

**Republic of the Philippines
SECURITIES AND EXCHANGE COMMISSION
SEC Building, EDSA, Greenhills
Mandaluyong City**

**IMPLEMENTING RULES AND REGULATIONS
OF THE REAL ESTATE INVESTMENT TRUST (REIT) ACT OF 2009**

Pursuant to Section 22 of Republic Act No. 9856, An Act Providing the Legal Framework for Real Estate Investment Trust, the following Implementing Rules and Regulations are hereby promulgated.

Rule 1 – Title of Rules

These Rules shall be referred to as the “Implementing Rules and Regulations of Republic Act No. 9856, otherwise known as the Real Estate Investment Trust (REIT) Act of 2009” or the “REIT Rules.”

Rule 2 - Objectives

These Rules are promulgated consistent with the declared policy of the State to promote the development of the capital market, democratize wealth by broadening the participation of Filipinos in the ownership of real estate in the Philippines, use the capital market as an instrument to help finance and develop infrastructure projects, and protect the investing public.

The implementation and application of these Rules shall adhere as closely as possible to the attainment of the foregoing policy objectives.

Rule 3 – Definition of Terms Used in the Rules

When used in these Rules and Regulation, the term –

- a. “Act” means Republic Act No. 9856 otherwise known as the Act Providing the Legal Framework for Real Estate Investment Trust.
- b. “Adviser” means a lawyer, accountant, auditor, financial or business consultant, and such other persons rendering professional advisory services to the REIT.
- c. “Affiliate” means a corporation that directly or indirectly, through one or more intermediaries, is controlled by, or is under the common control of, another corporation, which thereby becomes its parent corporation.
- d. “Associate” of a person includes:
 - i. Any relative of such person within the fourth (4th) degree of consanguinity or affinity; and
 - ii. Any company in which he/she and his/her relative within the fourth (4th) degree of consanguinity or affinity, directly or indirectly, has an interest of twenty-five percent (25%) or more.

- e. “BIR” means the Bureau of Internal Revenue.
- f. “BSP” means the Bangko Sentral ng Pilipinas.
- g. “Cash Equivalent Items” means instruments or investments that are highly liquid and marketable and are considered good as cash, including savings and/or time deposits (peso or foreign currency denominated) maintained with any duly licensed universal, commercial or thrift bank that has passed the accreditation process of the Fund Manager.
- h. “Code of Corporate Governance” means the Revised Code of Corporate Governance issued by the Commission on 22 June 2009 and made effective on 15 July 2009; and as may be amended by the Commission.
- i. “Commission” or “SEC” means the Securities and Exchange Commission of the Philippines.
- j. “Constitutive Documents” means the Articles of Incorporation and By-Laws of a REIT.
- k. “Control” exists in favor of a parent corporation when it has the power to direct or govern the financial and operating policies of an enterprise so as to obtain benefits from its activities. Control is presumed to exist when the parent owns, directly or indirectly, through subsidiaries, more than one half (1/2) of the voting power of an enterprise, unless, in exceptional circumstances, it can clearly be demonstrated that such ownership does not constitute control. Control also exists even when the parent owns one half (1/2) or less of the voting power of an enterprise when there is power:
 - i. Over more than one half (1/2) of the voting rights by virtue of an agreement with investors;
 - ii. To direct or govern the financial and operating policies of the enterprise under a statute or an agreement;
 - iii. To appoint or remove the majority of the members of the board of directors or equivalent governing body; or
 - iv. To cast the majority votes at meetings of the board of directors or equivalent governing body.
- l. “Corporation Code” refers to Batas Pambansa Bilang 68, otherwise known as the Corporation Code of the Philippines.
- m. “Deposited Property” means the total value of the REIT’s assets and investible funds as indicated in the valuation report of the Property Valuer.
- n. “Distributable Income” means net income as adjusted for unrealized gains and losses/expenses and impairment losses, and other items in accordance with internationally accepted accounting standards. Distributable income proceeds from the sale of the REIT’s assets that are re-invested in the REIT within one (1) year from the date of the sale.
- o. “Exchange” means any entity registered with the Commission as a stock exchange pursuant to the Securities Regulation Code.
- p. “Fund Manager” refers to the person engaged by the REIT to perform such functions enumerated in these Rules.

- q. "Income-generating Real Estate" means real property which is held for the purpose of generating a regular stream of income such as, but not limited to, rentals, toll fees, user's fees, ticket sales.
- r. "Independent Director" means a director who has the qualifications and none of the disqualifications of an independent director specified in the Securities Regulation Code and its Implementing Rules and Regulations.
- s. "Investible Funds" refers to funds of the REIT that can be placed in investment vehicles other than income-generating real estate, as allowed under these Rules.
- t. "Investor" means the owner of Investor Securities or Investor Shares.
- u. "Investor Securities" or "Investor Shares" means shares of stock issued by a REIT or derivatives thereof.
- v. "Managed Funds" means any arrangement whereby funds are solicited from the investing public and pooled for the purpose of investing in securities duly registered with the Commission for investment and/or reinvestment by the REIT.
- w. "Material Contract" refers to an agreement or arrangement where the amount involved is at least five percent (5%) of the Deposited Property of the REIT or which is not entered into in the ordinary course of business of the REIT: *Provided, however*, That the following shall be deemed a Material Contract regardless of the amount:
 - i. Related Party Transactions as defined in these Rules;
 - ii. Agreements between the REIT and Fund Manager;
 - iii. Agreements between the REIT and Property Manager;
 - iv. Agreements between and among shareholders relating to the transferability of the shares of stock of the REIT, control of the REIT and voting rights over shares of stock of the REIT, such as but not limited to, voting trust agreements, pooling agreements, joint venture agreements, option agreements, and agreements granting rights of first refusal or conversion rights;
 - v. Any acquisition or disposition of real estate by the REIT;
 - vi. Contracts relating to investments of the REIT;
 - vii. Any contract creating mortgages, encumbrances, liens or rights on the real estate of the REIT;
 - viii. Contract of any nature that limits the declaration or distribution of dividends by the REIT;
 - ix. Any contract relating to joint venture, spin off, consolidation or merger, take-over or change in Control involving the REIT;
 - x. Private sale of shares of the REIT; and
 - xi. Any contract that may be expected to materially affect the market activity and/or the price of the Investor Securities issued by the REIT.

- x. “Net Asset Value” or “NAV” means the adjusted net asset value reflecting the fair market values of total assets and investible funds held by the REIT, as determined by the Property Valuer, less total liabilities. NAV per share shall be computed by dividing NAV by the total outstanding shares of the REIT.
- y. “Net Income” means net income as determined under the Philippine Financial Reporting Standards (PFRS).
- z. “NIRC” means the National Internal Revenue Code of 1997, as amended.
- aa. “Overseas Filipino Investor” refers to an individual citizen of the Philippines who is working abroad, including one who has retained or re-acquired his Philippine citizenship under Republic Act No. 9225, otherwise known as the “Citizenship Retention and Re-acquisition Act of 2003”.
- bb. “Parent” means a corporation which has control over another corporation, directly or indirectly, through one or more intermediaries.
- cc. “Principal Officer” means the chairman of the board of directors, president, chief executive officer, chief operating officer, treasurer, chief financial officer, corporate secretary, vice president, executive vice president, senior vice president, compliance officer, chief accounting officer, chief investment officer and their equivalent positions, including consultants with similar rank or position.
- dd. “Property Valuer” means an independent entity engaged by REIT to value its real estate in accordance with these Rules.
- ee. “Principal Stockholder” means a stockholder who is, directly or indirectly, the beneficial owner of more than ten percent (10%) of any class of Investor Security of the REIT or of any shares of a relevant entity.
- ff. “Public Shareholder” means a shareholder of a REIT other than the following persons (non-public shareholders):
 - i. The Sponsor/Promoter of the REIT;
 - ii. A director, Principal Officer or Principal Shareholder of the Sponsor/Promoter of the REIT;
 - iii. A director, Principal Officer or Principal Shareholder of the REIT;
 - iv. An associate of a director, Principal Officer or Principal Shareholder of the REIT or its Sponsor/Promoter;
 - v. A Related Corporation to the REIT or its Sponsor/Promoter; and,
 - vi. Any person who holds legal title to the shares of stock of the REIT for the benefit of another for the purpose of circumventing the provisions of this Act.
- gg. “Property Manager” refers to a professional administrator of real properties who is engaged by the REIT to provide the property management services defined under these Rules.
- hh. “Real Estate Investment Trust” or “REIT” is a stock corporation established in accordance with the Corporation Code of the Philippines and the rules and regulations promulgated by the Commission principally for the purpose of owning income-generating real estate assets. Except as otherwise provided herein, a corporation becomes a REIT and qualified to avail

of the incentives and privileges of the REIT Act when its REIT Plan is rendered effective by the Commission and its listing as a REIT is approved by the stock exchange. For purposes of clarity, a REIT, although designated as a “trust”, does not have the same technical meaning as “trust” under existing laws and regulations but is used herein for the sole purpose of adopting the internationally accepted description of the company in accordance with global best practices.

- ii. “Real Property” shall have the same definition as “Immovable Property” under Article 415 of the Civil Code of the Philippines. Real estate, when used in this Act, shall have the same meaning as real property.
- jj. “REIT Plan” refers to the plan, including its amendments, of the REIT registered with and approved by the Commission.
- kk. “Real Estate-Related Assets” mean:
 - i. Debt securities and listed shares issued by listed property companies; or
 - ii. Other funds and assets, including personal property, incidental to the ownership of real estate.
- ll. “Related Corporation” means the Parent, Subsidiary or Affiliate of the REIT.
- mm. “Related Party” includes:
 - i. A director, Principal Officer or Principal Shareholder of the REIT or associate of such persons;
 - ii. The Sponsor/Promoter of the REIT;
 - iii. The Fund Manager of the REIT;
 - iv. The Adviser of the REIT, the Fund Manager or the Property Manager;
 - v. The Property Manager of the REIT;
 - vi. A director, Principal Shareholder or Principal Officer of the Sponsor/Promoter of the REIT, Fund Manager or Property Manager, or associate of any such persons; and
 - vii. Related Corporation to the REIT, the Fund Manager or the Property Manager.
- nn. “Securities Regulation Code” or “SRC” refers to Republic Act No. 8799, otherwise known as the Securities Regulation Code of 2000, and its Implementing Rules and Regulations as amended.
- oo. “Sponsor/Promoter” means any person who, acting alone or in conjunction with one or more other persons, directly or indirectly, contributes cash or property in establishing a REIT.
- pp. “Subsidiary” means a corporation more than fifty percent (50%) of the voting stock of which is owned or controlled, directly or indirectly, through one or more intermediaries, by another corporation, which thereby becomes its parent corporation.
- qq. “Synthetic Investment Products” are derivatives and other securities created exclusively out of one or more financial instruments to simulate the returns of the underlying assets or

indices of asset values, including, but not limited to warrants, options, interest rate derivatives, currency derivatives, equity derivatives and credit derivatives such as credit-linked notes, collateralized debt obligations, total return swaps, credit spread options and credit default options.

