

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Nineteenth Congress
First Regular Session

House Bill No. 688



Introduced by **Representative JOEY SARTE SALCEDA**

AN ACT
EXPANDING THE CAPITAL MARKET BY DEVELOPING A ROBUST
INSTITUTIONAL INVESTOR BASE, STRENGTHENING THE
REGULATORY ENVIRONMENT, AND PROMOTING FINANCIAL LITERACY

EXPLANATORY NOTE

The Role of a Robust Capital Market

Developing deep and broad capital markets is an important aspect of nation-building. Capital markets mobilize savings from households and firms with surplus funds, and channel these to those sectors with a need for such funds. It provides the link for the direct intermediation of funds from savers to borrowers through the bond and stock markets, while indirect financial intermediation channels fund from savers through the banking system. For all these channels, the tasks are to allocate savings to their most productive uses.

The impact on economic growth via all these channels takes place over several decades and is not trivial. In fact, the literature provides much evidence of the strong links between financial sector development and real per capita economic growth. In addition, financial sector development can reduce verification costs, help alleviate credit rationing, and provide for more efficient government to person transactions

Recognizing these benefits, the Government of the Philippines is prioritizing efforts to further enlarge and deepen the financial sector, and to increase financial inclusion. Broadening our country's financial sector is consistent with enhancing financial inclusion and increasing the liquidity of financial markets. It implies growing the country's investor base. A wide domestic investor base supports the development of local currency capital markets. It ensures varied sources of demand by encouraging the participation of a variety of financial entities (banks, pension funds, insurance companies, mutual funds), and non-financial entities (nonfinancial corporations, retail investors) practicing a variety of business models, as well as foreign investors.

A comparison of the financial sector in the Philippines with other countries suggests ours is smaller, lacks depth, and is more inaccessible. This is unfortunate, because there are

many qualitative benefits to financial sector development, including; (i) improved corporate governance, (ii) allowing for risk mitigation and intertemporal risk sharing, (iii) a reduction of liquidity risk, (iv) a reduction in trading costs, (v) facilitation of exchange, and (vi) specialization and innovation.

But sadly, the Philippines has a relatively small institutional investor base, and a low level of assets held by the contractual savings sector (e.g., pensions, insurance companies and mutual funds) as a percentage of GDP. Contractual savings, and pensions in particular, complement financial sector development, which drives growth.

Widening Institutional Investor Base

Pension systems around the world are active participants in capital markets. They mobilize savings that will not be withdrawn until retirement - long-term savings - which are appropriate for financing productive long-term investments, like infrastructure investment. These investments include tangible assets (roads, bridges, ports, machinery, factories, commercial buildings, hospitals, and new housing units) and intangible assets (such as education and research and development) that increase future prospects for innovation and competitiveness.

Given that pension systems are important sources of productivity-enhancing savings, how these systems are designed determine their contribution to capital markets development, long-term investment, improving corporate governance and ultimately, productivity and real per capita economic

Our current pension system has a problem - it is small, underfunded and inadequate to provide enough income to support old-age retirement. Our pension assets under management represent just 16% of Gross Domestic Product (GDP). The Organization for Economic Co-operation and Development (OECD) average is 124% of GDP while the non-OECD average is 36% of GDP. Said another way, we have 1.3 pension assets per worker. Thailand has 126 pension assets per worker and Singapore has 900,000 pension assets per worker.

The private pension system, which is meant to supplement the Social Security System (SSS) and Government Service Insurance System (GSIS) pensions, has not developed. It has its own problems. Foremost of which, is the structure of the law and its implementing regulations. Republic Act (RA) No. 7641 does not require pensions to be prefunded, hence, pensions are paid out of pocket rather than built-up over the duration of employment, thus, no pool of investible assets is created. The pension benefits do not vest until they are sixty (60) years old and on the last day of their employment.

Because pension benefits only vest at their final place of employment, pensions are not portable, and the employee is at risk in the event of the employer's bankruptcy. In addition, many are working in the informal sector which makes it difficult to enforce pension requirements under the current law. With this as background, there is a need to reform the private pension fund system. This will not be easy, but the potential benefits are high not only for our old age citizens but more so for the development of the capital market.

First, a large domestic institutional investor base will allow us to largely fund our own development. Demand for treasury securities and corporate bonds will increase significantly. In addition, professional fund managers can, with the proper incentives, police the market,

thereby increasing the effectiveness of our regulatory regime. Second, our country's real per capita GDP will grow much more rapidly. This means lower poverty, higher savings rates, greater allocative efficiency in financial markets, potentially better corporate governance, greater labor supply by more productive workers responding to higher future retirement benefits, better infrastructure, and less effective pressure from external fund providers. Third, a reformed pension system will provide workers with enough income to cover old age living expenses. This will allow their children to build wealth and break generational poverty.

No less than the Philippine Constitution mandates that the State shall promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living, and an improved quality of life for all (Article II, Section 9, 1987 Philippine Constitution).

