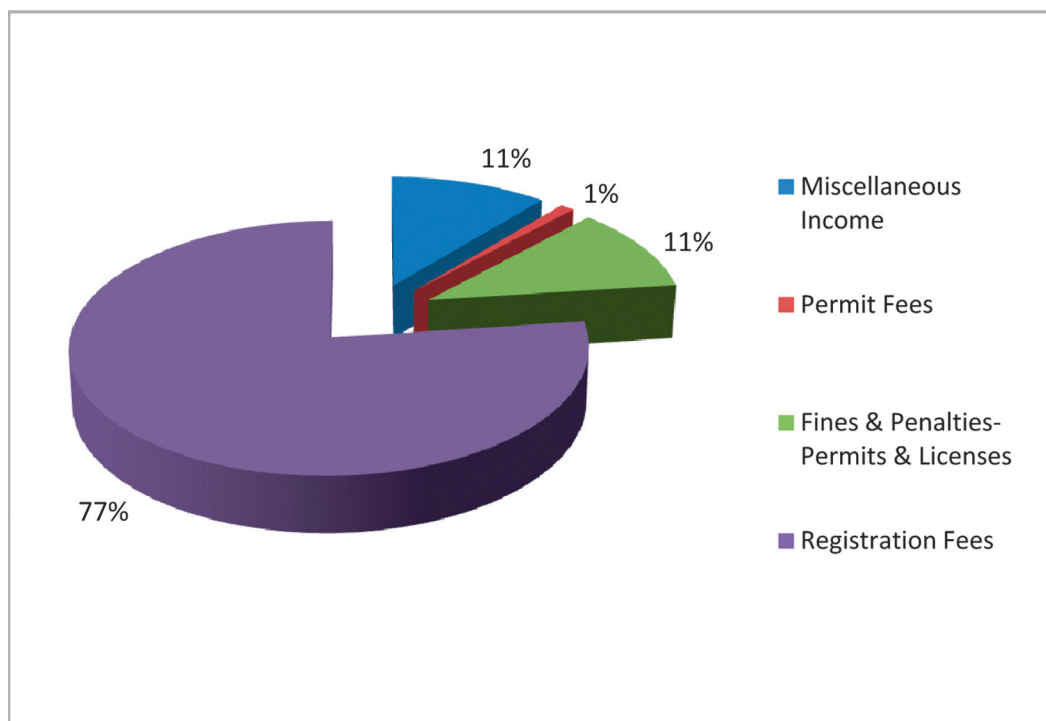
The SEC strictly followed the auditing and accounting rules and regulations prescribed by the Commission on Audit (COA) on disbursements, collections and in recording its financial transactions. All financial transactions were recorded and financial reports were prepared using the computerized New Government Accounting System (e-NGAS). The e-NGAS system helped simplify SEC’s accounting process, allowing it to conform to the international accounting standards and best practices in aid of better performance monitoring.

#### II. Financial Performance

The SEC’s financial performance in 2011 is best described by its annual total collection receipts vis-à-vis its collection targets. As shown in the table below, the Commission consistently surpassed its collection target for the past consecutive five (5) years. As shown in table 1, a total of approximately PhP7.2 billion was remitted to the National Government from 2007 to 2011, averaging a 1.5% growth rate. In 2011, total collections reached PhP1,783,919,024.45, roughly a forty-eight (48%) per cent increase from prior year’s total. The bulk of these collection receipts consisted principally of the registration fees accumulated from corporate registrants, and the fines and penalties imposed on errant companies.

Table 1. Contribution to the National Government from 2007-2011

Year	Total Collection	Targeted Collection	Excess (Deficit)
2007	1,765,042,450.34	714,902,000.00	1,050,140,450.34
2008	1,340,887,500.03	750,641,000.00	590,246,500.03
2009	1,078,753,914.70	834,671,000.00	244,082,914.70
2010	1,208,117,773.69	898,650,000.00	309,467,773.69
2011	1,783,919,024.45	914,863,000.00	869,056,024.45
<b>TOTAL</b>	<b>7,176,720,663.21</b>	<b>4,113,727,000.00</b>	<b>3,062,993,663.21</b>



### III. Results of Operation

As of 31 December 2011, the SEC recorded a total income of PhP386,651,793.68, which is composed of (1) the net subsidy income from the national government of PhP280,763,912.29, (2) authorized retained income under Section 75 of RA 8799 of PhP100,000,000.00, (3) income generated as per RA 9182 (Special Purpose Vehicle Act) of PhP1,822,165.62, and (4) interest income earned from the various bank deposit accounts amounting to PhP5,059,457.71 reduced by the net of loss on disposed property of PhP993,741.94.