- rr. “Taxable Net Income” means the pertinent items of gross income specified in Section 32 of the National Internal Revenue Code of 1997, as amended, less all allowable deductions enumerated in Section 34, of the National Internal Revenue Code of 1997, as amended, less the dividends distributed by a REIT out of its Distributable Income as of the end of the taxable year as: (a) dividends to owners of the common shares; and (b) dividends to owners of the preferred shares pursuant to their rights and limitations specified in the Articles of Incorporation of the REIT.

Rule 4 – Real Estate Investment Trust

SEC. 1. *Investment in the REIT.*

- 1.1 Investment in a REIT shall be by way of subscription to or purchase of shares of stock of the REIT.
- 1.2 A REIT may provide in its Articles of Incorporation different classes of shares of stock enumerating therein their respective features.
- 1.3 No shares of stock of the REIT shall be offered for subscription or sale except in accordance with a REIT Plan registered with and approved by the Commission. The REIT Plan shall take the place of a prospectus. It shall contain the following information:
- a. investment policy, restrictions and strategy of the REIT;
 - b. discussion on the business plan for property investment and management covering the scope and type of investments made or intended to be made by the REIT, including the type(s) of real estate (e.g. leisure, residential, commercial, or industrial);
 - c. general character and competitive conditions of all real estate now held or intended to be acquired by the scheme and how such real estate meets the established criteria for selection;
 - d. nature and risks of making property investments in each of the relevant locations, including:
 - i. demographics;
 - ii. state of the economy, economic risks and foreign exchange risk;
 - iii. political risks;
 - iv. legal risks and tax considerations;
 - v. policies that affect property investments and property sales;
 - vi. overview of the property market;
 - vii. analysis of the specific property sector and the competitive dynamics in the rental market;

- viii. operational requirement; and
- ix. rules and regulations governing property ownership and tenancy matters;
- e. terms and conditions of the arrangements or agreements that have been entered into by the REIT for it to own legal and beneficial title over specific property, and the benefits and drawbacks of such arrangements;
- f. transaction history of the relevant property in the three (3) years immediately preceding the date of the valuation report included in the REIT Plan;
- g. any proposed program for renovation or improvement to the real estate, including the estimated costs thereof and the method of financing to be used;
- h. the operating date of each of the real estate, including the occupancy rate, number of tenants and its mix in terms of occupation or business, principal provisions of the leases, average annual rental per square foot, and schedule of lease expirations for the next three (3) years;
- i. the borrowing policy and the method or proposed method of operating and financing the real estate investments of the REIT;
- j. where real estate to be acquired are to be financed (wholly or in part) through borrowings, details of the borrowings must be disclosed including, but not limited to, the source, type and nature of the borrowings and the interest rate to be paid by the REIT and the risks involved with respect to borrowings;
- k. the measures in place to mitigate or minimize risks relating to the investment and management of real estate owned by the REIT;
- l. the dividend policy;
- m. the insurance arrangement for the assets of the REIT;
- n. the exit strategy in the event of divestment (including the exit from any joint ownership arrangement), factors and risks which may impact or act as an impediment to an exit, and the contingency plan;
- o. a statement with respect to any material policy regarding real estate activities;
- p. details of transactions or agreements entered into with related parties;
- q. full particulars of the nature and extent of the interest, if any, of any director of the REIT, the Fund Manager, the Property Manager or any Related Parties to the REIT, in the property owned or proposed to be acquired by the REIT; and where the interest of such a director consists in being a partner in a firm, the nature and extent of the interest in the firm, with a statement of all sums paid or agreed to be paid to him or the firm for services rendered to the REIT;
- r. functions, duties and responsibilities of the Property Manager and the Fund Manager and, where applicable, shareholding of the Property Manager and/or the Fund Manager in the REIT;

- s. corporate information on the Property Manager, including number of years in real estate/property management or alternatively, information on two (2) responsible officers who have at least five (5) years track record in real estate/property management, total assets under management, staff strength, resources, internal controls and risk management system;
- t. information on the directors and Principal Officers of the Property Manager, highlighting the academic and/or professional qualification as well as experience possessed by the respective personnel;
- u. corporate information on the Fund Manager, including number of years in fund management, total assets under management, staff strength, internal controls and risk management system;
- v. information on the directors and Principal Officers of the Fund Manager, highlighting the academic and/or professional qualification as well as experience possessed by the respective personnel;
- w. details on substantial fees to be paid by the REIT, such as property management fees and fund management fees. The fees paid to the Property Manager and the Fund Manager must be clearly stated and shall include: (i) the percentage rate to be paid by the REIT; (ii) the basis on which the property management fee is calculated; and (iii) an illustration on how the fee is calculated.;
- x. names, designation and the final direct and indirect shareholdings in the REIT of Promoters, Principal Shareholders, directors, Principal Officers and principal officers of the Property Manager and the Fund Manager;
- y. disclosure on how the proceeds of the public offering and any other funds raised in connection with the public offering will be utilized; and
- z. pro-forma financial statements which shall include information on Net Asset Value and Net Asset Value per unit after the proposed public offering.

1.5 In order to be valid, any material amendment to the REIT Plan shall be approved by the Commission. Any amendment to the registration statement and the Plan shall be effective only upon compliance with the requirements relative to said amendment/s.

SEC. 2. *Registration and Listing.* The shares of stock of the REIT shall be registered with the Commission in accordance with the SRC and listed in accordance with the rules of the Exchange.

SEC. 3. *Nationality Requirement.* A REIT that owns real property located in the Philippines must comply with foreign ownership limitations imposed under Philippine law.

Sec. 4. *Dividend Distribution.* A REIT shall distribute annually at least ninety percent (90%) of its Distributable Income as dividends to its shareholders not later than the last day of the fifth (5th) month following the close of the fiscal year of the REIT subject to the following:

- (a) The dividends shall be payable only from out of the unrestricted retained earnings of the REIT as provided for under Section 43 of the Corporation Code.
- (b) The percentage of dividends received by the Public Shareholders to the total dividends distributed by the REIT from out of its Distributable Income shall not be less than such percentage of their aggregate ownership of the total outstanding shares of the REIT. Any structure, arrangement or provision which would have the

effect of diminishing or circumventing in any form this entitlement to dividends shall be void and of no force and effect.

- (c) The income distributable as dividend by the REIT shall be based on the audited financial statements for the recently completed fiscal year prior to the prescribed distribution. The audited financial statements of the REIT shall present a computation of its distributable dividend taking into consideration requirements under the provisions of the Act and this Rule.
- (d) Distributable income excludes proceeds from the sale of REIT's assets that are re-invested by the REIT within one (1) year from the date of the sale. Gain from the said sale shall, however, form part of the distributable income.
- (e) The income distributable by the REIT shall be adjusted by deducting the following unrealized or non-actual gains and losses:
 - (i) Unrealized foreign exchange gains, except those attributable to cash and cash equivalents;
 - (ii) Fair value adjustment or the gains arising from marked-to-market valuation which are not yet realized;
 - (iii) Fair value adjustment of investment property resulting to gain;
 - (iv) The amount of recognized deferred tax asset that reduced the amount of income tax expense and increased the net income and retained earnings, until realized;
 - (v) Adjustment due to a deviation from any of the prescribed accounting standard which results to gain;
 - (vi) Other unrealized gains or adjustments to the income as a result of certain transactions accounted for under the Philippine Financial Reporting Standards.
- (f) Non-actual losses that are allowed to be added back to distributable income shall be limited to the following items:
 - i. Depreciation on revaluation increment (after tax);
 - ii. Adjustment due to from any of the prescribed accounting standard which results to a loss;
 - iii. Loss on fair value adjustment of investment property (after tax).

SEC. 5. Requirements. The REIT shall comply with the following requirements:

5.1 Body Corporate.

- a. Minimum Public Ownership. 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 each owning at least fifty (50) shares of any class of shares, and who, in the aggregate, own at least one-third (1/3) of the outstanding capital stock of the REIT.

A REIT shall, from the time of incorporation, issue shares to, or record the transfer of all its shares into the name of shareholders, investors or, securities intermediary in the form of uncertificated shares. It shall engage the services of

a public registrar to monitor subsequent transfers of the shares. Said registrar shall ensure that the shares are traceable to the names of the shareholders or investors and for their own benefit and not for the benefit of any of the non-public shareholders.

The shares may be registered under a nominee and the nominee shall make available to the Public Registrar the names of the shareholders in such frequency as may be necessary for the Public Registrar to perform its basic functions.

Compliance with the minimum public ownership requirement under this section shall be duly certified by the Public Registrar upon listing, as of record date for any dividend declaration or any corporate action requiring shareholder approval and other relevant times as may be required by the Commission.

- b. Capitalization. A REIT shall have a minimum paid-up capital of Three Hundred Million pesos (Php300,000,000.00) at the time it applies for registration of its securities with the Commission.
 - c. Independent Directors. At least one-third (1/3) or at least two (2), whichever is higher, of the board of directors of a REIT shall be independent directors.
 - d. Organization and Governance. As a public company, the REIT shall have such organization and governance structure that is consistent with the Revised Code of Corporate Governance and pertinent provisions of the SRC and its IRR. The REIT shall hold such meetings as provided for in its Constitutive Documents pursuant to the Corporation Code.
- 5.2 Executive Compensation. The total annual compensation of all directors and Principal Officers of the REIT shall not exceed ten percent (10%) of the net income before regular corporate income tax of the REIT during the immediately preceding taxable year, and shall be governed by the disclosure requirements of PAS 24.
- 5.3 Fund Manager and Property Manager Fees. The REIT shall engage a Fund Manager and Property Manager in accordance with these Rules. The fees received each by the Fund Manager and the Property Manager from the REIT shall not exceed one percent (1%) of the Net Asset Value of the assets under their respective management.