Along this line, the Constitution highlights the importance of a viable pension system in the country, particularly in the grant of various benefits to pensioners or retirees, thus, mandating that: "The State shall, from time to time, review to increase the pensions and other benefits due to retirees of both the government and the private sectors" (Article XVI, Section &, 1987 Philippine Constitution)

In the 2020 Melbourne Mercer Global Pension Index (MMGPI), the country's pension system had been ranked 36" out of thirty-nine (39) countries. It garnered an index value of 43, the highest score being 82.6 and, with "A" as the highest, got a grade of "D" (i.e., has some desirable features, but also has major weaknesses and/or omissions that need to be addressed). The index measures each country's pension system through the three sub-indices of sustainability, adequacy and integrity. Given these myriads of issues plaguing our current pension system, we should already be past the phase of diagnosis and review. The much-needed reforms to deepen our capital markets by developing a robust institutional investor base and strengthening the regulatory environment, especially in these pandemic times, is of crucial importance. We must start the ball rolling by institutionalizing a mandatory, portable, fully funded, and adequate corporate pension fund system.

In view of the foregoing, the passage of this measure is earnestly sought.


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REGULATORY ENVIRONMENT, AND PROMOTING FINANCIAL LITERACY**

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

SECTION 1. *Title.* – This Act shall be known as the “Capital Market Development Act”.

SEC. 2. *Declaration of Policy.* – It is the declared policy of the State to promote a just and dynamic social order that will ensure the prosperity of the country and free the people from poverty through policies providing adequate social services, and which promote full employment, a rising standard of living, and an improved quality of life for all. Towards this end, the Government shall develop a deep and broad capital market that shall serve as engine for economic growth and financial inclusion.

The State shall institutionalize a Capital Market Development Council (CMDC), to be composed of members from both the public and private sectors representing the finance and investment industry, and whose main task shall be to assist the government develop policies and the implementing framework that shall promote the expansion and development of the capital market on a nationwide scale. In line with this goal, a national strategy for the promotion of financial inclusion shall be adopted and implemented through investor education that shall raise investor awareness of the alternative savings and investment products such as those that shall be available under this Act and encourage long-term investing skills and financial well-being through planning and making actual investments.

The State also acknowledges that expanding the capital market necessitates the development of a wide institutional investor base that could best be achieved by adopting a robust pension fund system. The State recognizes that the current pension fund system has long been due

for reform and as old age income support is now among the major social and economic challenges facing many nations, including the Philippines, it is imperative to institute the reforms in the country's retirement and pension system. The State shall therefore promote and encourage national savings and prudential investments on the part of the employees, and in so doing, vigorously stimulate the development of the capital market, in particular, and contribute to the desired economic growth of the country in general.

SEC. 3. *Definition of Terms.* – As used in this Act:

(a) *Contributor* refers to any person or entity, such as the employer, employee, or those availing under voluntary coverage, making the required contributions to a private pension and retirement fund under this Act;

(b) *Covered employee* refers to any person in the employ of an employer as defined under the Labor Code, who is compulsorily covered under Section 10 of this Act;

(c) *Covered employer* refers to any person, natural or juridical, employing the services of the employee as defined under the Labor Code, who is compulsorily covered under Section 10 of this Act;

(d) *Early withdrawal* refers to any withdrawal either wholly or partially, made prior to the period of distribution or vesting as set forth under Section 18 hereof;

(e) *Employee, Pension and Retirement Income (EPRJ) Account* refers to the pension account created for the pension owner or EPRI owner under this Act;

(f) *EPRI Administrator* refers to an entity accredited by the regulatory authorities that is responsible for the general management of the EPRI;

(g) *EPRIA Asset* refers to the aggregate of the assets in the EPRI at any one time, including the cash funds and the EPRI investment products into which they are invested and reinvested, and all the income earned therefrom;

(h) *EPRI Custodian* refers to a separate and distinct entity unrelated to the EPRI Administrator, accredited by the regulatory authorities, who provides services in connection with the custodian hip of funds and securities comprising the EPRI investments. The Custodian shall operate independently from the Administrator. The term shall likewise refer to the EPRI owner who opts to retain custody, under a self-custodianship arrangement, of the funds and securities comprising the EPRI investments;

(i) *EPRJ Owner* refers to an employee owning, holding and maintaining an EPRI account under its name, whether under mandatory or voluntary coverage as provided under this Act;

(j) *Investment Manager* refers to a regulated person or entity authorized by an EPRI owner to make investment decisions for the contributor's EPRI Account and as such, shall assume fiduciary duty and responsibility for EPRI investments;

(k) *Investment Product* refers to a unit investment trust fund, mutual fund, annuity contract, insurance pension products, pre-need pension plan, shares of stock and other securities listed and traded in a local exchange, exchange-traded bonds or any other investment product or outlet which the concerned regulatory authorities may allow or accredit;

