ENFORCEMENT AND INVESTOR PROTECTION DEPARTMENT

In the Matter of:

ORGANICO AGRIBUSINESS VENTURES CORP.
SEC Registration No. CS201806980

ORDER OF REVOCATION

ORGANICO AGRIBUSINESS VENTURES CORP. ("Organico") was registered with this Commission on 8 May 2018 with Company Reg. No. CS201806980 with primary purpose of:

"To engage in the business of operating a commercial Hog, Livestocks and Farm Animal Raising Facility and providing services but not limited to hog, livestock and Farm Animal raising management, technical services and other related activities including farm to market service for Hog, Livestock and Farm Animals owners and growers. Provided that the corporation shall not solicit, accept or take investments/placements from the public neither shall it issue investment contracts. (emphasis ours)"

On 02 November 2017, the department received information through i-Message Mo that Organico is apparently engaged in investment-solicitation activities without being legally authorized, quoted herein verbatim:

"Hi please do research about this company ORGANICO AGRIBUSINESS VENTURE located at Ormoc Leyte they are promising high return of interest rate they don’t have any legal documents. Thank you."
INVEST... WAIT and EARN

We are looking organic minded businessmen
who are willing to earn organic profit with
100% pure organic heart.

Support our Organic Piggery, Poultry and
High Value Crops project

STANDARD PLAN

For Investments Php 1800 up to Php 34, 200

- 15 Days Payout (Available)
- with contract and PDC (for payouts above Php 4500)
- 90 Days Payout (Not Available)

For Investments Php 36, 000 and above

- 15 Days Payout (Available) with contract and PDC
- 90 Days Payout (Available) with contract and PDC

The Enforcement and Investor Protection Department (EIPD) requested the Company Registration and Monitoring Department (CRMD) a confirmation on whether Organico is an SEC-registered entity.

In the meantime, the SEC-Cebu Extension Office conducted its ocular inspection/investigation of Organico whose office address was then located at UN Building, Brgy. Alegria, Ormoc City. It was revealed that Organico is engaged in "crowdfunding" activities through the internet where an investor must invest in at least 10 shares costing Php1,800.00 each, and for every share an investor gets Php450.00 every 15 days for a total of Php2,700.00 in 3 months. According to Organico, the money invested will be used to fund the diverse business owned and managed by Cerrone Posas whose business includes organic farming, organic poultry, organic piggery, restaurant serving organic food, telemarketing, music studio and construction, and soon, an organic meat shop. Another investment scheme is the 90-day investment where for every Php3,600.00 investment, one piglet is raised and sold after 3 months and the investor can get his money (principal) back with the profit for a total of Php7,000.00.

In reply to EIPD's request, the CRMD certified that:

"CERTIFICATION

TO WHOM IT MAY CONCERN:

THIS IS TO CERTIFY that the records of ORGANICO AGRIBUSINESS CENTURES CORP. with SEC No. CS201806980 on file with this Commission show that:
The corporation was registered on May 8, 2018 with a term of existence of fifty (50) years. To date, no Amended Articles of Incorporation dissolving the corporation has been filed.

Further, subject corporation was not issued a secondary license as a broker and/or Dealer of Securities, Dealer in Government Securities, Investment Adviser of an Investment Company, Investment House and Transfer Agent. Also, it has not filed nor has any pending application for said secondary licenses with this Department.

This certification is issued on the request of Enforcement and Investor Protection Department whatever legal purpose it may serve.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of this Commission to be affixed to this certification at Ground Floor, East Wing, Secretariat Bldg., PICC, Pasay City, Metro Manila, Philippines this 2nd day of July 2018.

FERDINAND B. SALES
Director

(Sgd.)
By: DANIEL P. GABUYO
Officer-in-Charge
Corporate Filing and Records Division

Considering that Organico appears to be engaged in selling of investment contracts, the Department inquired with the Markets and Securities Regulation Department (MSRD), and Corporate Governance and Finance Department (CGFD) to determine if Organico was issued or has a pending application for a permit to offer securities for sale.