SEC. 6. Functions of the REIT. Unless otherwise stated in these Rules, the REIT shall have all of the powers of a corporation under the Corporation Code, and shall perform all of the functions of a corporation, except those expressly delegated under these Rules to the Fund Manager and the Property Manager, and those that are necessary and implied thereto such as but not limited to the following:

- a. appoint a Fund Manager, a Property Manager and a Property Valuer;
- b. ensure that the financial and economic aspects of the REIT are professionally managed in the sole interest of the shareholders;
- c. formulate the annual investment strategy and policy of the REIT in accordance with the REIT Plan;
- d. determine the annual borrowing limit of the REIT, in accordance with the REIT Plan;

- e. determine the acquisition and disposition plan of real estate properties in accordance with the investment objective indicated in the REIT Plan;
- f. implement appropriate policies and conduct due diligence reviews such that investments are made only after careful and diligent investigations by the REIT;
- g. formulate dividend payment schedules of the REIT;
- h. maintain or cause to be maintained proper books and records of the REIT and cause the preparation of the REIT's financial statements;
- i. ensure that all documents in relation to the REIT (excluding documents containing commercially sensitive information) are made available for inspection by the shareholders of the REIT in the Philippines, free of all charges at all times, during normal office hours, at the place of business of the REIT and ensure that copies of such documents are available upon request by any person upon the payment of a reasonable fee;
- j. ensure compliance with any applicable laws, rules, codes or guidelines issued by governmental departments, regulatory bodies, exchanges or any other relevant organizations regarding the activities of the REIT or its administration; and
- k. maintain and implement investor relations procedures to handle queries and complaints.

In no case shall the REIT perform quasi-banking functions without the requisite license issued by the BSP.

Rule 5 – Allowable Investments of the REIT

SEC. 1. Allowable Investments. A REIT may only invest in:

1.1 Real estate.

- a. A REIT may invest in real estate located in the Philippines, whether freehold or leasehold. At least seventy-five percent (75%) of the Deposited Property of the REIT shall be invested in, or consist of, income generating real estate.
- b. A REIT may invest in income generating real estate located outside of the Philippines; *Provided*, That such investment does not exceed forty percent (40%) of its Deposited Property and only upon special authority from the Commission. The Commission in issuing such authority shall consider, among others, satisfactory proof that the valuation of assets is fair and reasonable.
- c. An investment in real estate may be by way of direct ownership or a shareholding in an unlisted special purpose vehicle constituted to hold/own real estate, subject to the conditions provided under these Rules.
- d. Acquisition of a real estate shall include the ownership of all rights, interests and benefits related to the ownership of the real estate.

- e. The real estate to be acquired by the REIT should have a good track record for three 3 years and/or good prospects of future net rental income of reasonable levels.
- 1.2 Real estate-related assets, wherever the issuers, assets, or securities are incorporated, located, issued, or traded.
 - 1.3 Evidence of indebtedness of the Republic of the Philippines and other evidence of indebtedness or obligations, the servicing and repayment of which are fully guaranteed by the Republic of the Philippines, such as, but not limited to, treasury bills, fixed rate treasury notes, retail treasury bonds, (denominated either in Philippine or in foreign currency,) and foreign currency linked notes.
 - 1.4 Bonds and other evidence of indebtedness issued by:
 - a. the government of any foreign country with which the Philippines maintains diplomatic relations, with a credit rating obtained from a reputable credit rating agency or a credit rating agency acceptable to the Commission that is at least two (2) notches higher than that of ROP bonds; and
 - b. supnationals (or international organizations whose membership transcends national boundaries or interests, e.g. International Bank for Reconstruction and Development, Asian Development Bank).
 - 1.5 Corporate bonds of non-property privately-owned domestic corporations duly registered with the Commission with a current credit rating of at least “A” by an accredited Philippine rating agency.
 - 1.6 Corporate bonds registered in another country of a non-property corporation with a current investment grade credit rating obtained from a reputable international credit rating agency that is at least two (2) notches higher than that of ROP bonds.
 - 1.7 Commercial papers duly registered with the Commission with a current investment grade credit rating based on the rating scale of an accredited Philippine rating agency at the time of investment.
 - 1.8 Equities of a non-property company listed in a local or foreign stock exchange, provided that these stocks shall be issued by companies that are financially stable, actively traded, possess good track record of growth and have declared dividends for the past three (3) years.
 - 1.9 Cash and cash equivalent items.
 - 1.10 Collective investment schemes duly registered with the Commission or organized pursuant to the rules and regulations of the BSP; provided however that: (i) the collective investment scheme must have a track record of performance at par with or above the median performance of pooled funds in the same category as appearing in the prescribed weekly publication of the NAVPU of the CIS units; and (ii) new collective investment schemes may be allowed provided that its fund manager has at least a three (3)-year track record in managing pooled funds.
 - 1.11 Offshore mutual funds rated pursuant to existing regulations of the Commission. with positive fund performance as against their benchmark index for the past three (3) consecutive years.

- 1.12 Investments of the REIT shall be recognized and measured in its financial statements in accordance with the requirements of Philippine Financial Reporting Standards (PFRS) and the applicable interpretations or any amendments thereto, as follows:
- a. Investment Property (PAS 40 and related standards);
 - b. Financial Assets (PAS 39, PFRS 7 and related standards);
 - c. Investments in Associates (PAS 28);
 - d. Investments in Subsidiaries (PAS 27);
 - e. Interests in Joint Ventures (PAS 31);
 - f. Non-current Assets Held for Sale and Discontinued Operations (PFRS 5);
 - g. Leases (PAS 17).
- 1.12 Synthetic Investment Products, provided that: (i) Synthetic Investment Products shall not constitute more than five percent (5%) of the Investible Funds of the REIT; (ii) the REIT shall avail of such Synthetic Investment Products solely for the purpose of hedging risk exposures of the existing investments of the REIT; (iii) the Synthetic Investment Products shall be accounted for in accordance with PFRS; (iv) the Synthetic Investment Products shall be issued by authorized banks or non-bank financial institutions in accordance with the rules and regulations of the BSP and/or the SEC; and (v) the use of Synthetic Investment Products shall be disclosed in the REIT Plan and under special authority from the SEC.

Sec. 2. Property Development. A REIT shall not undertake property development activities whether on its own, in a joint venture with others, or by investing in unlisted property development companies, unless: (i) it intends to hold the developed property upon completion; (ii) the purchase agreement of the said property is made subject to the completion of the building with proper cover for construction risks; (iii) the development/construction of real estate shall be carried out on terms which are the best available for the REIT and which are no less favorable to the REIT than an arm's length transaction between independent parties; and (iv) the prospects for the real estate upon completion can be reasonably expected to be favorable.

The total contract value of property development activities undertaken and investments in uncompleted property developments should not exceed ten percent (10%) of the Deposited Property of the REIT.

Sec. 3. Joint Venture. When investing in real estate as a joint owner, the REIT should make such investment by acquiring shares or interests in an unlisted special purpose vehicle constituted to hold/own the real estate. The REIT should have freedom to dispose of such investment. The joint venture agreement, articles of incorporation and by-laws of the special purpose vehicle should provide for a minimum percentage of distributable profits of the special purpose vehicle that will be distributed, and should grant the REIT veto rights over key operational issues of the special purpose vehicle, such as, but not limited to the following:

- a. amendment of the articles of incorporation and by-laws;
- b. cessation or change of business;
- c. winding-up or dissolution;
- d. changes to the capital structure;

- e. changes to the dividend policy;
- f. issuance of securities;
- g. creation of security interests over assets;
- h. transfer or disposition of assets;
- i. approval of annual budget;
- j. approval of asset enhancement and capital expenditure plans of assets;
- k. related party transactions; and
- l. appointment of external advisers, such as auditors and lawyers.

The joint venture agreement, articles of incorporation, by-laws and stock certificates of the special purpose vehicle should further grant the REIT the right to put its shares to the joint venture partner at a pre-determined price, and should give the REIT a right of first refusal in the event that the joint venture partner decides to sell its shares.

Sec. 4. *Leasehold Property.* Where a leasehold property is acquired, the consent of the relevant authority to transfer the lease shall be obtained. The lease shall be a registered lease.

Sec. 5. *Encumbrances.* Unless otherwise disclosed, all real estate shall be free from all encumbrances at the time of acquisition, except for charges entered by financial institutions in relation to loan facilities extended for the construction or acquisition of the real estate.

Sec. 6. *Insurance.* All real estate acquired by the REIT shall be insured for their full replacement value, including loss of rental, where appropriate, with insurance companies approved by the Fund Manager.

Sec. 7. *Single Entity Limit.* Not more than fifteen percent (15%) of the Investible Funds of the REIT may be invested in any one issuer's securities or any one managed fund, except with respect to government securities where the limit is twenty-five percent (25%).

Sec. 8. *Foreign Assets.* A REIT may invest in local or foreign assets, subject to the terms of its Constitutive Documents and specific provisions of these Rules. Where an investment in a foreign real estate asset is made, the REIT should ensure that the investment complies with all the applicable laws and requirements in that foreign country, such as, but not limited to, foreign ownership restrictions, if any, and requisites of having good and valid title to the real estate.

Sec. 9. *Aggregate Leverage Limit.* The total borrowings and deferred payments of a REIT should not exceed thirty-five percent (35%) of its Deposited Property; provided, however, that the total borrowings and deferred payments of a REIT that has a publicly disclosed investment grade credit rating by a duly accredited or internationally recognized rating agency may exceed thirty-five percent (35%) but not more than seventy percent (70%) of its Deposited Property. Provided, further, that in no case shall a trust entity, acting as a Fund Manager, borrow for the REIT from any of the funds under its management.

Sec. 10. *Related Party Transactions.* Any contract or amendment thereto, between the REIT and Related Parties, including contracts involving the acquisition or lease of assets and contracts for services, shall comply with the following minimum requirements:

- a. Full, fair, timely and accurate disclosures on the identity of the parties, their relationship with the REIT, and other important terms and conditions of the transaction have been made to the Exchange and the Commission;
- b. Be on fair and reasonable terms, including the contract price;
- c. Approved by at least a majority of the entire membership of the board of directors, including the unanimous vote of all independent directors of the REIT;
- d. Accompanied by a fairness opinion by an independent appraiser done in accordance with the valuation methodology prescribed by the Commission, in the case of an acquisition or disposition of real estate assets and property or share swaps or similar transactions; and
- e. Any other matter that may be materially relevant to a prospective investor in deciding whether or not to invest in the REIT.