(l) *Vesting* refers to the conveying to an employee of unconditional entitlement to a share in a pension fund;

(m) *Voluntary EPRI FUND Owner* refers to a person allowed to voluntarily establish an EPRI Account in the person's name. It shall include persons specifically excluded from compulsory or mandatory coverage under Section 10 hereof, as well as self-employed individuals and individuals in the practice of profession;

(n) *Start of Employment* refers to the first day on which the employee is authorized or required by the employer to be on duty in the employer's premises or at the prescribed workplace; and

(o) *Micro Enterprise* refers to any business activity or enterprise that has total assets, including those arising from loans but exclusive of the land on which the particular business entity's office, plant and equipment are situated, of up to Three Million Philippine Pesos (P3,000,000.00), or a higher amount as prescribed by the Magna Carta of Small Enterprises under R.A. 8289 or the Barangay Micro Business Enterprises under R.A. 9178, defined as those employing not more than ten (10) employees, regardless of business ownership, whether single proprietorship, cooperative, partnership or corporation.

CHAPTER I CREATION OF A CAPITAL MARKET DEVELOPMENT COUNCIL

SEC. 4. *Creation and function.* – There shall be created a Capital Market Development Council (CMDC) composed of institutional members from both the public and private sectors. Its main function is to promote and develop the Philippine capital market on a national scale, through any or a combination of the following:

(a) Recommend policies and reforms for the development and promotion of the Philippine capital market;

(b) Identify impediments to capital market development and recommend necessary reforms, amendments, or modifications to eliminate such impediments;

(c) Recommend policies that would stimulate medium-and long-term investments into productive enterprises;

(d) Promote investor confidence and financial literacy;

(e) Recommend policies to streamline and simplify processes and regulatory procedures to ensure the timeliness of registrations or approvals which is critical in dynamic financial markets;

SEC. 5. Membership, Chairperson and Co-Chairpersons. – Membership in the CMDC shall be institutional and shall be representative of the public and private sectors, particularly the finance and investment industry. The members from the public sector shall be the agencies involved in exercising oversight, policy or regulatory functions over the capital market, including the Department of Finance (DOF), the Securities and Exchange Commission (SEC), the Bangko Sentral ng Pilipinas (BSP), the Bureau of Treasury (BTr) and the Insurance Commission (IC). These agencies shall be represented in the CMDC by the highest ranking officer of the agency or office, or a representative who shall not be lower than an undersecretary or deputy or its equivalent.

The CMDC shall be chaired by the Secretary of the DOF and co-chaired by a representative of the private sector member representing an association or organization that has the most cross-sectional members and represents the capital market. The Chairperson and Co-Chairperson shall have the power to select, invite or remove members of the CMDC upon good cause. The CMDC is empowered to form committees as needed, and to adopt its own set of governing rules and procedures, including voting, to ensure the effective and efficient performance of its mandates function.

The members from the private sector shall be chosen from industry associations or organizations directly involved in the capital market, and who shall be of good standing and reputation.

SEC. 6. Capital Market Development Plans or Blueprint. – Every five (5) years, the CMDC shall research, develop, plan and recommend to the Secretary of Finance a set of capital market development plans that will constitute the country's capital market roadmap. These plans shall identify priority programs and projects, the formulation of which shall involve consultations with concerned capital market organizations and regulatory agencies, and regional and international capital market participants, if necessary.

The implementation of these plans by the appropriate government agencies or private offices shall be monitored, reviewed and calibrated on a periodic basis taking into account the developments in the capital market of the country, the region and the rest of the world.

CHAPTER 2

FINANCIAL LITERACY AND INVESTMENT EDUCATION

SEC. 7. Financial literacy and Investment Education. – The CMDC shall recommend to relevant government institutions involved in the educational system, a comprehensive, and globally-benchmarked national investor education program that is aligned with the National Strategy for Financial Inclusion. The said program shall be integrated with the enhanced basic education program prescribed under Section 4 of Republic Act No. 10533 otherwise known as the “*Enhanced Basic Education Act of 2013*”, or in higher education or out-of-school youth programs.

It shall include the basic knowledge on savings and investments that will focus on providing an overview of short and long-term investment instruments available to retail investors such as those that may be available under this Act, the risks and rewards of savings and investment, available investments in the domestic capital market, alternative investments, investor protection safeguards provided under existing regulations, and how to recognize and avoid financial fraud, among others.

The implementation of the education program shall use the latest technology such as online or digital gateway, podcasts, among others, in order to reach as many target individuals as possible nationwide. These materials shall be made accessible to schools, universities and employers of the working class, which shall maintain a record of completion of the courses.

SEC. 8. *Promoting Financial Literacy.* – All government agencies and offices as well as private corporations and individuals involved in the finance and investments industry shall promote financial literacy to potential investors by disseminating relevant information about investments and effecting the appropriate interventions, such as educational and training materials, individualized advisor and consultation, social media informational materials.