In reply, MSRD certified that:

"CERTIFICATION

This is to certify that as per records on file with the Markets and Securities Regulation Department, ORGANICO AGRIBUSINESS VENTURES has not registered any securities pursuant to Sections 8 and 12 of the Securities Regulation Code (SRC). Likewise, the Department has not issued a Permit to Sell securities in favor of ORGANICO AGRIBUSINESS VENTURES. Further, said entity has not filed nor has any pending application for registration/permit to sell securities.

This negative Certification is limited merely to registration of securities that are under the jurisdiction of this Department and does not cover registration of other securities under the jurisdiction of the Corporate Governance and Finance Department of this Commission.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of this Commission to be affixed this 27th of March 2018 at Roxas Boulevard, Pasay City, Philippines.

(sgd)
VICENTE GRACIANO P. FELIZMENIO, JR.
Director"
the CGFD certified that:

"CERTIFICATION"

TO WHOM IT MAY CONCERN:

This is to certify that based on records on file with this Commission ORGANICO AGribusiness Ventures is not a registered issuer of mutual funds, exchange traded funds, proprietary/non-proprietary shares or membership certificates, timeshares and registered but unlisted equity securities under Sections 18 and 12 of the Securities Regulation Code and therefore not licensed to offer or sell such securities to the public.

This certification is issued upon the request of Director Jose P. Aquino of the Enforcement and Investor Protection Department for whatever purpose it may serve.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of this Commission to be affixed this April 2, 2018 at Pasay City.

(sgd)
RACHEL ESTHER J. GUMANTANG-REMALANTE
Officer-in-Charge

On 21 May 2018, an Advisory against Organico was posted at the SEC website indicating the abovementioned schemes and that Organico is not allowed to offer, solicit, sell, or distribute any investment/securities from the public as the same requires a secondary license for such activity. The Advisory reads as follows:

"SEC ADVISORY"

The Commission has received information that individuals or group of persons representing ORGANICO AGribusiness Ventures Corporation ("ORGANICO") are enticing the public to invest in the said entity online or through the internet.

Based on the information communicated and gathered by the Commission, ORGANICO is engaged in soliciting investment wherein an investor must invest at least 10 shares, one (1) share costs Php1,800.00, and for every share an investor gets Php450.00 every 15 days for a total of Php2,700.00 in 3 months.

Allegedly, the money invested will be used to fund the company's diverse businesses which includes: organic farming, organic poultry, organic piggery, restaurant serving organic food, telemarketing, music studio and construction and eventually, an organic meat shop.

Another investment scheme is the 90-day investment, where for every Php3,600.00 invested, one piglet is raised and sold after 3 months and the investor gets his money back with profit for a total of Php7,000.00.

The public is hereby informed that ORGANICO AGribusiness Ventures Corporation is NOT registered with the Commission as a corporation nor as a partnership under the Corporation Code of the Philippines and is NOT authorized to offer, solicit, sell or distribute any investment/securities. Such activities require a Secondary License from the Commission and the securities or investment product should likewise be registered with SEC before they can be offered or sold to the public under Sections 8 and 12 of the Securities Regulation Code (SRC).
Consequently, those who act as salesmen, brokers, dealers or agents of ORGANICO AGRIBUSINESS VENTURES CORPORATION in selling or convincing people to invest in the investment scheme including solicitations or recruitment through the internet may likewise be prosecuted and held criminally liable under Section 28 of the Securities Regulation Code and penalized with a maximum fine of Five Million pesos (P5,000,000.00) or penalty of Twenty One (21) years imprisonment or both pursuant to Section 73 of the SRC.

Accordingly, those who invite or recruit other people to join or invest in this venture or offer contracts or securities to the public may be held liable or accordingly sanctioned or penalized in accordance with the Supreme Court decision in the case of SEC vs. Oudine Santos (G.R. No. 195542, March 19, 2014).

Furthermore, the names of all those involved will be reported to the Bureau of Internal Revenue (BIR) so that the appropriate penalties and/or taxes be correspondingly assessed.

In view thereof, the public is hereby advised to exercise caution before investing in these kinds of activities and to take the necessary precaution in dealing with ORGANICO AGRIBUSINESS VENTURES CORPORATION or its representatives.