SEC. 11. *Valuation.* A full valuation of a REIT's assets shall be conducted by an independent Property Valuer, duly accredited by the Commission, at least once a year. No valuer shall value the same REIT for more than three (3) consecutive years. The Valuation Report, including the standards of asset valuation and valuation methodology shall be disclosed in the Annual Report of the REIT.

11.1. Qualifications Required of a Property Valuer

- a. The appraisal company shall be registered with the Commission;
- b. The certifying officer of the appraisal company shall be a professional appraiser duly licensed by the DTI and an officer/member of good standing of any registered association of appraisal companies;
- c. At the time of application, the company shall have a minimum experience of five (5) years in the appraisal business;
- d. It shall have rendered professional services for at least one (1) commercial bank and two (2) public companies;
- e. The appraisal company or any of its directors/officers shall have no adverse judgment on any administrative, civil or criminal case involving its appraisal business;
- f. It shall be solvent and in sound financial condition.

The foregoing qualifications shall be supported by appropriate documents.

11.2 Valuation of Financial Assets

- a. The valuation of financial assets and investments in associates, subsidiaries or joint ventures shall be conducted by an independent financial advisory firm duly accredited by the Commission. Such company shall have a proven track record of valuing

securities. It shall have at least five (5) years of business operation and have at least handled not less than ten (10) engagements during said period. The said qualifications shall be supported by appropriate documents.

b. The guidance provided under the PFRS and the Statement of Financial Accounting Standards (SFAS) No. 157 – Fair Value Measurements issued by the Financial Accounting Standards Board of the U.S. must be observed by accredited appraisal companies and financial advisory firms in their independent valuation of the assets of the REIT.

The aforementioned SFAS shall be used until the International Accounting Standards Board issues its own guidance on fair value measurements and the Commission adopts the same as part of its rules.

SEC. 12. *Records.* All procedures and processes followed, and decisions made in relation to whether or not to invest in a particular property shall be fully, properly and clearly documented by the REIT, the Fund Manager and the Property Manager, as may be applicable.

SEC. 13. *Reportorial and Disclosure Requirements.*

13.1 Requirements. The REIT shall comply with the reportorial and disclosure requirements prescribed by the Corporation Code, the SRC and the relevant Exchange. The BIR shall likewise be furnished copies of the reports herein prescribed. At the minimum, the REIT shall disclose the following information either in its Annual, Quarterly or Current Report:

- a. Material Contracts as defined under Rule 3(v);
- b. Breach of the borrowing limit of the REIT and how and when to address said breach ;
- c. Investments of the REIT;
- d. A proposed change in the Fund Manager, Property Manager, Property Valuer or auditor of the REIT, and the reasons therefor;
- e. Valuation of the real estate properties of the REIT, including the valuation methodology used therefor;
- f. Material changes in the income stream of the REIT;
- g. Material changes in the REIT's financial forecast;
- h. Any fee received by any party relating to the acquisition or disposition of the real estate of the REIT;
- i. Giving or receiving a notice of intention to undertake a merger, consolidation, joint venture, takeover or spin-off involving the REIT;
- j. Any modification of the rights of the holders of any class of securities issued by the REIT and the corresponding effect of such modification upon the rights of the holders;
- k. Any declaration of cash dividend, stock dividend, property dividend and pre-

emptive rights by the REIT;

- l. Appointment of a receiver or liquidator for the REIT;
- m. Losses or potential losses which amount to at least five percent (5%) of the Deposited Property of the REIT;
- n. Occurrence of any event of dissolution with details in respect thereto;
- o. Acts or facts that might seriously impair the business activities of the REIT;
- p. Any development activity undertaken by the REIT, including the essential details thereof;
- q. Direct and indirect ownership of directors and Principal Officers in the securities of the REIT;
- r. Any amendment to the Constitutive Documents of the REIT;
- s. Any major change in accounting policy of the REIT; and
- t. Any planned acquisition of outstanding shares or disposition of treasury shares of the REIT.

13.2 Special Quarterly and Annual Reports. The following summary information shall be included in the REIT's Annual and Quarterly Reports:

- a. Summary of all real estate transactions entered into during the period, including the identity of the parties, the contract price and their valuations, including the methods of valuation;
- b. Summary of all the REIT's real estate assets, including the location of such assets, their purchase prices and the latest valuations, rentals received and occupancy rates and/or the remaining terms of the REIT's leasehold properties; and
- c. Comparative summary of the financial performance of the REIT for the same periods.

13.3 Failure of Compliance. Failure to comply with reportorial and disclosure requirements shall subject the REIT to the applicable penalties under the Securities Regulation Code and its Implementing Rules and Regulations, as amended and the rules of the relevant Exchange, without prejudice to the filing of the appropriate administrative, civil and/or criminal action under the REIT Act of 2009 or existing laws.

Rule 6 – Fund Manager

SEC.1. Fund Manager. A REIT shall appoint a Fund Manager who shall be independent of the REIT, its promoter/s or sponsor/s.

The contractual relationship between the REIT and the Fund Manager shall be that of a principal-agent.

SEC. 2. *Independence and Fit and Proper Rule.* A Fund Manager shall be considered independent if it shall comply with the Revised Code on Corporate Governance and with the Fit and Proper Rule as herein defined.

SEC. 3. *Organization and Requirements.* A REIT Fund Manager shall be subject to the following minimum requirements:

- 3.1 It shall be a domestic or foreign corporation: (i) duly licensed by the appropriate Philippine regulatory agency to engage in the business of fund management, such as trust entities licensed by the BSP and investment company advisers licensed as such by the Commission. If the Fund Manager is a trust entity, it shall continue to be covered by existing BSP rules and regulations governing trust entities and regulations which the BSP may from time to time issue. (ii) with at least a five (5)-year track record in the area of fund management, corporate finance, or other relevant finance-related functions; and (iii) a minimum paid-up capital of Ten Million Pesos (Php10,000,000.00) which shall remain unimpaired at any given time, otherwise, an additional capital infusion shall be made within three (3) days from such impairment; (iv) with sufficient human, organizational and technical resources for the proper performance of its duties, including two (2) responsible officers or a trust officer, in case of a trust entity, each of whom shall have at least five (5) years track record in fund management and at least one (1) of the responsible officers or a trust officer, in case of a trust entity, shall be available at all times to supervise the business of the Fund Manager;
- 3.2 Its office in the Philippines shall have a meaningful role in its business activities and must perform accounting, compliance and investor relations services in the Philippines;
- 3.3 It shall have the required number of independent directors for registered and/or listed companies.
- 3.4 It shall employ a resident chief executive officer or a trust officer, in the case of a trust entity and at least two (2) full-time and qualified professional employees who have a track record and experience in financial management as well as experience in the real estate industry for at least five (5) years; and

Section 4. *Functions of the Fund Manager.* The Fund Manager shall perform the following functions:

- 4.1 Execute the investment strategies of the REIT by: (i) determining the allocation of the Deposited Property to the allowable investment outlets in accordance with the REIT Plan and the investment strategy of the REIT; and (ii) select income-generating real estate in accordance with the investment strategy of the REIT.

Notwithstanding the written instructions of the REIT, it shall be the fiduciary responsibility of the Fund Manager to objectively evaluate the desired investments, and formally advise the REIT of its recommendation, even if contrary to the instruction;

- 4.2 Oversee and coordinate the following activities: property acquisition; property management; leasing; operational and financial reporting (including operating budgets); appraisals; audits; market review; accounting and reporting procedures, as well as refinancing and asset disposition plans;

- 4.3 Cause a valuation of any of the real estate and other properties of the REIT to be carried out by the Property Valuer once a year and whenever it, the Property Manager or the REIT, believes that such valuation is appropriate;

4.4 Take all reasonable care to ensure that the Net Asset Value per unit of a REIT is calculated as and when an annual valuation report is issued by the Property Valuer for the relevant period, and that such Net Asset Value per unit shall be disclosed in the annual reports;

4.5 Take all reasonable care to ensure that the investment and borrowing limitations set out in the REIT Plan and the conditions under which the REIT was authorized are complied with;

4.6 Take all reasonable care to ensure that all transactions carried out by or on behalf of the REIT are conducted at arm's length;

4.7 Take all reasonable care to ensure that at all times a REIT has proper legal title to the real estate it owns, as well as to the contracts (such as property contracts, rental agreements, joint venture or joint arrangement agreements, and any other agreements) entered into on behalf of the scheme with respect to its assets and that each such contract is legal, valid and binding and enforceable by or on behalf of the REIT; and

4.8 Take all reasonable care to ensure that the Property Manager has obtained adequate property insurance for the real properties of the REIT from insurance companies approved by the Fund Manager. It shall take custody of all relevant documents supporting the insurance taken on real properties of the REIT

SEC. 5. *Minimum Documentary Requirements.*

5.1 The arrangement between the REIT and the Fund Manager shall be covered by a written document entered into by the parties, accompanied by a Secretary's Certificate attesting to the approval by the board of directors of the REIT of the appropriate resolutions for the: (i) appointment of the Fund Manager, (ii) the establishment of the account, and (iii) designation of signatories to the account.

5.2 The contract between the REIT and the Fund Manager shall comply with the disclosure and other requirements prescribed for Related Party Transactions. The arrangement between the REIT and the Fund Manager shall be covered by a written document stating the following:

- a. title or nature of contractual agreement in noticeable print;
- b. legal capacities, in noticeable print, of parties sought to be covered;
- c. purposes and objectives;
- d. funds and/or properties subject of the arrangement;
- e. distribution of the funds and/or properties;
- f. duties and powers of the Fund Manager;
- g. liabilities of the Fund Manager;
- h. reports to the REIT;
- i. details of any custodianship arrangement;
- j. terms, including period of engagement, termination of contractual arrangement and, in appropriate cases, provision for successor Fund Manager;

- k. the exact amount or rate of the compensation of the Fund Manager, provided that the amount of fees that shall be charged to the REIT shall cover the fair and equitable share of the fund in the total routine administrative expenses of the Fund Manager such as salaries and wages, supplies, credit investigation, collateral appraisal, security, messengerial and janitorial services, supervision fees imposed by the relevant regulatory agency and internal audit fees. However, the Fund Manager may charge the REIT for special expenses in case such expenses are: (1) necessary to preserve or enhance the value of the fund; (2) payable to a non-related third party covered by a separate contract, and (3) disclosed to the REIT shareholders. *Provided*, however, that in no case shall the fees collected by the Fund Manager exceed 1% of the net asset value of the assets under management;
- l. if the Fund Manager is a trust entity, a statement in noticeable print to the effect that the funds and properties are not covered by the Philippine Deposit Insurance Corporation and that losses, if any, shall be for the account of the REIT; and
- m. disclosure requirements for transactions requiring prior authority and/or specific written investment directive from the REIT, court of competent jurisdiction or other competent authority.