To ensure the broadest participation in the pension fund system, DOF, DOLE, DTI, the BSP, SEC, the IC, all private investment managers, administrators, and other financial institutions and capital market players involved, in whatever capacity, to provide the necessary information and assistance to existing and potential holders of EPRI accounts.

Employee and employer organizations, and labor unions are likewise mandated to promote financial literacy among their members.

Detailed guidelines in the implementation of this provision shall be included in the joint implementing regulations mandated under Section 33 hereof, and in any other subsequent issuances.

CHAPTER 3 EMPLOYEE PENSION AND RETIREMENT INCOME FUND

SEC. 9. *Establishment of an Employee Pension and Retirement Income Account.* – There shall be established at the start of employment a mandatory, fully funded and portable Employee Pension and Retirement Income (EPRI) Account. The creation of the EPRI account of the employee shall be the responsibility of both the employer and the employee.

The EPRI account shall be under the name of the employee bearing the employee's PhilSys Number (PSN) under Republic Act 11055, otherwise known as the “*Philippine Identification System Act*”. If said PSN is not yet available at the time of the EPRI establishment, a Pension Retirement and Income Number (PRIN) shall be assigned in the interim under the rules issued by the regulatory authorities. Such PRIN shall be replaced with the PSN upon its availability.

An employee or those voluntarily covered shall only have one EPRI Account. The EPRI

Account shall be a permanent EPRI account until retirement and shall be owned, maintained, and managed by the owner regardless of changes in employment or transfer of employer.

SEC. 10. *Compulsory Coverage of Employees and Employers.* – The EPRI shall cover all employees and employers as defined under the Labor Code of the Philippines and its implementing regulations. It will also cover, all corporations, whether domestic or resident foreign corporation, general professional partnerships and such other entities, whether registered or not, having persons under its employ.

The following are not compulsorily covered under this Act:

(a) Employees of the National Government and its political subdivisions, including government-owned or controlled corporations;

(b) Domestic workers under Republic Act No. 10361 or the “Domestic Workers Act” or “Batas Kasambahay”;

(c) Overseas Filipino Workers;

(d) Employees of a microenterprise with less than three (3) years service and who are not yet EPRI owners; and

(e) All those specifically excluded by the regulatory authorities in an implementing regulation.

SEC. 11. *Voluntary Coverage.* – Self-employed and professionals, as well as those not compulsorily covered under Section 10 hereof, may opt for voluntary coverage under this Act. The contributions to the EPRI will be borne and paid solely by those opting for voluntary coverage. Once und voluntary coverage, all the provisions of this Act as well as the governing policies, rules and regulations thereof shall equally apply to them similar to those under compulsory coverage.

SEC. 12. *Change Status from Mandatory to Voluntary Coverage or Vice-versa.* – Any interruption in the contribution to an EPRI account due to changes in the status of the EPRI Owner from compulsory total voluntary, or vice-versa, shall not cause the termination or cancellation of the EPRI Account. An EPRI account already established shall continue to exist until vesting or upon the retirement of the EPRI Owner except in instances as may be determined by the regulatory agency under the implementing regulations under Section 40 of this Act.

The changes in status contemplated under this Section shall include:

(a) Change in employment from a covered private employer to a non-covered employer, whether private or government;

(b) Change of employment from employed to self-employed;

(c) Change from voluntary to compulsory coverage;

(d) Other similar situations that will disrupt the contributions, or will change the status of the EPRI over, as may be determined by the regulatory authorities in the implementing regulation.

SEC. 13. *EPRI Account Ownership.* – The EPRI Account shall be owned, held, and maintained under the name of the employee and under the employee's sole and full control. The employee, as EPRI Owner, shall exercise all the complete and unrestricted rights, privileges, discretion and prerogatives as to the management, investment and maintenance of the EPRI Account during its lifetime and until vesting.

Any income, interest or gains derived from the investment of the EPRI shall form part of the EPRI Asset as owned or held by the EPRI Owner.

SEC. 14. *Mandatory Funding and Contribution.* – Both the employee and the employer shall be obliged to mandatory contribute to the EPRI Account. The amount of such contribution, which shall be fair, equitable, affordable, adequate and sustainable, shall be determined by the IC in an implementing rules and regulations.

Provided, that the initial contribution of the employer shall be 4% while that of the employee. *Provided* that it shall be 1% if receiving a salary above the minimum wage, and 0% if minimum wage earner or below. The rate of contribution shall be based on basic pay only, excluding all other benefits received from employment; *Provided further,* That, if the employer is a micro enterprise as defined under Section 3(n) of this Act, only its employees with a minimum period of three (3) years of service, and current EPRI owners at the time of hiring, shall be mandatorily covered by this Act; *Provided, finally,* That the contribution of the employer and the employee may be subsequently increased by the IC, in consultation with the DOF, the DOLE, and the National Tripartite Industrial Peace Council (NTIPC), but at no instance shall the total contribution by each of the employee and employer, computed separately, exceed 5% of the basic pay nor shall the annual contribution exceed P160,000, which amount shall be adjusted for inflation every three (3) years.