Should you have any information regarding the operation of the subject entity, please call the Enforcement and Investor Protection Department at telephone numbers 818-6047.

For guidance of the public.*

On 8 May 2018, Organico was able to register as a corporation under SEC Reg. No. CS201806980. However, such registration does not allow solicitation, offering, or selling of any investment/securities.

On 7 June 2018, Organico through its counsel, Atty. Tiffany Tuñacao, requested the lifting of the Advisory alleging that Organico is a duly-registered corporation under the laws of the Republic of the Philippines attaching a copy of its Certificate of Incorporation and that the company is not engaged in soliciting investment from the public, however, no proof to the contrary was attached to substantiate the claim.

Another certification from the CRMD was issued stating:

"CERTIFICATION ON CORPORATE FILING/INFORMATION

TO WHOM IT MAY CONCERN:

THIS IS TO CERTIFY that the records of Organico Agribusiness Ventures Corp. with SEC No. CS201806980 on file with this Commission show that:

the corporation was registered on May 8, 2018 with a term of existence of fifty (50) years. To date, no Amended Articles of Incorporation dissolving the corporation has been filed.

Further, subject corporation was not issued a secondary license as a broker and/or Dealer of Securities, Dealer in Government Securities, Investment Adviser of an Investment Company, Investment House and Transfer Agent. Also, it has not file nor has any pending application for said secondary licenses with this Department.

This certification is issued on the request of the Enforcement and Investor Protection Department for whatever purpose it may serve.
IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of this Commission to be affixed to this certification at Ground Floor, East Wing, Secretariat Bldg., PICC Complex, Pasay City, Metro Manila, Philippines this 2nd day of July 2018.

FERDINAND B. SALES
Director

(sgd)
By: DANIEL P. GABUYO
Officer-in-Charge
Corporate Filing and Records Division

Likewise, negative certifications from the CGFD and MSRD were issued both on 2 July 2018 regarding the non-registration of securities by ORGANICO AGRIBUSINESS VENTURES CORP. with their respective departments.

A letter was issued on 9 August 2018 directing Organico to show cause why its Certificate of Incorporation should not be revoked for serious misrepresentation as to what the corporation can do or is doing to the great prejudice of or damage to the general public and why no administrative sanctions and/or criminal charges should be imposed/filed against it as well as its incorporators, directors and officers for violation of the Securities Regulation Code and its Implementing Rules and Regulations.

Organico, through its counsel, filed its reply which was received by this department on 23 October 2018, alleging that:

1. "As per conversation with the officers and employees of Organico Agribusiness Ventures Corporation, it had started as an organization sometime late last year, when the abovename individuals, and several others through a shared friendship pooled their resources to finance a small-time piggery in Leyte;

2. The sum of money which they were able to pool together was of a considerable amount, that they were able to sustain some projects and small-time businesses in the province. The word got out that this group of individuals were pooling money for businesses with a promise of return. However, this is never the case. According to the officers, they were just a few friends who got a little lucky in their first business ventures. Some of their families and friends joined them and lent them more money so that they can further their business as they saw that it was becoming successful;

3. In the later part of 2017, most of the officers and their friends enrolled in seminars on organic farming and hog-raising and likewise conducted further studies on the same to better their business. They even looked for the best farm technicians and experts in hog- raising in order to reach the optimal growth of their hogs at the least cost;

4. In year 2017, Organico Agribusiness was not incorporated yet. It was only a medium piggery venture composed of several piggery facilities mainly in Visayas and Mindanao,
which produces piglet from sows fed with organic feeds and attended through Organico’s standards in farming;

5. Early this year, the group planned on expanding their backyard piggery business and contemplated on wholesaling/retailing organic feeds, and for a fee, conduct organic-feeding technology to several small-time businesses. However, they were always asked for contracts and official receipts and official registration, especially those established companies and entities.