As shown in the Condensed Statement of Income and Expenses, the total expenditures of the Commission reached PhP436,947,217.71 which was in excess of PhP79,802,861.48 over income of PhP386,651,793.68. The resulting net loss was mainly due to the total non-cash expenses representing the depreciation expenses of the various buildings and equipment of the Commission amounting to PhP29,507,437.45 and the amortization of prepaid expenses incurred in 2010 amounting to PhP2,331,643.69. Accounting for the remaining balance of the net loss was the maintenance and other operating expenses that were charged against SEC's retention income for lack of prior appropriation therefor by the national government.





**SECURITIES AND EXCHANGE COMMISSION**  
**Regular Agency Books**  
**Condensed Balance Sheet**  
*(In Philippine Pesos)*

December 31		
	2011	2010
<b>ASSETS</b>		
Current Assets		
Cash	189,241,544.57	266,883,712.59
Receivables	85,851,624.64	90,105,110.66
Inventories	2,770,896.96	3,843,590.31
Prepayments	927,263.65	1,823,347.95
Other Current Assets	1,732,848.94	1,732,848.94
Total Current Assets	280,524,178.76	364,388,610.45
Investments, Property, Plant and Equipment and Other Assets		
Investments	6,700.00	6,700.00
Property, Plant and Equipment - Net	209,228,832.19	226,035,426.24
Other Assets	1,847,675.36	1,854,398.21
Total Investments, Property, Plant and Equipment and Other Assets	211,083,207.55	227,896,524.46
<b>TOTAL ASSETS</b>	<b>491,607,386.31</b>	<b>592,285,134.91</b>
<b>LIABILITIES AND EQUITY</b>		
Current Liabilities		
Payable Accounts	20,902,118.94	37,116,769.30
Inter-Agency Payables	3,241,740.01	4,472,488.59
Other Liability Accounts	408,227.49	3,468,837.16
Total Current Liabilities	24,552,086.44	45,058,095.05
Equity		
Government Equity	467,055,299.87	547,227,039.86
<b>TOTAL LIABILITIES AND EQUITY</b>	<b>491,607,386.31</b>	<b>592,285,134.91</b>



**SECURITIES AND EXCHANGE COMMISSION**  
**Regular Agency Books**  
**Condensed Statement of Income and Expenses**  
*(In Philippine Pesos)*

**For The Year Ended December 31**

	2011	2010
<b>Income</b>		
Subsidy Income from National Government	280,763,912.29	278,940,962.24
Permit Fees	3,000.00	330,218.84
Registration Fees	97,378,810.98	91,505,802.24
Fines and Penalties-Permits and Licenses	2,567,687.02	4,904,702.93
Interest Income	5,059,457.71	5,423,372.59
Miscellaneous Income	1,872,667.62	4,226,378.54
Loss on Sale of Disposed Assets	(993,741.94)	-
<b>Total Income</b>	<b>386,651,793.68</b>	<b>385,331,437.38</b>
<b>Less: Expenses</b>		
Personal Services	303,565,408.39	253,757,057.61
Maintenance and Other Operating Expenses	133,381,809.32	106,625,539.48
Financial Expenses	0.00	2,200.00
<b>Total Expenses</b>	<b>436,947,217.71</b>	<b>360,384,797.09</b>
Net Income (Loss) Before Depreciation	(50,295,424.03)	24,946,640.29
Less: Depreciation Expense	29,507,437.45	51,436,361.46
<b>Net Income (Loss) After Depreciation</b>	<b>(79,802,861.48)</b>	<b>(26,489,721.17)</b>

# 75<sup>th</sup> Anniversary Feature: SEC THROUGH THE YEARS

## BRIEF HISTORY

The Securities and Exchange Commission (SEC) came into existence in 1936 primarily as a remedial initiative of the government. At that time, the unprecedented stock market boom engendered the proliferation of fly-by-night corporations and get-rich-quick operators that preyed on an ill-informed, investing public. Cloaked with broad regulatory powers under Commonwealth Act No. 83, the SEC was envisioned to enforce market discipline, restraining the unbridled opportunism of such unscrupulous entities and making them accountable to the investing public.