5.3 A copy of the written agreement shall be submitted to the Commission together with the REIT Plan and the registration statement, and shall be available at the principal office of the REIT and the Fund Manager during regular office hours, for inspection by any shareholder of record of the REIT. Upon request, a copy of the written agreement shall be furnished such shareholder of record, and the cost of reproduction shall be at his own expense.

SEC. 6. Degree of Care and Diligence. The Fund Manager shall observe the care and diligence required under these Rules, as follows:

- 6.1 The Fund Manager shall administer and manage the assets of the REIT with the skill, care, prudence and diligence necessary under the circumstances then prevailing that a prudent man, acting in the same capacity and familiar with such matters, would exercise in the conduct of an enterprise of a like character and similar aims.
- 6.2 The Fund Manager shall have reasonable and adequate basis for preparing the investment recommendation.
- 6.3 The Fund Manager shall establish, maintain and implement written policies and procedures that ensure “best execution” of trades. To show proof of best execution, the Fund Manager shall maintain records or quotes from two (2) alternate providers, whenever applicable, or data from any reputable source that can best provide a basis for the asset’s fair value. Such records shall be made available to the Commission upon request.
- 6.4 Funds or properties of a REIT managed by a Fund Manager shall not be commingled with the funds of other clients.
- 6.5 The Fund Manager may only outsource activities confined to backroom/accounting and securities custodianship arrangements. It shall at all times be liable for the acts and omissions of its nominees and agents.

- 6.6 When required under the Rules, the Fund Manager shall obtain the required approval for specific transactions prior to its implementation.
- 6.7 The Fund Manager shall provide the REIT with full and accurate information in order to make an informed investment decision when approving a transaction or investment recommendation.
- If a trust entity, it shall promptly transmit/relay to investors all material facts necessary for them to protect their interest with the knowledge of or reasonably discoverable by the trust entity, particularly information that could enable clients to make well-informed decisions.
- 6.8 The Fund Manager shall not make any misrepresentation in any investment recommendation.
- 6.9 It shall ensure that the REIT shall have a majority ownership and control in each property at all times.

SEC. 7. *No Debtor-Creditor Relationship.* There shall be no debtor-creditor relationship between the Fund Manager and the REIT or the Fund Manager and the REIT shareholders. Thus, there is no obligation on the part of the Fund Manager to guarantee returns on the funds or properties held for and on behalf of the REIT regardless of the results of the investment. The Fund Manager is entitled to all fees/commissions stipulated in the written agreement entered into with the REIT and the REIT is entitled to all the funds or properties and earnings less fees/commissions, losses and other charges subject to the provisions of these Rules.

SEC. 8. *Conflict of Interest.*

- 8.1 Where a Fund Manager has a material interest in a transaction with or for the REIT, or a relationship which gives rise to an actual or potential conflict of interest in relation to such transaction, it shall neither advise, nor deal in relation to the transaction unless it has disclosed in writing that material interest or conflict to the REIT and has taken all reasonable steps to ensure fair treatment of the REIT.

It shall establish, maintain and implement written policies and procedures on conflict of interest, particularly to identify and deal with conflicts of interest situations. If a trust entity, there is conflict of interest when it, through the bank proper or managed trust fund/s grants loan/s to the REIT.

- 8.2 The Fund Manager shall establish, maintain and implement written policies and procedures to ensure that its research is independent and impartial in order to provide a reasonable and adequate basis for making investment decisions and taking investment action.

SEC. 9. *Lending and Investment Disposition.*

- 9.1 Management of the Funds. Assets received by the Fund Manager shall be administered in accordance with the terms of the written instrument signed by the parties.
- 9.2 Investment Strategy. Prior to making any investment recommendations or carrying out any transactions for or on behalf of the REIT, the Fund Manager shall establish and understand the investment objectives, instructions, risk profile and investment restrictions of the REIT. For this purpose, the REIT shall, on an annual basis, prepare a three (3)-year investment strategy consistent with the REIT Plan covering, among

others, intended purchases and divestments of real and other properties. The REIT shall submit the investment strategy for the succeeding years to the Fund Manager in October of each year.

9.3 Discretionary Powers. When the Fund Manager is granted discretionary powers in the investment disposition of REIT funds, and unless otherwise specifically enumerated in the agreement or indenture and directed in writing by the REIT, court of competent jurisdiction or other competent authority, loans and investments of the fund shall be limited to:

- a. Evidence of indebtedness of the Republic of the Philippines and any other evidence of indebtedness or obligations the servicing and repayment of which are fully guaranteed by the Republic of the Philippines; and
- b. Loans fully guaranteed by the Republic of the Philippines as to the payment of principal and interest.

The specific directives required under this subsection shall consist of the following: (i) the transaction to be entered into; (ii) the party's name; (iii) amount involved; and (iv) collateral, if any.

9.4 Transactions Requiring Prior Authority. In addition to requirements of Related- Party Transactions as provided in these Rules, a Fund Manager shall not undertake any of the following transactions for the account of the REIT, unless prior to its execution, such transaction has been fully disclosed and specifically authorized in writing by the REIT, court of competent jurisdiction or other competent authority:

- a. Lend, sell, transfer or assign money or property to any of the departments, directors, officers, stockholders or employees of the Fund Manager or their relatives within the first degree of consanguinity or affinity, or to the related interest of such directors, officers and stockholders, or to any corporation where the Fund Manager owns at least fifty percent (50%) of the subscribed capital or voting stock in its own right as Fund Manager or in a representative capacity;
- b. Purchase or acquire property or debt instruments from any of the departments, directors, officers, stockholders, or employees of the Fund Manager, or their relatives within the first degree of consanguinity or affinity, or to the related interest of such directors, officers and stockholders, or from any corporation where the Fund Manager owns at least fifty percent (50%) of the subscribed capital or voting stock in its own right and not as trustee nor in a representative capacity;
- c. Invest in equities of, or in securities underwritten by, the Fund Manager or a corporation in which the Fund Manager owns at least fifty percent (50%) of the subscribed capital or voting stock in its own right;
- d. Sell, transfer, assign, or lend money or property from one fund to another, except when the investment is in evidence of indebtedness of the Republic of the Philippines or loans fully guaranteed by the Republic of the Philippines as to the payment of principal and interest.

The disclosure required by this subsection shall consist of the following minimum information: (i) the transactions to be entered into; (ii) identities of the parties involved in the transactions and their relationships; (iii) amount involved; and (iv) collateral securities, if any.

9.5 Funds Awaiting Investments or Distribution. Funds held by the Fund Manager awaiting investment or distribution shall not be held uninvested or undistributed any longer than is reasonable for the proper management of the account.

9.6 Order Allocation.

- a. The Fund Manager shall establish, maintain and implement policies and procedures to ensure fair and equitable allocation of orders among its clients, including the REIT.
- b. The Fund Manager shall ensure that the amount of commission or management fee earned from any particular client or transaction shall not be the determining factor in the allocation of orders.
- c. Where the Fund Manager undertakes proprietary trading, the Fund Manager shall, in its agreement with the REIT, disclose to the REIT the method of selection and determination of securities transacted for the proprietary accounts and clients' accounts. The Fund Manager shall ensure that trades are not directed to benefit its proprietary accounts or any preferential clients and, for this purpose, shall establish information barriers or firewalls, closely supervise internal communication to prevent flow of information and maintain the confidentiality of pending transactions and the holdings of the REIT. Proprietary orders shall be conducted through a separate licensed representative of the Fund Manager who shall not be managing the REIT's funds.
- d. Where the Fund Manager is part of a group of companies, which undertake other financial or real estate/property activities, the Fund Manager shall ensure that there is an effective system of functional barriers (firewalls) in place to prevent the flow of information that may be price sensitive or material and non-public, between the different areas of operations.
- e. The Fund Manager shall establish, maintain and implement written policies and procedures to ensure that the interest of Related Parties shall not supersede the interests of the REIT. The Fund Manager shall disclose such policies to the REIT.

SEC. 10. *Prohibition on Insider Trading/Misuse of Information*

- 10.1 The Fund Manager shall not effect or cause to be effected any transaction based on material non-public or price sensitive information, or where prohibited from dealing by statutory restrictions on insider trading.
- 10.2 The Fund Manager shall establish, maintain and implement written policies and procedures to prevent the misuse of material non-public or price sensitive information relating to the REIT by persons having access to such information. The Fund Manager shall ensure that persons having access to such information are aware of such restrictions.
- 10.3 The Fund Manager shall disclose all interests in securities as required by all applicable statutory requirements and shall ensure that its staff is aware of such requirements.

SEC. 11. *Confidentiality of Information.*

11.1 The Fund Manager shall establish, maintain and implement written policies and procedures to ensure confidentiality of information relating to the funds and properties of the REIT.

11.2 Any information relating to the funds or properties of the REIT shall not be disclosed to a third party or an unauthorized person, unless there is a legal or regulatory requirement to disclose such information.

SEC. 12. Reports. The Fund Manager shall submit the following reports:

12.1 The three (3)- year investment strategy prepared by the REIT, which shall be due for submission to the Commission and the relevant Exchange on or before December of every year.

12.2 A quarterly report on the fund and properties of the REIT, which shall be submitted to the REIT, the Commission, the BIR and the relevant Exchange within ten (10) days after the end of each month, and shall include the following:

- a. Balance sheet;
- b. Income statement;
- c. Investment activity report/summary of transactions schedule;
- d. Portfolio analysis schedule;
- e. Certificate on fund balance;
- f. Summary of accounting policies on each significant trust asset and liabilities;
- g. Explanatory or disclosure notes on significant items; and
- h. Such other statements and schedules as may be reasonably requested by the REIT, the Commission and the relevant Exchange.

The total portfolio shall be computed net of taxes and fees and inclusive of mark-to-market gains and losses.

12.3 Quarterly written report on the performance of the REIT's funds and properties, and of the appropriate benchmarks shall be submitted to the REIT, the Commission, the BIR and the relevant Exchange.

SEC. 13. Removal of the Fund Manager. The Fund Manager may be removed by a majority vote of the board of directors of the REIT prior to the expiry of their contract for violation of the terms of its written agreement, the REIT Plan or any provision of the REIT Act of 2009, these Rules, the SRC and any other relevant law, rule or regulation of the Commission or other regulatory body. The removal of the Fund Manager, the non-renewal of the contract and the appointment of a new Fund Manager shall constitute a material amendment of the REIT Plan and the registration statement.