6. This prompted the above-named individuals to take the plunge and register themselves as a corporation. Sometime May 2018, they were issued a Certificate of Registration as Organico Agribusiness Ventures Corporation by this Office;

7. According to its officers and incorporators, it is not engaged in investment-taking and solicitation activities wherein an investor needs to invest in or purchase at least 10 shares with each share costing Php 1,800.00 and for every share an investor gets Php 450.00 every fifteen days for a total of Php 2,700.00 in 3 months, as per the report that has reached you. Instead, Organico Agribusiness Ventures Corporation is into buy-and-sell of livestock, specifically piglets/swine and had tied-up with numerous farm-owners in provinces for the rearing of the same;

8. As a background, Organico Agribusiness Ventures Corporation, is mainly engaged in raising hogs and livestock, farm animal, swine raising management and other related activities including farm to market management for hogs, swine livestock and other farm products. Their clients may buy hogs/swine from Organico for a price to be determined by the existing market value of piglets. The client may opt to bring with him/her the purchased swine/hog OR he/she may choose to turn-over said farm animal to Organico for rearing, considering that Organico had tied-up with several farms in the provinces. After a certain period wherein said animal had reached its optimal growth and is ready for sale, the client may claim back the swine/hog at a certain price less the original purchase price (since Organico covers all the expenses of the rearing of the animal). The client may also opt not to claim back the animal which in said case, Organico shall pay said client with a certain fee, as well;

9. Attached and marked as ANNEX “B” is a sample copy of the Deed of Sale with Memorandum of Agreement which Organico uses as their document of proof of sale and agreement whenever there is a sale of piglet/s. Incorporated in said deed as well is the agreement as to whether the client opts to take with him/her the purchased animal or have Organico rear it until it reaches its optimal growth. This is the contract which is currently used by corporation was used since its inception in May 2018.
The Deed of Sale with Memorandum of Agreement provides:

a. This MEMORANDUM OF AGREEMENT, made, executed and entered into by and between: ORGANICO AGRIBUSINESS VENTURES CORPORATION, a duly-registered corporation under the laws of the Republic of the Philippines, with Company Registration No. CS201806980, with principal business address at Unit 7 UN Bldg., Aviles St., Alegria, Ormoc City, Leyte, whose primary business is to engage in operating hog, livestocks and farm animal raising management, hereinafter referred to as THE SELLER;

-and-

______________________________ of legal age, single/married, and a resident of ______________________________, hereinafter referred to as THE BUYER;

-witnesseth that-

b. WHEREAS, the SELLER is mainly engaged in raising hogs and livestock, farm animal, swine raising management, and other related activities, including farm to market management for hogs, swine, livestock and other farm products;

c. WHEREAS, the SELLER is raising hogs/swine (piglets) which are borne out/generated from sows and boars which are in farms/facilities maintained by the seller in several different areas in the country;

d. WHEREAS, the BUYER is willing to buy piglet/s from seller’s farm/facility and raise them as their own for a reduced price of only THREE THOUSAND SIX HUNDRED (Php3,600.00) PESOS per piglet. The BUYER may buy as many piglets as he/she wishes after complying with the requirements set by the SELLER;

e. WHEREAS, instead of giving/turning over the piglet/piglets to the BUYER for the latter to rear, the SELLER is willing to rear the piglet/piglets for and in behalf of the buyer using a special system in hog raising, feeding them with special fermented feed mix which are from indigenous materials and probiotics, provide full vaccination, and all other hog raising services that ensure optimal disposal after 3 months from turn-over of the piglet/piglets. Three months is the average period within which a pig has reached its optimal growth;

f. WHEREAS, the SELLER, accepts full responsibility to feed, vaccinate, and provide all other care required and necessary for the optimal growth of the pigs. There will be no additional costs to the BUYER other than the amount paid during the sale. All costs thereafter will pertain to the SELLER;

g. WHEREAS, after 90 days/3 months (period of optimal growth of pigs) from sale, the BUYER has to choose any of the following options:

(1) Claim back the pig/s (swine) from the SELLER at Php3,600.00 (each pig/swine)+15% service fee less the selling price/purchase price of the
piglet/piglets (@Php3,600.00 each). The amount paid by the BUYER covers the total cost of rearing the animal/s, which includes but is not limited to feeds, vaccination, labor and utilities;

-OR-

(2) The SELLER offers to retain (buy out) the pig/pigs with a rate of Php6,000.00 (each pig/swine) which will directly be deposited to the assigned bank account of the BUYER.