This function, which nowadays is referred to succinctly as 'investor protection', remained the cornerstone of the SEC. Despite the cycle of financial crises that has plagued our country over the years, this function has helped tremendously in inducing the investing public to continue participating in the local capital market. It is not at all hard to imagine that without the SEC keeping a watchful eye on the corporate participants in the local capital market, the unscrupulous among them would ultimately succeed in alienating the investing public.

A corporate watchdog, the SEC is not all it is. With increasing significance of the local capital market as a source of capital for local enterprises seeking expansion and growth, the SEC has likewise taken a leading development role in the local capital market. In this capacity, the SEC encourages the development and growth of the non-bank financial sector as a strategic complement of the banking sector, which has always been the dominant source of capital and the primary agent of financial intermediation.

The whole idea behind this developmental mandate is patently economic: a maturing local capital market can concurrently serve as a safe and profitable venue for capital-sourcing and as a veritable stimulant to the business sector, which serves as the engine of economic growth. In this sense, 'capital market development' can dovetail perfectly with investor protection, and the compatibility of these two functions enables – as well as obliges – the SEC to strike a delicate balance between its responsibility to protect the welfare of the investors and its responsibility to advance corporate interests. Doing so, however, has proven to be difficult but challenging, and this is likely to remain so for the foreseeable future in view of the necessity to accelerate the pace of the growth of the domestic capital market.

## CONSTANCY OF PURPOSE OVER THE YEARS

Interestingly, since its creation, the SEC has undergone two major reorganizations – the first in 1976 as a consequence of Presidential Decree No. 902-A (the Revised Securities Act of 1982) and the second in 2000 as a consequence of Republic Act No. 8799 (the Securities Regulation Code). But the SEC has remained unchanged in terms of its basic functions. Its mission to look after the interests of investors and corporate entrepreneurs alike endures. Only the scope, complexion, and Institutional and operational modalities of investor protection and capital market development have been modified as an adaptive response to the changing landscape and requirements of the financial sector.

That further modifications shall be made years hence is a foregone conclusion. But regardless of the breadth and depth of any adaptive structural reconfiguration it shall experience in the future, the SEC can always be counted on to continue performing, with the same tenacity of purpose, its twin mandates.

### **QUO VADIS?**

Every milestone event like an anniversary is a perfect occasion for reflecting not only on how far one has come but also on where one is heading. This applies to persons as well as organizations.

Upon reaching its 75th year, which it celebrated modestly by sponsoring a mass, a one-day medical and dental mission, and a public seminar on selected topics of interest to its corporate clientele, the SEC looked back on the decades-long service it has rendered with a view to assessing its performance. As a service-providing regulatory agency, it makes it its business not only to re-consecrate itself to its avowed objectives under the laws it is mandated to implement but also to see what it could – and should – do better. And towards this end, it seeks, under the new chairmanship, to improve further its market oversight, its regulatory and administrative capabilities, and enforcement and compliance-monitoring activities.

Such new strategic directions may not strike critics as novel but these thrusts, which have been set only after careful deliberation and assessment of prevailing circumstances, are critically important to enable the SEC to make a bigger impact than would otherwise be possible and to enhance its institutional credibility.

By strengthening further its market oversight, the SEC hopes to enforce, with vigilance and dexterity, market discipline and regulatory compliance to engender greater investor confidence. As it is, the SEC knows only too well that the tyranny of over-zealousness can restrain business expansion and innovation.

By improving further its developmental interventions, the SEC hopes to make more financial products available and encourage greater market participation that can lead to greater economic activity and robustness of the local capital market. And concomitantly, by creating an enabling policy environment, the SEC hopes to guide the transformation of the local capital market towards maturity.

Finally, by improving further its administrative capacity, the SEC hopes to prove itself – its structure, operations, processes, and manpower, among other things – equal to the formidable challenges of policing and nurturing the capital market. After all, the prospects for achieving its other aforementioned objectives shall necessarily depend not only on its willingness to get things done but also – and more importantly, on its preparedness to get things done in the proper fashion.

Five years hence, when it reaches another milestone, the SEC is expected to have made the necessary follow-through and shall have much to show by way of tangible and palpable results. With its achievements, it will hopefully contribute significantly to the economic development of the country.



## **VISION STATEMENT 2012**

We foresee that by December 31, 2012, the Securities and Exchange Commission shall have implemented systems and procedures and capacity-building measures that will enable it to raise the level of competitiveness of the business community, and protect the interests of the investing public.