For those under voluntary coverage, the contribution to the EPRI shall be equivalent to the employee's share, unless the voluntary EPRI Account holder opts to include the employer's share as his additional contribution.

SEC. 15. *Remittance of Contributions.* – The contribution imposed in the preceding section shall be remitted to the EPRI Account within the first ten (10) days of each calendar month following the month for which they are applicable or within such time as the IC may prescribe. Every employer required to deduct and to remit such contributions shall be liable for any default in the payment of such contributions and the payment of the penalty prescribed under Section 33 of this Act. If deemed expedient and convenient, at the option of the employer, the collection and remittance of contributions shall be made quarterly or semi-annually in advance, the contributions payable by the employees to be advanced by their respective employers: *Provided, that* upon separation of an employee, any contribution so paid in advance but not due shall be credited or refunded to his employer.

SEC. 16. *Investments; Default Investment Option.* – The EPRI Owner shall make all investment decisions pertaining to the EPRI Asset which shall however be limited to the EPRI investment products as defined under Section 3(k) of this Act.

The concerned regulatory authorities shall determine a default investment product or products on which the EPRI shall be invested in the event that the EPRI Owner fails to choose which product to invest on. This default option shall be periodically reviewed by the regulatory authorities as to investment risks, profitability and sustainability, and to prescribe a new default option, as and when necessary.

The EPRI Owner may appoint an Investment Manager from among the accredited Investment Managers as defined under Section 3 hereof, to provide financial advice and make sound and prudent investment decisions on the owner's behalf. An Investment Manager shall act with utmost fidelity by observing policies directed towards confidentiality, scrupulous care, safety and prudent management of EPRI Assets.

The regulatory authorities shall define and provide specific metrics and parameters for accreditation of investment products as are necessary.

Accredited investment products may be designed to cater to the different risk and return profiles of EPRI account holders provided that each investment product is classified appropriately according to risk level and managed in accordance with its stated investment objectives.

SEC. 17. *Retirement Age.* – A covered employee, upon reaching the mandatory age of retirement as prescribed by existing laws, shall retire and avail of the benefits under Section 18 of this Act.

Those persons under voluntary coverage will also be subject to the same conditions relative to the compulsory retirement age as provided by existing laws.

SEC. 18. *Availment and Vesting of Benefits.* – Upon reaching the optional or compulsory age of retirement under existing laws or any of the instances allowed by the regulatory authorities for vesting or termination, the retiring employee, or EPRI Owner shall be entitled to all the EPRI Assets at the time of vesting for retirement. Such assets shall include all contributions and all the fruits thereof, including any investments that have been made out of the EPRI account.

The distribution of benefits shall be made in either lump sum or pension payments, the latter being paid either for a specified fixed period or a lifetime pension. The choice for the manner of payment as well as the payment period shall be made by the EPRI Owner on or before the time of vesting or benefit availment.

SEC. 19. *Mandatory Minimum Benefits.* – Other than the benefits stated under Section 18 hereof, and except for employees opting to be covered by RA 9461 and existing employee retirement plans as allowed under the transitory provisions of this Act, there shall be no required minimum benefits to be vested to the employee at the time of retirement.

SEC. 20. *Beneficiary.* – An EPRJ owner can designate a Beneficiary of choice. Upon vesting, retirement or termination, an EPRI owner can assign the rights over the EPRJ Assets or pension benefits to another person.

However, if the EP owner dies before vesting or termination under Section 18 hereof without designating a beneficiary, the Laws on Succession of the New Civil Code of the Philippines shall apply for purposes of determining the beneficiary.

An EPRI owner designates their beneficiary or beneficiaries and has the right to challenge their beneficiaries anytime.

SEC. 21. *EPRI Asset Sustainability, Adequacy and Actuarial Fairness.* – All the necessary policies and measures shall be promulgated, implemented and undertaken by the regulatory authorities to ensure that the EPRJ asset shall be adequate and sustainable.

The sustainability of the EPRJ Asset shall take into consideration the desired and reasonably adequate replacement rate as determined jointly by the DOF, DOLE and the IC. The desired replacement rate shall be subject to periodic review and evaluation at least once every five (5) years.

SEC. 22. *Early Withdrawal Exceptions.* – Except in cases allowed under this Section, early withdrawals shall not be allowed.

Early withdrawal of premature termination shall be subject to penalties under Section 33 hereof: *Provided however*, no penalty shall be imposed on any withdrawal of or any portion of the EPRJ Asset for the following purposes:

(a) For payment to an employee who has been subsequently rendered permanently totally disabled as defined under the Employees Compensation Law, Social Security Law or Government Service Insurance System Law;

(b) Death of the EPRI Owner; and

(c) For such other analogous purposes as may be declared by the IC, in consultation with the DOLE, as embodied in implementing regulations.