h. WHEREAS, the BUYER has the right to inspect the farm/facility at any time during the 90-day period/3 months (period of optimal growth for pigs) after giving notice or informing the SELLER of said intention at least 5 days before said inspection. All expenses/cost related to said intention shall pertain to the buyer;

i. WHEREAS, the BUYER shall be free only from the following hog/swine risk and loss from the time of the sale and during the 90-day period/3 months: death, sickness, theft, poor farm/facility management. However, the SELLER shall not assume risks and loss caused by the following and all related calamities thereto: (1) acts of God; such as but not limited to the following, earthquake, flooding, which will affect the facility/farm or the transport of feeds and hogs; (2) force majeure; (3) similar other natural and man-made calamities and incidents that will greatly affect the hog raising management. A local/national declaration of state of calamity or emergency is not necessary. In such cases, the SELLER shall immediately (within 24-hours), in whatever form of notice (e.g. call, SMS, email) inform the BUYER of said risk/loss.

"This is not an investment contract, neither a contract of partnership between the parties. Their liabilities shall only be limited up to what is agreed in this Memorandum."

10. Contrary to what were reported, Cerrone Posas denies that he owns several other businesses. He may have engaged into small businesses in the past, and when he was younger but most of them were already retired and closed. In fact, some of said businesses were only until its registration phase with the Department of Trade and Industry (DTI). Nothing more. They were never materialized. These were already retired several years ago;

11. Further, Organico understands that there may have been several Facebook posts and Youtube videos circulating about Organico and how its business works. Organico and its officers and incorporators categorically deny that these are from Organico. Organico does not have an official Facebook page. All Facebook posts relating to Organico are not sanctioned by said corporation and are not their doing. Aside from that, the kind of business being described in said posts are not the same as that of Organico's. The people
who posted these on Facebook are not in any way connected with Organico and most of them are unknown to Organico's officers and incorporators;

12. At present, its official website is still under construction. Considering that Organico Agribusiness Ventures Corporation, as a new business which only started out this year, they had not yet completed their website which is organicoagricorp.com. All other websites are not theirs nor were they authorized by Organico. Moreover, Organico does not have any Facebook page, Facebook posts, and Youtube channel or posts. Any interested client who may wish to avail of the program has to contact them or their employees;

13. According to Organico, its officers and incorporators, the confusion may have started since its clients loosely use the term "invest" and "investment" whenever one purchase a thing of value and may have a potential for appreciation. Most of the clients who availed of the program and opt to retain the piglets with Organico for rearing would call it an investment considering that piglets' value will appreciate over time. This is contrary to the legal definition of invest or investment, which most laymen do not have knowledge on. This word of mouth among clients and third parties is extremely difficult for Organico to control and correct. As much as possible, whenever one avails of the program of Organico, all the details of the sale and its corresponding option agreement are well-explained to its clients. However, how these clients explain to third persons the program of Organico is not anymore under its control;

14. Lastly, Organico has tied up with numerous farm owners in several provinces which house its piglets owned by its clients for rearing. One of the said farms is situated in Barangay Dolores, Palompon, Leyte which houses hundreds of piglets, boars and sows. Attached and marked as ANNEX "C" and "D" are photographs of said farms in Leyte. There are several other farms in Visayas and Mindanao, yet Organico are still gathering the same. As soon as Organico has the complete copies, it shall forward the same to your good office;

15. As per Organico, its clients, upon purchase of the piglet/s can freely inspect its purchased animal. The client shall immediately be informed of the exact location of the animal. The client may freely inspect and visit said purchase at any time during the duration of the agreement. This is clearly incorporated in Organico's Deed of Sale with Memorandum of Agreement.