Rule 7 – Property Manager

SEC. 1. *Property Manager.* The REIT shall appoint a Property Manager who shall be independent from the REIT, its promoter/s or sponsor/s.

SEC. 2. *Minimum Qualifications.* The Property Manager shall comply with the following minimum qualifications:

- 2.1 It shall possess sufficient human, organizational and technical resources for the proper performance of its duties, including two (2) responsible officers each of whom shall have at least five (5) years track record in property portfolio management, and at least one (1) of the responsible officers shall be available at all times to supervise the business of the Property Manager, including asset and property management.
- 2.2 It shall maintain satisfactory internal controls and written compliance procedures.
- 2.3 It shall have sufficient financial resources at its disposal to enable it to conduct its business effectively and meet its liabilities.
- 2.4 It shall have at least two (2) independent directors or 20% of the total membership of the board, whichever is higher.
- 2.5 It shall comply with the Code of Corporate Governance and the Fit and Proper Rule, as defined in the Rules.
- 2.6 The REIT shall appoint a Property Manager who shall be responsible for managing all aspects of the real estate owned by the REIT. The Property Manager shall perform the following functions in accordance with the REIT Plan and the investment strategy of the REIT including the following:
 - a. plan the tenant mix and identify potential tenants;
 - b. formulate and implement leasing strategies;
 - c. enforce tenancy conditions;
 - d. ensure compliance with government regulations in respect of the real estate under management;
 - e. perform tenancy administration work, such as managing tenant occupancy and ancillary amenities, and negotiating with tenants on grant, surrender and renewal of lease, rent review, termination and re-letting of premises;
 - f. conduct rental assessment, formulating tenancy terms, preparing tenancy agreements, rent collection and accounting, recovery of arrears and possession;
 - g. secure and administer routine management services, including security control, fire precautions, communication systems and emergency management;
 - h. maintain and manage the physical structures/real properties;
 - i. formulate and implement policies and programs in respect of building management, maintenance and improvement; and
 - j. initiating refurbishment and monitoring such activity.

- 2.7 The REIT board of directors shall issue in favor of the Property Manager such authorizations as may be necessary for the latter to perform the foregoing functions for and on behalf of the REIT.
- 2.8 The Property Manager shall ensure that in managing the properties of the REIT, it has sufficient oversight of the daily operations and its underlying properties, and shall have full knowledge of the financial conditions of the REIT. The Property Manager shall remain the key decision-maker of all material matters relating to the management of such properties.
- 2.9 The Property Manager may not delegate any of its functions without securing the prior consent of the Commission and the REIT, and without disclosing the same in accordance with the disclosure rules of the Commission and the relevant Exchange. The Property Manager shall ensure that a delegate is competent to undertake the delegated functions. Notwithstanding the delegation of functions, the Property Manager shall remain fully liable to the REIT's holders for the proper performance of its functions. The delegation of functions by the Property Manager shall be considered a material amendment of the REIT Plan and the registration statement, hence, subject to the requirements of the SRC on the amendment of registration statements.

SEC. 3. *Written Agreement.*

- 3.1 The arrangement between the REIT and the Property Manager shall be covered by a written document entered into by the parties, accompanied by a Secretary's Certificate attesting to the approval by the board of directors of the REIT of the appropriate resolutions for the appointment of the Property Manager.
- 3.2 The contract between the REIT and the Property Manager must comply with the disclosure and other requirements prescribed for Related Party Transactions and must be submitted to the Commission together with the REIT Plan and registration statement. The arrangement between the REIT and the Property Manager shall be covered by a written document establishing the account, and stating the following:
- a. title or nature of contractual agreement in noticeable print;
 - b. legal capacities, in noticeable print, of parties sought to be covered;
 - c. purposes and objectives;
 - d. real properties subject of the arrangement;
 - e. duties and powers of the Property Manager;
 - f. liabilities of the Property Manager;
 - g. reports to the REIT;
 - h. terms including the period of engagement, termination of contractual arrangement and, in appropriate cases, provision for successor Property Manager;
 - i. the exact amount or rate of the compensation of the Property Manager, provided that the amount of fees that shall be charged to the REIT shall cover the fair and equitable share of the REIT in the total routine administrative expenses of the Property Manager such as salaries and wages, supplies, appraisals, security,

messengerial and janitorial services, supervision fees imposed by the relevant regulatory agency and internal audit fees. However, the Property Manager may charge the REIT for special expenses in case such expenses are: (1) necessary to preserve or enhance the value of the fund; (2) payable to a third party covered by a separate contract, and (3) disclosed to participants. *Provided*, however, that in no case shall the fees collected from the Property Manager exceed 1% of the net asset value of the assets under management.

- j. disclosure requirements for transactions requiring prior authority and/or specific written investment directive from the REIT, a court of competent jurisdiction or other competent authority.
- 3.3 A copy of the written agreement shall be submitted to the Commission together with the REIT Plan and the registration statement, and shall be available at the principal office of the REIT and the Property Manager during regular office hours for inspection by any shareholder of record of the REIT. Upon request, a copy of the written agreement shall be furnished such shareholder of record, at his own expense.

SEC. 4. *Degree of Care and Diligence.* The Property Manager shall observe the degree of care and diligence provided in these rules, as follows:

- 4.1 The Property Manager shall exercise diligence and thoroughness in the exercise of its functions.
- 4.2 The Property Manager shall be liable for the acts and omissions of its nominees and agents.
- 4.3 The Property Manager shall obtain approval for specific transactions prior to its implementation.
- 4.4 The Property Manager shall provide the REIT with full and accurate information in order to make an informed investment decision when approving a transaction or investment recommendation.
- 4.5 The Property Manager shall not make any misrepresentation in any investment recommendation.
- 4.6 Properties of a REIT managed by a Property Manager shall not be commingled with the properties of other clients.

SEC. 5. *Conflict of Interest.*

- 5.1 Where a Property Manager has a material interest in a transaction with or for the REIT, or a relationship which gives rise to an actual or potential conflict of interest in relation to such transaction, it shall neither advise, nor deal in relation to the transaction unless he has fully disclosed that material interest or conflict to the REIT and has taken all reasonable steps to ensure fair treatment of the REIT.
- 5.2 The Property Manager shall establish, maintain and implement policies and procedures to ensure fair and equitable allocation of resources among its clients, including the REIT.
- 5.3 The Property Manager shall ensure that the amount of commission or management fee earned from any particular client or transaction shall not be the determining factor in the allocation of resources.

- 5.4 Where the Property Manager is part of a group of companies which undertake real estate activities, the Property Manager shall ensure that there is an effective system of functional barriers (firewalls) in place to prevent the flow of information that may be price sensitive or material and non-public between the different areas of operations.
- 5.5 The Property Manager shall establish, maintain and implement written policies and procedures to ensure that the interest of Related Parties shall not supersede the interests of the REIT. The Property Manager shall fully disclose such policies to the REIT.

SEC. 6. *Prohibition on Misuse of Information.* The Property Manager shall establish, maintain and implement written policies and procedures to prevent the misuse of material non-public or price sensitive information relating to the REIT by persons having access to such information. The Property Manager shall ensure that persons having access to such information are aware of such restrictions.

SEC. 7. *Confidentiality of Information.*

- 7.1. The Property Manager shall establish, maintain and implement written policies and procedures to ensure confidentiality of information relating to the funds and properties of the REIT.
- 7.2. Any information relating to the properties or funds of the REIT shall not be disclosed to any third party or unauthorized person, unless there is a legal or regulatory requirement to disclose such information.

SEC. 8. *Reports.* The Property Manager shall submit the following reports, quarterly and annually, to the REIT, the Commission, the BIR and the relevant Exchange:

- a. Summary of all real estate transactions entered into during the period, including the identity of the parties, the contract price, and their valuations, including the methods used to value the assets;
- b. Summary of all the REIT's real estate assets, including the location of such assets, their purchase prices and the latest valuations, rentals received and occupancy rates, and/or the remaining terms of the REIT's leasehold properties;
- c. Tenant profile including the following information:
 - i. total number of tenants;
 - ii. top ten (10) tenants and percentage of net rentable area and gross rental income attributable to each of the top ten (10) tenants;
 - iii. trade sector mix of tenants, in terms of total net rentable area and gross rental income attributable to each major trade sector (e.g. a REIT investing in retail malls would have tenants in trade sectors such as food and beverage, electronic goods, fashion);
 - iv. lease maturity profile, in terms of percentage of total net rentable area, and gross rental income for each of the next five (5) years; and
 - v. expected changes to the above.

SEC. 9. *Removal of the Property Manager.* The Property Manager may be removed by a majority of the board of directors of the REIT, prior to expiry of their contract, for violation of the terms of its written agreement, the REIT Plan or any provision of the REIT Act of 2009, these Rules, the SRC and any other relevant law, rule or regulation of the Commission or other regulatory body. The removal of the Property Manager, the non-renewal of their contract and the appointment of a new Property Manager shall constitute a material amendment of the REIT Plan and the registration statement.

Rule 8 – Fit and Proper Rule

SEC. 1. *Fit and Proper Rule.* To maintain the quality of management of the REIT and afford better protection to REIT investors, the Fund Manager, Property Manager, Property Valuer, distributors and other participants, as well as the directors and Principal Officers of the REIT, Fund Manager, Property Manager, Property Valuer, distributors and other participants must comply with the Fit and Proper Rule as defined under these Rules. The appropriate regulatory agency may disqualify, suspend or remove any director or officer who commits or omits an act which renders him unfit for the position.

SEC. 2. *General Considerations.* In determining whether an individual is fit and proper to hold the position, regard shall be given to his honesty, integrity, reputation, competence, experience, education, training, standing in the relevant profession and financial soundness.