## CY 2011 SEC ACCOMPLISHMENTS AT A GLANCE

PLANNED

ACHIEVED

### **MFO 1: Capital market development services**

*Policy-formulation, rulemaking, and inter-agency cooperation services to facilitate the development of a globally-competitive Philippine capital market*

**1. Formulate and implement policies, plans, and programs to strengthen the regulatory framework and enhance the liquidity and stability of the capital market**

- Issued nine (9) Memorandum Circulars setting forth the scale of fines for non-compliance with the Financial Reporting Requirements of the Commission, particularly:
  - Section IV which sets the reckoning date for computation of penalty;
  - Amendments to the provisions on the REIT of 2009 particularly on Section 5.1 (a), Rule 4 on MPO and Section 1, Rule 7 on Property Managers;
  - Guidelines on the transition and disclosure requirements for the adoption of PFRS 9 for covered companies;
  - Amendment to SRC Rule 9 2(2) D;
  - Guidelines on the procedure of using corporate and partnership names;
  - Deadline for filing of annual financial statements for fiscal year ending December 31, 2011;
  - Protection on the uninformed use of credit of borrowers or users and in compliance with the Truth in Lending Act;
  - Amendments to the SPV Act of 2002; and,
  - Term Limit for Independent Directors of All Listed Companies, Public and Mutual Fund Companies.
- Promulgated the implementing guidelines on Philippine Financial Reporting Standards for Small and Medium Entities; and certain standards and interpretations covering recognition and measurement of financial instruments, and related party disclosures, among other things.
- Undertook preparatory activities such as the creation of the Steering Committee and four



	<p>Technical Working Groups, and the formulation of the Terms of Reference (TOR) and workplan for the Capital Market Development Plan (Blueprint) 2011-2016; Drafted and circulated for review by all stakeholder the initial matrix of objectives/initiatives formulated by the different technical working groups in charge of drafting their respective chapters in the proposed Blueprint.</p> <ul style="list-style-type: none"> <li>• Prepared seven (7) position papers, inputs/comments on proposed legislations.</li> </ul>
<p><b>2. Undertake joint activities with local and foreign institutions, industry groups, and professional organization for mutual assistance in implementing capital market development initiatives and related regulatory efforts</b></p>	<ul style="list-style-type: none"> <li>• Participated in activities of inter-agency committees and/or working groups, viz., adoption of accounting and auditing standards (Philippine Financial Reporting Standards Council, Auditing and Assurance Standards Council, Philippine Interpretations Committee), conduct of a study on financial conglomerates (through a sub-committee of the Financial Sector Forum).</li> <li>• Prepared proposal on the restructuring of certain departments included in the SEC Action Plan for the ADB-Funded Financial Market Regulation and Intermediation Program (Sub-program 2) to enhance the supervisory capability of SEC in the area of market regulation; and strengthen IT planning and management, economic research, and training functions, among others.</li> <li>• Took part in inter-agency efforts on international trade agreements such as the WTO-General Agreement on Trade in Services, ASEAN-India Free Trade Agreement, and ASEAN-Japan Free Trade Agreement. Also participated in initiatives towards developing an Asia passport, and submitted agency inputs to the WTO's 4<sup>th</sup> Trade Policy Review of the Philippines.</li> <li>• Participated in inter-agency meetings and activities and provided inputs on the following: Philippine Business Registry Project; National Strategy Framework on Micro-insurance and Roadmap for Financial Literacy on Micro-insurance; and various investment promotion and business registration facilitation initiatives/activities spearheaded by the Board of Investments such as the Investment Promotion Unit; and inter-agency efforts on the</li> </ul>