16. Finally, as per its officers and incorporators, it is likewise engaged in several other programs with farm owners and livestock raisers. For one, it has a Harvest to Pay (H2P) Program which caters to 'already' farm owner and raisers in province. This program allows Organico to earn by working with livestock owners. Organico shoulders the raising and management of said farm animals, while its partners in all others. There is an agreement as to the profit once said animals are sold in the markets."
On 7 November 2018, Organico amended its primary purpose to:

"To engage, invest, in the business of operating a commercial Hog, Livestocks and Farm Animal Raising Facility and providing services but not limited to hog, livestock and Farm Animal raising management, technical services and other related activities including farm to market service for Hog, Livestock and Farm Animals owners and growers and to franchise. Provided that the corporation shall not solicit, accept or take investments/placements from the public neither shall it issue investment contracts.

We now resolve the instant proceedings on the basis of the documents submitted and the available evidence.

Section 3.1 of the Securities Regulation Code (SRC) defines securities as:

"3.1 "Securities" are shares, participation or interest in a corporation or in a commercial enterprise or profit-making venture and evidenced by a certificate, contract, instrument, whether written or electronic in character. It includes:

(a) Shares of stocks, bonds, debentures, notes, evidences of indebtedness, asset-backed securities;
(b) Investment contracts, certificates of interest or participation in a profit sharing agreement, certificates of deposit for a future subscription;
(c) Fractional undivided interests in oil, gas or other mineral rights;
(d) Derivatives like option and warrants;
(e) Certificates of assignments, certificates of participation, trust certificates, voting trust certificates or similar instruments;
(f) Proprietary or non-proprietary membership certificates in corporations; and
(g) Other instruments as may in the future be determined by the Commission."

Investment contract on the other hand, is defined under SRC Rule 26.3.5 of the 2015 Implementing Rules and Regulations of the Securities Regulation Code (2015 SRC IRR) as follows:

An investment contract means a contract, transaction or scheme (collectively "contract") whereby a person invests his money in a common enterprise and is led to expect profits primarily from the efforts of others.

A common enterprise is deemed created when two (2) or more investors "pool" their resources, creating a common enterprise, even if the promoter receives nothing more than a broker’s commission."

Further, the elements of an investment contract were enumerated in the case of Power Homes Unlimited Corporation vs. SEC which traces its roots from the case of SEC vs. Howey Co. and was later modified in the case of SEC vs. Glenn W. Turner Enterprises, Inc. as follows:

- A contract, transaction or scheme;
- An investment of money;
- A common enterprise;
- Expectation of profits; and
- Profits arises primarily from the entrepreneurial and managerial efforts of others.

Section 8, in relation to Section 12 of the SRC provide that:
"SEC. 8. Requirement of Registration of Securities. – 8.1. Securities shall not be sold or offered for sale or distribution within the Philippines, without a registration statement duly filed with and approved by the Commission. Prior to such sale, information on the securities, in such form and with such substance as the Commission may prescribe, shall be made available to each prospective purchaser.

"SEC. 12. Procedure for Registration of Securities. –

12.1. All securities required to be registered under Subsection 8.1 shall be registered through the filing by the issuer in the main office of the Commission, of a sworn registration statement with respect to such securities, in such form and containing such information and documents as the Commission shall prescribe. The registration statement shall include any prospectus required or permitted to be delivered under Subsections 8.2, 8.3 and 8.4."

Securities such as investment contract as defined by the SRC and in relation to SRC Rule 26.3.5 of the 2015 SRC IRR must be registered before the same can be offered or sold for distribution to the public. As a form of security, investment contracts must be registered under Section 8 of the SRC before they can be offered or sold to the public.

Rule 3.1.17 of the 2015 SRC IRR defined Public Offering as “any offering of securities to the public or to anyone, whether solicited or unsolicited. Any solicitation or presentation of securities for sale through any of the following modes shall be presumed to be a public offering:

3.1.17.1 Publication in any newspaper, magazine or printed reading material which is distributed within the Philippines or any part thereof;
3.1.17.2 Presentation in any public or commercial place;
3.1.17.3 Advertisement or announcement on radio, television, telephone, electronic communications, information communication technology or any other forms of communication; or
3.1.17.4 Distribution and/or making available flyers, brochures or any offering material in a public or commercial place, or to prospective purchasers through the postal system, information communication technology and other means of information distribution.” (Emphasis supplied)

On the other hand, a “Broker” is defined under Section 3.3. of the SRC as a person engaged in the business of buying and selling securities for the account of others, while 3.4 of SRC defined “Dealer” as any person who buys and sells securities for his/her own account in the ordinary course of business. “Salesman” is defined under 3.13 of the SRC as a natural person, employed as such or as an agent, by a dealer, issuer or broker to buy and sell securities.