2.1 Honesty, Integrity and Reputation. The factors set out in the following paragraphs are among those relevant to the assessment by the appropriate regulatory authority of the honesty, integrity and reputation of an individual/entity:

- a. whether such individual or entity has been refused the right or restricted in its or his right to carry on any trade, business or profession for which a specific license, registration or other authorization is required by law in any jurisdiction;
- b. whether such individual or entity has been issued a prohibition order by the appropriate regulatory agency or has been prohibited from operating in any jurisdiction by any financial services regulatory authority;
- c. whether such individual or entity has been censured, disciplined, suspended or refused membership or registration by the appropriate regulatory agency, any professional body or government agency, whether in the Philippines or elsewhere;
- d. whether such individual or entity has been convicted of any offense under any law in any jurisdiction;
- e. whether such individual or entity has had any judgment (in particular, that associated with a finding of fraud, misrepresentation or dishonesty) entered against the said person in any civil proceeding or is a party to any pending proceeding which may lead to such a judgment, under any law in any jurisdiction;
- f. whether such individual or entity has accepted civil liability for fraud or misrepresentation, under any law in any jurisdiction;
- g. whether such individual or entity has had any civil penalty enforcement action taken against it or him by the appropriate regulatory authority, under any law under any jurisdiction;

- h. whether such individual or entity has contravened or abetted another person in breach of any laws or regulations, business rules or codes of conduct, whether in the Philippines or elsewhere;
- i. whether such individual or entity has been issued a warning or reprimand by the appropriate regulatory authority or any professional body or government agency, whether in the Philippines or elsewhere;
- j. whether such individual or entity has been refused a fidelity or surety bond, whether in the Philippines or elsewhere;
- k. whether such individual or entity has demonstrated an unwillingness to comply with any regulatory requirement or to uphold any professional and ethical standard, whether in the Philippines or elsewhere;
- l. whether such individual or entity has been untruthful or provided false or misleading information to the appropriate regulatory authority or been uncooperative in any dealings with such authority or any other regulatory authority in any jurisdiction;
- m. in addition to the foregoing, where the relevant person is an individual:
 - (a) whether the individual is or has been a director, partner, substantial shareholder or concerned in the management of a business that has been censured, disciplined, prosecuted or convicted of a criminal offense, or been the subject of any disciplinary or criminal investigation or proceeding, in the Philippines or elsewhere, in relation to any matter that took place while the person was a director, partner, substantial shareholder or concerned in the management of the business;
 - (b) whether the individual is or has been a director, partner, substantial shareholder or concerned in the management of a business that has been suspended or refused membership or registration by the relevant regulatory authority or any professional body or government agency, whether in the Philippines or elsewhere;
 - (c) whether the individual has been a director, partner, substantial shareholder or concerned in the management of a business that has gone into insolvency, liquidation or administration during the period when, or within a period of one year after, the relevant person was a director, partner, substantial shareholder or concerned in the management of the business, whether in the Philippines or elsewhere;
 - (d) whether the individual has been dismissed or asked to resign from an office, employment, position of trust or a fiduciary appointment or similar positions, whether in the Philippines or elsewhere;
 - (e) whether the individual is or has been subject to disciplinary proceedings by his current or former employer(s), whether in the Philippines or elsewhere;
 - (f) whether the individual has been disqualified from acting as a director or disqualified from acting in any managerial capacity, whether in the Philippines or elsewhere; and

- (g) whether the individual has been an officer found liable for an offence committed by a body corporate as a result of the offence having proved to have been committed with the consent or connivance of, or neglect attributable to, the officer, whether in the Philippines or elsewhere.

2.2 Competence and Capability. The factors set out in the following paragraphs are among those relevant to the assessment by the appropriate regulatory authority of the competence and capability of an individual/entity:

- a. whether the individual or entity has satisfactory past performance or expertise, having regard to the nature of the relevant person's business or duties, as the case may be, whether in the Philippines or elsewhere;
- b. where the relevant person is an individual who is assuming concurrent responsibilities, whether such responsibilities would give rise to a conflict of interest or otherwise impair his ability to discharge his duties in relation to any regulatory activity; and
- c. where the relevant person is an individual whose activity is regulated, whether such individual has satisfactory educational qualification or experience, having regard to the nature of the duties he is required to perform.

2.3 Financial Soundness. The factors set out in the following paragraphs are among those relevant to the assessment by the appropriate regulatory authority of the financial soundness of an individual/entity:

- a. whether such individual or entity is or has been unable to fulfill any of its or his financial obligations, whether in the Philippines or elsewhere;
- b. whether such individual or entity has entered into a compromise or scheme or arrangement with its or his creditors, which compromise is still in operation; and
- c. whether such individual or entity is subject to a judgment debt which is unsatisfied, either in whole or in part, whether in the Philippines or elsewhere.

2.4 However, the failure of a relevant person to meet any one of the criteria set out above (i.e. honesty, integrity and reputation; competence and capability; and financial soundness) may not lead to an automatic disqualification. The significance and relevance of a person failing to establish that he or it meets a specific criteria depends on:

- a. the seriousness of, and surrounding circumstances resulting in, the relevant person not meeting the specific criteria;
- b. the relevance of the failure by the relevant person to meet the specific criteria to the duties that are, or are to be, performed and the responsibilities that are, or are to be, assumed by the relevant person; and
- c. the passage of time since the failure by the relevant person to meet the specified criteria.

2.5. In addition to paragraphs 2.1, 2.2 and 2.3 of this Rule 8, in the case where the relevant person is a corporate entity, to establish that it is fit and proper, such institution should establish that:

- a. All of its Principal Shareholders meet the Fit and Proper Rule under these Rules;
- b. Each of its directors and Principal Officers, or equivalent persons, meet the Fit and Proper Rule; and
- c. It has in its place appropriate recruitment policies, adequate internal control systems and procedures that would reasonable ensure that the persons that it employs, authorizes or appoints to act on its behalf, in relation to its conduct of the activity regulated under the relevant legislation, meet the Fit and Proper criteria under these Rules.

SEC. 3. *Disqualifications.* The following persons shall in no case be allowed to serve or act as director or Principal Officer of, or to serve in any other capacity in, any REIT, Fund Manager, Property Manager, Property Valuer, distributor or other REIT participants:

- 3.1 Any person convicted of any crime involving any security or financial product;
- 3.2 Any person convicted of an offense involving fraud or embezzlement, theft, estafa or other fraudulent acts or transactions;
- 3.3 Any person who, by reason of any misconduct, is enjoined by order, judgment, or decree by any court, quasi-judicial body or administrative agency of competent jurisdiction from acting as a director, officer, employee, consultant, or agent occupying any fiduciary position;
- 3.4 Any person found by the appropriate regulatory agency to have violated, or aided, abetted, counseled, commanded, induced, or procured the violation of this Act, the Corporation Code, the General Banking Law, the Insurance Code, the Securities Regulation Code, or any related laws and any rules, regulations or orders thereunder;
- 3.5 Any person judicially declared to be insolvent, or incapacitated to contract; and
- 3.6 Any person found guilty by a foreign court, regulatory authority or government agency of the acts or violations similar to any of the acts or misconduct enumerated in the foregoing paragraphs.

A conviction in the first instance shall be considered sufficient ground for disqualification.

Rule 9 – Property Valuer

SEC. 1. *Appointment of a Property Valuer.* A REIT shall appoint a Property Valuer possessing the qualifications provided under these Rules.

SEC. 2. *General Obligations of a Property Valuer.*

- 2.1 The Property Valuer shall value all the real estate of the REIT, on the basis of a full valuation with physical inspection in respect of the site of the real estate and an inspection of the building(s) and facilities erected thereon once a year, and in any event for the purposes of issuance of new Investor Securities. The Property Valuer shall also produce a valuation report on real estate to be acquired or sold by the REIT or where new units are offered by the REIT or in any other circumstances required by the Commission. The contents of the valuation report shall comply with these Rules.

SEC. 3. *Criteria for Acceptability of the Property Valuer.*

- 3.1 The Property Valuer shall be a company that:
- a. provides property valuation services on a regular basis;
 - b. carries on the business of valuing real estate in the Philippines;
 - c. possesses the requisite licenses required under relevant Philippine rules and regulations;
 - d. is accredited by the Commission;
 - e. has key personnel who possess the requisite licenses and are qualified to perform property valuations;
 - f. has sufficient financial resources at its disposal to enable it to conduct its business effectively and meet its liabilities;
 - g. has robust internal controls and checks and balances to ensure the integrity of valuation reports and that these reports are properly and professionally prepared in accordance with international best practices;
 - h. has adequate professional insurance to cover its usual risks; and
 - i. complies with the Fit and Proper Rule under these Rules.
- 3.2 The Property Valuer shall be independent of the REIT, the Fund Manager and Property Manager and each of the Principal Shareholders of the same. The Property Valuer is not considered independent if:
- a. it is the subsidiary or holding company of:
 - i. the REIT;
 - ii. the Property Manager;
 - iii. the Fund Manager;
 - iv. any of the Principal Shareholders of the REIT; or
 - v. the holding company, Subsidiary or Affiliate of the Property Manager, the Fund Manager, or any of the Principal Shareholders of the REIT; or
 - b. any of its partners, directors or Principal Officers is an officer, director or an associate of:
 - i. the REIT;
 - ii. the Property Manager;
 - iii. the Fund Manager;
 - iv. any of the Principal Shareholders of the REIT; or

- v. the holding company, Subsidiary or Affiliate of the Property Manager, the Fund Manager or any of its Principal Shareholders; or
- c. any of its directors or Principal Officers holds or controls ten percent (10%) or more of the beneficial interest in, or the right to vote in the governing bodies of any of the entities in b(i), b(ii), b (iii) or b(iv); or
- d. in case where the REIT intends to acquire or dispose of a property (the “subject property”), the Property Valuer or its associate:
 - i. is engaged, whether as principal or agent, by the REIT’s counterparty that intends or has agreed to sell or to purchase from the REIT the subject property, in relation to the introduction or referral of the scheme to the subject property or vice versa;
 - ii. is engaged whether as principal or agent by the REIT in relation to the acquisition of the subject property;
 - iii. acts as a broker for the property transaction for a fee; or
 - iv. had, at any time during the one (1) year immediately before the date of the agreement for such intended purchase or disposal, been retained to provide valuation of the subject property to the REIT’s counterparty (or its Related Parties).

3.3 The Property Valuer shall ensure that its opinion and valuation is independent of and unaffected by its business or commercial relationship with other persons.

3.4 The directors and Principal Officers of the Property Valuer shall comply with the Fit and Proper Rule as described under these Rules.

SEC. 4. Valuation Report.