SEC. 23. *Tax Treatment.* – The contributions made for, or income and benefits received from an EPRI account under this Act shall be treated as follows:

(a) *Taxation of Contributions.* – The employer's contribution made under Section 14 of this Act, shall be allowed as deductible expense of the employer subject to the substantiation requirements under the National Internal Revenue Code (NIRC), as amended. Such mandatory contributions made by the employer to the employee's EPRI account shall not also be considered as part of the employee's compensation subject to income tax. On the other hand, the employee's contribution out of the compensation received from the employer, shall form part of the employee's compensation income subject to income tax.

(b) *Taxation of Investment Income.* – All income of whatever nature earned by the EPRI, including interest and gains earned from the placements or investments of the EPRI assets, shall be exempt from all taxes. In case of transactions subject to the Documentary Stamp Tax (DST), the DST shall be borne by the other party who is not exempt from payment thereof.

(c) *Taxation of Benefits.* – All benefits and distributions received by the employee at the time of vesting or retirement under Section 18 hereof, shall be exempt from all taxes.

At no instance shall the EPRI account be subject to the value-added tax or the business tax under Title IV and V of the NIRC, as amended, notwithstanding the regularity of its investment activities.

SEC. 24. *Regulatory Authorities.* – The EPRI Account created under this Act, including those involved in the implementation, administration, management and custody of its fund and assets, shall be placed under the regulation, supervision and administration of the DOF, IC, SEC, and the BSP, either jointly or singly, as laid down in the succeeding Sections hereof.

For this purpose, the current administrative, supervisory and regulatory powers of the IC, SEC and the BSP are deemed expanded, modified and amended to include the exercise of administrative, supervisory and regulatory authority over the EPRI accounts constituted under this Act, including the exercise of quasi-legislative and quasi-judicial powers relative thereto.

All matters and issues under this Act and specifically pertaining to the EPRI Account shall be within the exclusive jurisdiction of the IC, SEC and the BSP, as stated under Sections 25, 26 and 27 hereof.

SEC. 25. *Functions of the Bangko Sentral ng Pilipinas.* – The BSP shall have the following functions:

(a) Formulate, promulgate and implement the needed and required policies, mechanisms and rules, on the following matters, among others:

- (1) Qualification and disqualification, and accreditation standards of BSP-supervised financial institutions to act as Investment Managers, including directors and officers thereof;
- (2) Pre-operating requirements of banks to engage in investment management activities;
- (3) Conduct of investment management activities;
- (4) Impose sanctions for violations of any regulations related to its regulatory actions mandated under this law, including restricting the ability to collect excessive or unreasonable fees.

SEC. 26. *Functions of the Securities and Exchange Commission.* – The SEC shall have the following functions:

(a) Formulate, promulgate and implement the needed and required policies, mechanisms and rules, on the following matters, among others:

- (1) Qualification and disqualification, and accreditation standards of licensed investment company advisers, and other entities or individuals who shall act as Investment Managers, including directors and officers thereof;
- (2) Qualification and disqualification, and accreditation standards for Administrators and Custodians, including directors and officers thereof;
- (3) Reasonableness of fees to be charged by the Administrator and Custodian including the imposition of fee cap as may be necessary;
- (4) Minimum requirements imposed on the Administrators as regards inculcating financial literacy to investors;
- (5) Record-keeping, reporting and audit requirement of Administrators and Custodians pertaining to records for all contributions, earnings and total account balances; and
- (6) Impose penalties for violations of any regulations related to its regulatory actions mandated under this law.

(b) Impose administrative sanctions against investment company advisers, fund manager and other financial entities under the regulatory power of the SEC, or their directors, principal officers, and/or majority stockholders, if found to have engaged in unauthorized investment management activities; and

(c) Undertake other functions as may be necessary for the full and efficient implementation of this Act.

SEC. 27. *Functions of the Insurance Commission.* – The IC shall, in addition to all other powers and functions vested upon and required of it under this law, have the following functions:

(a) Formulate, promulgate and implement the needed and required policies, mechanisms and rules on the following matters, among others:

- (1) Qualification or eligibility of EPRI investment products, in coordination with BSP and SEC;
- (2) Valuation standards for EPRI investments;
- (3) Disclosure requirements on the terms and conditions of the EPRI investments;

- (4) Ascertainment of EPRI Owner's suitability for EPRI products, in coordination with BSP and SEC;
- (5) Impose penalties for violations of any regulations related to its regulatory functions mandated under this law;
- (6) Compromise, release, condone, in whole or in part, any interest, penalty or civil liability, arising from the provisions of this Act; approve or restructure the payment of unpaid or unremitted contributions; and attach, garnish, levy and sell properties of delinquent employers for satisfying long overdue and unremitted collections, subject to the rules and regulations, and such other issuances as may be promulgated by the DOF.