Consequently, Section 28 of the SRC provides that:

"SEC. 28. Registration of Brokers, Dealers, Salesman and Associated Persons. – 28.1. No person shall engage in the business of buying or selling securities in the Philippines as a broker or dealer, or act as a salesman, or an
associated person of any broker or dealer unless registered as such with the Commission.

Thus, any person, without proper license from the Commission who acts as brokers, dealers or agents of a company selling or convincing people to invest in the investment scheme including solicitations or recruitment through the internet may likewise be prosecuted and held criminally liable under Section 28 of the SRC and penalized with a maximum fine of Five Million pesos (P5,000,000.00) or penalty of Twenty One (21) years imprisonment or both pursuant to Section 73 of the SRC.

In this particular case, the Department carefully examined the characteristics of the investments offered by Organico to determine if they satisfy the elements of an investment contract. In our evaluation, indeed, the elements of investment contracts are manifest in the investments being offered by Organico as follows:

- **A contract, transaction or scheme** – A prospective investor must invest in at least 10 shares, 1 share amounting to P1,800.00 or for every P3,600.00 investment; one piglet is raised and sold after 3 months and the investor gets his money back with profit for a total of P7,000.00;

- **Investment of money** – The investor needs to invest money;

- **A common enterprise** – The money invested by the public goes to Organico.

- **Expectation of profits** – Organico promised its investors to receive, for every share, P450.00 for every 15 days for a total of P2,700.00 in 3 months or the “buyer,” after 3 months, get his money back with profit for a total of P7,000.00\(^2\) or P6,000.00\(^3\);

- **Profits arises primarily from the entrepreneurial and managerial efforts of others**
  - Organico distributes profits to its investors/“buyer” without any effort on the part of the investor.

It is important to emphasize that Organico, as a juridical person, is only allowed to exercise powers inherent to its corporate existence as provided in the Corporation Code of the Philippines and those conferred in its Articles of Incorporation (AOI). In other words, what a corporation can do is necessarily circumscribed by its primary purpose clause in its AOI.

In Organico’s AOI as approved by the Commission, it is clearly provided that the business of the subject company is primarily “To engage in the business of operating a commercial Hog, Livestocks and Farm Animal Raising Facility and providing services but not limited to hog, livestock and Farm Animal raising management, technical services and other related activities including farm to market service for Hog, Livestock and Farm Animals owners and growers. Provided that the corporation shall not solicit, accept or take investments/placements from the public neither shall it issue investment contracts,” while the amended primary purpose only inserted “invest” after “To engage,” and includes “and to franchise.”

The purpose stated in the Articles of Incorporation need not set out with particularity the multitude of activities in which the corporation may engage. The effect of broad purposes or objects is to confer wide discretionary authority upon the directors and management of the

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\(^2\) Based on the investigation conducted

\(^3\) Based on the Deed of Sale with Memorandum of Agreement as one of the options of the “buyer” where the seller offers to retain (buy out) the pig/pigs.
corporation as to the kinds of business in which it may engage. However, deal \( \textit{ings} \) which are \textit{entirely irrelevant} to the purposes are unauthorized and called \textit{ultra vires}. The purpose clause of the articles of incorporation indicates the extent as well as the limitations of the powers which a corporation may exercise.

Moreover, the mere addition by Organico of the word “invest,” which in its ordinary acception means to “put more money or effort into something to make a profit or to achieve a result”\(^4\) in its primary purpose, does not, by itself, imbue it with legal authority to offer or solicit investments from the public.