4.1 The Property Valuer shall produce a valuation report which shall include, as a minimum:

- a. all material details in relation to the basis of valuation and the assumptions used;
- b. description and explanation of the valuation methodologies adopted;
- c. overall structure and condition of the relevant market including an analysis of the supply/demand situation, the market trend and investment activities;
- d. the following particulars in respect of each property, such as:
 - i. an address sufficient to identify the property, which shall generally include postal address, lot number and such further designation as is registered with the appropriate government authorities;
 - ii. the nature of the interest the REIT holds in the property (e.g. if it is a freehold or leasehold, and the remainder of the term if it is a leasehold);
 - iii. the existing use (e.g. shops, offices, factories, residential, etc.);

- iv. a brief description of the property, such as the age of the building, the site area, gross floor are, net lettable floor are, and the current zoning use;
 - v. the options or rights of pre-emption and other encumbrances concerning or affecting the property;
 - vi. the occupancy rate;
 - vii. lease cycle duration;
 - viii. lease expiry profile;
 - ix. a summary of terms of any sub-lease or tenancies, including repair obligation, granted to the tenants of the property;
 - x. the capital value in existing state at the date the valuation was performed;
 - xi. the existing monthly rental before profits tax if the property is wholly or partly let together with the amount and a description of any outgoings or disbursements from the rent, and, if materially different, the estimated current monthly market rental obtainable, on the basis that the property was available to let on the effective date as at which the property was valued;
 - xii. the estimated current net yield;
 - xiii. a summary of any rent review provisions, where material;
 - xiv. the amount of vacant space, where material;
 - xv. material information regarding the title of the subject property as contained in the relevant opinion, and a discussion as to whether any and how the legal opinions have been taken into consideration in the valuation of the relevant property; and
 - xvi. any other matters which may affect the property or its value.
- e. particulars [as set out in (c)] of any real estate for which the REIT has an option to purchase;
 - f. a letter stating the independent status of the Property Valuer and that the valuation report is prepared on a fair and unbiased basis;
 - g. an explanation of the rationale for choosing the particular valuation method, if more than one method is adopted.

4.2 Whenever a valuation report is prepared for the REIT, the date of the valuation report shall be:

- a. the date the REIT is valued, if such report is prepared for the purpose of calculating the Net Asset Value of the REIT; or

- b. the date which is not more than three (3) months before the date on which: (i) an offering document is issued; or (ii) a sale and purchase agreement (or other agreement to transfer legal title) is signed, if the transaction does not require shareholders' approval.

SEC. 5. Retirement of the Property Valuer.

- 5.1 The Property Valuer shall retire after it has conducted valuations of the real estate of the scheme for three (3) consecutive years.
- 5.2 The Property Valuer shall be subject to removal by notice in writing from the REIT in any of the following events:
 - a. the Property Valuer goes into liquidation, becomes bankrupt or has a receiver appointed over its assets;
 - b. for good and sufficient reason, the Fund Manager states in writing that a change in the Property Valuer is desirable in the interests of the REIT shareholders; or
 - c. the Property Valuer violates these Rules or any other relevant law, rule or regulation.
- 5.3 In addition, the Property Valuer shall retire in all other cases provided for in the Constitutive Documents.
- 5.4 Upon the retirement or dismissal of the Property Valuer, the REIT shall appoint a new Property Valuer that meets the qualification requirements under these Rules.

Rule 10 - Taxes

Section 1. Income Taxation of REITs. A REIT shall be subject to income tax under Chapter IV, Title of the National Internal Revenue Code of 1997 (NIRC), as amended, on its taxable net income as defined in the Act: Provided, That in no case shall a REIT be subject to a minimum corporate income tax, as provided under Section 27(E) and Section 28(A)(2) of the same Code;

Provided, further, That for purposes of computing the taxable net income of a REIT, dividends distributed by a REIT from its distributable income as of the end of the taxable year and on or before the last day of the fifth (5th) month following the close of the taxable year shall be considered as paid on the last day of such taxable year.

However, a REIT shall be subject to income tax on its taxable net income as defined in Chapter V, Title II of the NIRC, as amended, instead of its taxable net income as defined in this Act, upon the occurrence of any of the following events:

- a) Failure to maintain its status as a public company as defined herein;
- b) Failure to maintain the listed status of the investor securities on the Exchange and the registration of the investor securities by the Commission; and/or
- c) Failure to distribute at least ninety (90%) percent of its distributable income as required herein.

The above events, however, shall be subject to a Thirty (30) day curing period from the time of the occurrence of the event. Compliance by the REIT within the curing period shall be

determined by the Commission and such determination shall be immediately communicated to the BIR.

Section 2. Creditable Withholding Tax. Income tax payments to a REIT shall be subject to a creditable withholding tax of one (1%) percent.

Section 3. Tax on Transfer of Property by REIT. Any sale or transfer of real property to a REIT, including the sale or transfer of any and all security interest thereto shall be subject to fifty (50%) percent of the applicable DST imposed under title VII of the NIRC. All applicable registration and annotation fees relative or incidental thereto shall be fifty (50%) of the applicable registration and annotation fees.

The incentives provided herein can be availed by an unlisted REIT provided it is listed with an Exchange within two (2) years from the initial availment of the incentives.

The fifty (50%) percent of the applicable DST shall be due and demandable together with the applicable surcharge, penalties and interest thereon reckoned from the date such tax should have been paid upon the occurrence of any of the following events:

- a. Failure to list with an Exchange within a period two (2) years from the date of initial availment;
- b. Failure to maintain its status as a public company as defined in the Act;
- c. Failure to maintain the listed status of the investor securities on the Exchange and the registration of the investor securities with the Commission; and/or
- d. Failure to distribute at least ninety (90%) of its distributable income required under the Act.

The above events, however, shall be subject to a Thirty (30) day curing period from the time of the occurrence of the event. Compliance by the REIT within the curing period shall be determined by the Commission and such determination shall be immediately communicated to the BIR.

Section 4. Issuance and Transfer of Investor Securities.

- a. The original issuance of investor securities shall be subject to DST under the NIRC, as amended;
- b. Any sale, barter, exchange or other disposition of listed investor securities through the Exchange, including block sales or cross sales with prior approval from the Exchange shall be subject to the stock transaction tax imposed under the NIRC;
- c. Any sale, barter, exchange or other disposition of listed investor securities through the Exchange, including cross or block sales with prior approval from the Exchange shall be exempt from the DST prescribed by the NIRC; and
- d. Any initial public and secondary offering of investor securities shall be exempt from the IPO tax imposed under the NIRC.

Section 5. Dividends Paid by REITs. Cash or property dividends paid by a REIT shall be subject to a final tax of 10 (10%) percent, unless –

- a. the dividends are received by a non-resident alien individual or a non-resident foreign corporation entitled to claim a preferential withholding tax rate of less than ten (10%) percent pursuant to an applicable tax treaty; or
- b. the dividends are received by a domestic corporation or resident foreign corporation.

Overseas Filipino investors are exempt from the dividends tax for seven (7) years from the effectivity of the tax regulations implementing the Act.

Section 6. VAT on Gross Sales or Gross Receipts of REITs.

- a. The gross sales from any disposal of real property or gross receipts from the rental of such real property shall be subject to VAT;
- b. A REIT shall not be considered as a dealer of securities and shall not be subject to VAT on its sale, exchange or transfer of securities forming part of its real estate-related assets.

Section 7. General Application of the NIRC. Unless otherwise provided under the Act, the internal revenue taxes under the NIRC shall apply.

Section 8. Revocation of Tax Incentives. The tax incentives granted under the Act shall be *ipso facto* revoked and withdrawn as of the date of the delisting becomes final and executory in the event the REIT is delisted from the Exchange whether voluntarily or involuntarily for failure to comply with the provisions of the Act or any of these Rules.

Any tax incentive that has been availed of by the REIT thereafter shall be refunded to the Government within ninety (90) days from the date of the delisting becomes final and executory and the surcharge and penalty shall apply.

If the delisting is for causes highly prejudicial to the interest of the investing public such as violation of the disclosure and related party transactions of the Act or insolvency of the REIT due to mismanagement or misappropriation, conversion, wastage or dissipation of its corporate assets, the responsible persons shall refund to its investors at the time of final delisting the book value/acquisition cost of their shares.

Rule 12 - Penal Provisions

SEC. 1. Revocation of Registration. If the Commission finds out that the REIT was established so as to seek the benefits of the REIT Act of 2009 without a true intention to carry out its provisions, the Commission shall revoke or cancel the registration of the securities of the REIT. Further, the REIT shall pay the applicable taxes plus interests and surcharges under the National Internal Revenue Code of 1997, as amended.

SEC. 2. Penalties. A fine of not less than Two Hundred Thousand Pesos (P200,000.00) nor more than Five Million Pesos (P5,000,000.00) or imprisonment of not less than six (6) years and one (1) day nor more than twenty-one (21) years, or both in 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:

- i. Understate or overstate the financial statements of the REIT;
- ii. Cause any loss, conversion, misappropriation of the assets, securities or income of the REIT;
- iii. Use another person to hold the legal title of the shares of the REIT for his benefit for the purpose of circumventing the minimum public ownership provided in these Rules;
- iv. Allow himself to be used by another person to hold legal title to the shares of the REIT for the purpose of circumventing the minimum public ownership provided in these Rules;
- v. Submit false or misleading certification on the minimum public ownership required by these Rules; or
- vi. Violate any of the provisions of these Rules or the rules and regulations promulgated under authority hereof.

If the offender is a corporation, partnership or association or other juridical entity, the penalty may, in the discretion of the court, be imposed upon such juridical entity and/or upon the officer or officers of the corporation, partnership, association or entity responsible for the violation, and if such officer is an alien, he shall in addition to the penalties prescribed, be deported without further proceedings after service of sentence.

The prosecution and conviction of the offender under these Rules and the imposition of the above penalties shall be without prejudice to the administrative, civil and criminal liabilities of the offender under the SRC.

Rule 12 - Miscellaneous Provisions

SEC. 1. *Corporate Governance.* The REIT Property Manager and the REIT Fund Manager shall be subject to the principles of corporate governance adopted by the Commission.

SEC. 2. *Supplemental Regulations.* These rules may be supplemented by relevant regulations which the Commission, BIR and BSP may from time to time issue.

SEC. 3. *Use of Registration Fees.* To carry out the purposes of these Rules, the Commission shall retain and use fifty percent (50%) of all fees paid to it relative to the establishment of REITs and the registration of their securities in addition to its annual budget.

SEC. 4. *Separability Clause.* If, for any reason, any article or provision of these Rules or any portion thereof or application of such article, provision or portion thereof to any person, group or circumstance is declared invalid or unconstitutional, the remainder of these Rules shall not be affected by such decision.

SEC. 5. *Repealing Clause.* All other rules and regulations or parts thereof, inconsistent with the foregoing rules and regulations are repealed, amended or modified accordingly.

SEC. 6. *Effectivity Clause.* These Rules shall take effect fifteen (15) days after its complete publication in the *Official Gazette* or in at least two (2) newspapers of general circulation in the Philippines.