	<p>compilation of foreign investment statistics and the formulation of a framework for compiling and reporting realized investment statistics.</p>
<p><b>MFO 2: Services for the generation and dissemination of information</b>  <i>Services related to the generation and dissemination of information about the SEC, its registered entities, and the capital market, to promote understanding and adherence to SEC-administered laws and regulations, enhance public awareness and participation in capital formation, and protect the interest of the investing public</i></p>	
<p><b>3. Provide investor education and assistance, investment promotion, and information dissemination activities</b></p>	<ul style="list-style-type: none"> <li>• Distributed 30,773 citizen’s manuals and other investor information materials.</li> <li>• Responded to 62,592 queries (in person, by phone, and through e-mail).</li> <li>• Issued 125 legal opinions in response to queries about the interpretation of certain provisions of the Corporation Code, the Securities Regulation Code, and other SEC administered laws.</li> <li>• Processed 189,631 requests for corporate records, certifications, company listings and statistics from public researchers and government agencies.</li> <li>• Conducted thirty-eight (38) public seminars and sixteen (16) lecture-briefings for academic institutions. Officials from the SEC also undertook one hundred fifty-one (137) speaking engagements in various fora.</li> </ul>
<p><b>4. Conduct studies and researches on corporate performance and industry trends</b></p>	<ul style="list-style-type: none"> <li>• Gathered and processed data from annual audited financial statements of corporations, for the publication of the <i>Philippines’ Top Corporations</i> (2010 edition) in November 2011, expanding the coverage from top 10,000 to top 25,000 corporations.</li> </ul>
<p><b>5. Manage the development, implementation and maintenance of information systems, databases, and the SEC website</b></p>	<ul style="list-style-type: none"> <li>• Through the web-enabled SEC-iView module of the SEC-iReport system, made possible the online viewing and printing of digitized documents (The system has approximately 51.85 million document pages, including the 5.31 million pages uploaded from January to December 2011); reduced face-to-face transactions at the head office, making it convenient for the public, wherever it may be, to view and print documents such as company registration documents, periodic reports and</li> </ul>





	<p>disclosures, and financial statements; and served around 91% of walk-in clients of the Public Reference Unit within one hour – a turnaround that constituted a substantial improvement over the less than 10% of walk-in clients served within the same period in 2001, when the old document imaging system was still in use.</p> <ul style="list-style-type: none"> <li>• With SEC-iRegister, managed to process a daily average of 3,304 requests for verification of company names and reservation of proposed company names, as follows: <ul style="list-style-type: none"> <li>o Verification: 2,724 <ul style="list-style-type: none"> <li>a. Online (through the internet, 24x7): 2,328</li> <li>b. Walk-ins at the Head Office (8 hours, Mondays to Fridays): 396</li> </ul> </li> <li>o Reservation: 581 <ul style="list-style-type: none"> <li>a. Online (24x7): 414</li> <li>b. Walk-ins (8x5): 167</li> </ul> </li> </ul> </li> <li>• Posted at the SEC website 1,622 various materials on registration procedures, reportorial requirements, and schedule of fees. Posted on the website the Cease and Desist Orders and advisories issued to alert the public on irregularities committed by the concerned errant firms. Educated the public to detect, avoid, and report any illegal investment schemes and scams.</li> </ul>
<p><b>6. Register stock and non-stock corporations, record articles of partnership, issue license to foreign corporations</b></p>	<ul style="list-style-type: none"> <li>• Registered 16,377 stock corporations and 9,783 non-stock corporations; recorded 2,713 articles of partnership; and granted licenses to 71 foreign branch offices and 67 representative offices of foreign corporations and 27 regional headquarters and regional operating headquarters of multinationals.</li> <li>• Processed and approved 54,845 various applications, among others: applications for amendments of Articles of Incorporation and By-Laws; applications for New By-Laws; extensions of corporate term; increase of capital stock; corporate mergers and consolidations; dividend declarations, dissolutions, decrease of capital stock; applications for Amended Articles of Partnership including Deeds of Assignment, Affidavit of Withdrawal, and</li> </ul>



	<p>Dissolution of Partnership; various Foreign Investments Act (FIA)-related applications; other amendments; and registered stock and transfer books and membership books for stock corporations and non-stock corporations.</p> <ul style="list-style-type: none"> <li>• Also processed and approved one hundred twenty-five (125) secondary licenses for financing companies and four-hundred twenty-two (422) secondary licenses to lending companies.</li> </ul>
<p><b>7. Register/license capital market participants, and securities and investment instruments</b></p>	<ul style="list-style-type: none"> <li>• Registered/issued licenses to 3,891 institutions, such as securities brokers and dealers, investment houses, financing companies, investment companies, government securities eligible dealers, transfer agents, pre-need plan dealers and general agents, surety companies, and mutual fund distributors.</li> <li>• Accredited 238 auditing firms and 1,174 individual external auditors.</li> <li>• Evaluated applications and issued 113 Certificates of Eligibility (COE) covering non-performing assets worth PhP2.674 billion.</li> <li>• Registered PhP83.56 billion worth of securities, broken down as follows: PhP36.31 billion equity securities, PhP32.32 billion debt securities, and PhP14.93 billion proprietary/non-proprietary shares/certificates.</li> </ul>
<p><b>8. Examine, inspect, verify, and/or evaluate corporate reports, financial disclosures, and registration statements</b></p>	<ul style="list-style-type: none"> <li>• Continued the process of monitoring compliance with reportorial requirements under Section 141 of the Corporation Code of the Philippines. Monitored 50,596 corporations of which 8,264 corporations were fined; and set aside 209 revocation orders.</li> <li>• Received and reviewed 80,733 financial reports, disclosures, other periodic reports of regulated entities.</li> <li>• Monitored 1,411 foundations for compliance with Rule 68 of the Securities Regulation Code and SEC Memorandum Circular (MC) No. 8 s. 2006 – Revised Guidelines on Foundations and collected PhP 3.80 million in penalties for non-compliance.</li> </ul>