(b) Determine the amount of increase in contributions of the employer, employee, or those under voluntary coverage, which shall be subject to periodic review at least once every three (3) years to commence upon the issuance of the implementing regulations fixing the contribution rate pursuant to this Act;

(c) Determine caps on contributions in accordance with Section 14 hereof;

(d) Assist and advise the DOF and DOLE of the review and determination of the desired replacement rate, as mandated under Section 21 hereof;

(e) Submit reports to DOF and DOLE as may be required by them; and

(f) Enlist the aid and support of, and deputize any and all enforcement agencies of the government in the implementation of its powers and functions under this Act;

(g) Undertake other functions as may be necessary for the full and efficient implementation of this Act.

SEC. 28. EPRI Administration and Management. – The administration, management and custody of the EPRI Account and its Assets shall be undertaken by qualified private companies that shall act as the EPRI Administrator which will be chosen by the employee from among those accredited by the regulatory authorities. An EPRI owner can, however, opt to take self-custody of the EPRI Account and its Assets.

SEC. 29. Functions of EPRI Administrator, Investment Manager and Custodian. – The EPRI Administrator shall have the following functions:

(a) Oversee, administer, and manage the EPRI Account on behalf of the EPRI Owner;

(b) Undertake reporting on contributions made to the account, computing the values of investments, enforcing EPRI contributions and withdrawal limits, collecting appropriate taxes and penalties for the government, consolidating reports on all investments, income, expenses and withdrawals on the account and ensuring that EPRI contributions are invested in accordance with

the prudential guidelines set by the regulatory authorities;

(c) Educate the contributors on the relevant information regarding investments; and

(d) Report the EPRI Owner as well as to the concerned regulatory authorities at designated regular intervals or periods all the funds, financial transactions and all documents under its management and administration and, if applicable, in its custody.

The EPRI Administrator, subject to the strict rules and guidelines issued by the regulatory authorities, cannot simultaneously act for the same account as EPRI Custodian or Investment Manager.

The custodian shall be responsible for receiving all funds in connection with the EPRI, maintaining custody of all original securities, evidence of deposits or other evidence of investment. The Custodian is required to report to the Contributor and the concerned regulatory authorities at regular intervals all financial transactions and all documents in its custody under the EPRI. The custodian shall be separate from the EPRI Administrator and Investment manager for the same account.

The investment manager shall make decisions for and in behalf of the EPRI Owner in accordance with the authority wanted by the EPRI Owner: *Provided*, That an investment manager shall not be allowed to recommend or sell its own investment products or that of its subsidiaries and affiliates: *Provided Further*, that an investment. managers shall not be allowed to sell investment products that are not accredited by the regulatory authorities. An investment manager cannot simultaneously act as an investment administrator or custodian for the same account.

SEC. 30. *Fiduciary Relation and Exercise of Prudence.* – The EPRI Administrator and Custodian are, at times, deemed to have a fiduciary relationship with the EPRI Owner. The EPRI Administrator and Custodian shall perform their responsibilities and duties and manage, administer and take care of the EPRI under their management and custody with the diligence that a prudent man would exercise in the conduct of an enterprise of a like character and with similar aims.

SEC. 31. *Transparency and Regular Audit.* – The EPRI and the EPRI Administrator and Custodian shall be subject to a regular audit in accordance with the audit and monitoring guidelines promulgated by the SEC and the BSP. Policies and measures for complete transparency promulgated by the SEC and BSP shall be observed and complied with by the EPRI Administrator and Custodian at all times, including EPRI management, administration and custody as well as the costs or expenses incurred relative to such management, administration and custody.

SEC. 32. *Transition to EPRI.* – Employees shall be allowed a one-time option to stay under the coverage of Republic Act No. 7641, otherwise known as the "Retirement Pay Law", or under an existing employee retirement pension plan within one (1) year from the effectivity of this Act, such option to be communicated to the present employer. Failure to exercise such an option shall automatically subject the employee under the coverage of this Act. Employees entering the workforce for the first time after the effectivity of this Act shall be governed by the provisions of

this Act.

In case an employee covered by an employee retirement plan opts to be covered by this Act upon its effectivity, the employer shall be mandated to transfer to the EPRI account all contributions made by the employee and the employer, including all fruits and income that have accrued at the time of the transfer. Likewise, existing accounts under the Personal Equity Retirement Act (PERA) can be converted to an EPRI Account under this Act. Those who choose to be covered by RA7641 or by an existing employee retirement plan shall be exempted from compliance with this Act. Likewise, those covered by this Act shall no longer be covered by RA 7641.

The IC shall issue the necessary guidelines to implement this Section.