	<ul style="list-style-type: none"> <li>• Monitored 547 entities for compliance with the Anti-Money Laundering Act (AMLA) and the Code of Corporate Governance; and issued corresponding show cause letters to those firms that failed to comply with the related requirements.</li> </ul>
<p><b>9. Conduct enforcement, regulatory compliance-monitoring, surveillance, and intelligence activities</b></p>	<ul style="list-style-type: none"> <li>• Sustained the monitoring of market trading participants and their daily transactions through the use of a real-time market surveillance system for detecting unusual price and volume movements to identify and/or address any potentially problematic or fraudulent stock transaction in its early stage.</li> <li>• Processed one hundred fifty-eight (158) complaints; fifty-eight (58) of which were from the public; seventy-eight (78) from within SEC; nine (9) from other government/foreign law enforcement agencies; and thirteen (13) motu proprio cases.</li> <li>• Evaluated 115 investigation reports; filed for 18 petitions for revocation of registration/certificate of authority filed with the SEC; filed fifteen (15) orders of revocation and ten (10) orders of suspension of registration and certificate of authority, respectively; and filed one (1) complaint with the DOJ.</li> <li>• Rendered 149 decisions on regular cases and appeals, such as petitions to change corporate name, calling of meeting, dissolution, revocation of certificate of registration, and appeals to the Commission En Banc on decisions issued by operating departments.</li> <li>• Penalized 276 companies for violation of the Financing Company Act (RA 8556), the Lending Company Regulation Act (RA 9476), and Investment Company Act and SRC.</li> </ul>



<b>MAJOR FRONTLINE SERVICES</b>	Concerned Office	Contact Numbers
<b>Basement</b>		
RETRIEVAL OF DOCUMENTS	HRAD	584-5285
<b>Ground Floor</b>		
MONITORING PROCEDURE	CRMD-LRD	584-2887
PUBLIC ASSISTANCE	ERID	584-1269
INVESTOR COMPLAINT		
PAYMENT OF FEES FOR REGISTRATION TRANSACTION	FMD	584-5548
PAYMENT OF FEES FOR NON-REGISTRATION TRANSACTION		
PURCHASE OF PIN MAILER		
PURCHASE OF SERVICE STAMP		
RECEIVING OF DOCUMENTS	HRAD	584-6543
<b>2<sup>nd</sup> Floor</b>		
PROCESSING OF APPLICATION FOR PRIMARY REGISTRATION	CRMD-CPRD	584-9225
<b>5<sup>th</sup> Floor</b>		
RECEIPT AND FILING OF COMPLAINT	EPD	584-7652
<b>6<sup>th</sup> Floor</b>		
PROCESSING OF APPLICATION FOR REGISTRATION OF SECURITIES	CFD	584-6080
PROCESSING OF APPLICATION FOR REGISTRATION AS AN EXCHANGE/ EXCHANGE-SRO; CLEARING AGENCIES/CLEARING AGENCY-SRO	MRD	584-2016
<b>7<sup>th</sup> Floor</b>		
ACCREDITATION OF EXTERNAL AUDITOR/AUDITING FIRM	OGA	584-9763
ISSUANCE OF CERTIFICATE OF ELIGIBILITY (COE) ON SPECIAL PURPOSE VEHICLE (SPV)		
PROCESSING OF APPLICATION FOR ACCREDITATION AS APPRAISAL COMPANY		
INFORMATION DATA REQUEST	ERID	584-8220
<b>11<sup>th</sup> Floor</b>		
MONITORING OF FOUNDATIONS*	IPSD	584-5476

\* - as of May 2012



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