SEC. 33. *Penalties for Violations of Act.* – A fine of not less than Fifty thousand pesos (P50,000.00) nor more than Five Hundred thousand pesos (P500,000.00) or imprisonment of not less than six (6) years and one (1) day to not more than twelve (12) years or both such fine and imprisonment, at the discretion of the court, shall be imposed upon any person, association, partnership or corporation, its officer, employee or agent, who, acting alone or in connivance with others, shall commit the following:

(a) Failure by the employer to remit the contributions to the EPRI Account: *Provided That*, only the civil penalty shall be imposed if the failure is for justifiable reasons; *Provided, Further*, that, for first and second time offenders without justifiable cause, only the civil penalty will be imposed; *Provided, Finally*, that the employer who failed to remit the contributions to the EPRI Account shall pay, besides the contribution, a penalty thereon of two percent (2%) per month from the date the contribution is due until paid;

(b) Act as EPRI Administrator/Custodian or Investment Manager or Advisor without being properly qualified or without being granted prior accreditation by the concerned regulatory authorities;

(c) Knowingly and willfully invest the funds of and EPRI account without authority from the EPRI Owner, or invest such funds in contravention to the instructions of the EPRI Owner;

(d) Knowingly and willfully make any statement in any application, report, or document required to be filed under this Act, which statement is false or misleading with respect to any material fact;

(e) Misappropriate or convert, to the prejudice of the employee or employer, contributions to and investments or income from the EPRI;

(f) By gross negligence, cause any loss, conversion, or misappropriation of the contributions to, or investments from, the EPRI; or

(g) Willful violation of any provision of this Act or the rules and regulations issued pursuant to this Act.

The above penalty shall not preclude the EPRI Owner and the regulatory authorities from recovering from the Administrator, Custodian or Investment Manager the amount misappropriated or lost in situations covered under (c), (e) and (f) of this Section. The regulatory authorities shall assist, and if warranted, file the case for recovery, for and on behalf of the owner.

Any amount spent by the regulatory authorities to pursue the case shall be reimbursed by the EPRI Owner and shall be deducted from the amount recovered. Likewise, the above penalties shall be without prejudice to whatever civil or criminal liability provided for under applicable laws that can be imposed for the same act or omission.

SEC. 34. Penalties for early withdrawal Abuse of Tax Exemption and Privileges. – Any EPRI Owner, who prematurely withdraws from the EPRI Account, unless exempted under Section 22 hereof, shall refund or pay to the government an amount equivalent to fifty percent (50%) of any amount withdrawn consisting of income earned by the fund, plus the employer's contributions.

The amount to be subjected to the penalty shall be the amount withdrawn less the amount of employee contributions at the time of withdrawal.

SEC. 35. Non-Assignability and Free from Levy. – Any provision of law to the contrary notwithstanding, no portion of the EPRI or assets of the EPRI may be assigned, alienated, pledged, encumbered, attached, garnished, seized or levied upon, by or under any administrative, legal or equitable process whatsoever.

SEC. 36. Separate Asset. – The EPRI Assets shall be kept separate and not considered assets of the EPRI Owner for purposes of insolvency and estate taxes.

SEC. 37. Re-organization and Augmentation of Personnel Complement. – The regulatory authorities, in coordination with the Department of Budget and Management and the DOF, are hereby authorized to streamline and augment their human resource component, as well as to create units, divisions or offices, as the case may be, to enable it to effectively and efficiently perform its functions and responsibilities set forth under this Act.

CHAPTER 4 OVERSIGHT RESPONSIBILITY

SEC. 38. Oversight Committee. – There is hereby created a Joint Congressional Oversight Committee (JCOC) to oversee, monitor, and evaluate the implementation of this Act. The JCOC shall be composed of five (5) members each from the House of Representatives and the Senate. The JCOC shall be co-chaired by the Chairpersons of the House Committee on Banks and Financial Intermediaries and the Senate Committee on Banks, Financial Institutions and Currencies.

The Speaker and the Senate President shall designate the other four members of the JCOC of the House and the Senate from among the members of the House Committee on Banks and

Financial Intermediaries and the Senate Committee on Banks, Financial Institutions and Currencies, at least one member of which shall be from the minority.

CHAPTER 5 FINAL PROVISIONS

SEC 39. *Implementing Regulations.* – The DOF, BSP, SEC and IC shall issue regulations to implement the provisions of this law within six (6) months from its effectivity. Within the same period, the Department of Education (DepEd), in consultation with the CMDC, BSP, SEC, IC, and such other agencies as may be called upon by the regulatory authorities, shall promulgate rules and regulation to effectively implement the financial literacy provisions under Sections 7 and 8 of this Act.

SEC. 40. *Separability Clause.* – If any provision or part hereof is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

SEC. 41. *Repealing Clause.* – All laws, decrees, orders, rules and regulations or parts thereof inconsistent with this Act are hereby amended, repealed or modified accordingly.

SEC. 42. *Effectivity.* – This Act shall take effect fifteen (15) days following its publication in the *Official Gazette* or in a newspaper of general circulation in the Philippines.

Approved,