It is worth noting that upon validation of the website of Organico (organicoagricorp.com), it is \textit{apparent and clear} that it is \textit{not merely engaged in the selling or trading of piglets} as when this department made an inquiry as to what is the return after investing an amount of Php3,600.00, Organico replied with a schedule of the amount of investment with a corresponding moneyback and profit and corollarily, answered that an investor gets Php6,000.00 moneyback after 90 days and informed that an investor needs only to wait for 90 days afterwhich, the payout shall be received. Attached are the screenshot of the aforementioned communications.

\[\text{4 Cambridge Dictionary, accessed and retrieved on 31 May 2019 from:}
\text{https://dictionary.cambridge.org/us/dictionary/english/invest}\]
After investing Php3600, what can I get in return?

**ORGANIC AGRIBUSINESS VENTURES**

**THE NEW 90 DAYS PAYOUT**

<table>
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<th>Amount</th>
<th>Moneyback</th>
<th>Profit</th>
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<td>3600</td>
<td>6000</td>
<td>2400</td>
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For every Php3k you'll get 1 Php1k moneyback. Be sure to click on the button above.

You will get 6,000 k moneyback after 90 days.

We're by tawk.to

What should I do to earn the 6k?

It's a hassle-free hog raising plan. All you need to do is to wait for 90 days then you will receive your pay-out.

Our mode of payment for the meantime is only thru cash walk-in to our office.
From above communication, it is clear that Organico is engaged in investment-taking activities and even assuming, for the sake of argument, that Organico is just engaged in the selling or trading of piglets, the Animal Welfare Law, as amended (RA 8485 as amended by RA10631) provides:

"Section 2. No Person, association, partnership, corporation, cooperative or any government agency or instrumentality including slaughter houses shall establish, maintain and operate any pet shop, kennel, veterinary clinic, veterinary hospital, stockyard, corral, stud farm or stock farm or zoo for the breeding, treatment, sale or trading, or training of animals without first securing from the Bureau of Animal Industry a certificate of registration therefore."

The Certification of the Bureau of Animal Industry certified that:

"CERTIFICATION

TO WHOM IT MAY CONCERN:

This is to certify that based on our records ORGANICO AGRIBUSINESS VENTURES CORP. with address at Unit 7 UN Bldg., Aviles St., Alegria,Ormoc City, Leyte is not registered with the Bureau of Animal Industry.

This Certification is issued upon the request of the Enforcement and Investor Protection Department of the Securities and Exchange Commission (SEC) for whatever legal purpose it may serve.

Issued this 11th October 2018 in Quezon City, Philippines.

(Sgd.)
DR. LAARNI Z. CABANTAC
Head, Animal Facilities Regulation Section
Animal Health and Welfare Division"

Finally, Section 6 of Presidential Decree 902-A provides that the Commission has the power to suspend, or revoke, after proper notice and hearing, the franchise or certificate of registration of corporations, partnerships and associations, on the ground of serious misrepresentation as to what the corporation can do or is doing to the to the great prejudice of or damage to the general public. Under the 2016 Rules of Procedure of the Securities and Exchange Commission, the EIPD shall exercise authority over persons and entities, whether under the primary authority of other Operating Departments, involved in the following:

xxx 1. Investigations and administrative actions involving the following:
xxx c) Selling, offering or transacting unregistered securities by entities without secondary license;
		d) ultra vires acts committed in violation of the Corporation Code;
  2. Petitions for revocation\(^5\) of corporate registration in all cases, except those which fall under the original authority of CMD
  3. Administrative actions for fraudulent transactions involving securities;
  4. Administrative actions for all other violations under PD902-A, except those cases which fall under the original authority of other Operating Departments;
  5. All other matters involving investor protection filed by the public, referred by self-regulatory organizations, or referred by other Operating Departments after initial evaluation or findings that there is a possible

\(^5\) Revocation refers to involuntary dissolution of corporate registration pursuant to Section 121 of the Corporation Code.
violation of laws, rules or regulations that the Commission implements but do not fall under their respective original authority."

Further, SEC Admin Case No. 11-10-124 entitled In re: PHILBIO Renewable Energy Resources Corp., promulgated on 27 April 2016 provides what constitute serious misrepresentation, to wit:

"From the foregoing, it is indubitable that PHILBIO misrepresented itself to the public that it can solicit investments despite the fact that it is not one of the purposes of the corporation. Worse, it does not have a license to offer/sell securities. PHILBIO operates an investment-taking scheme which is therefore considered an ultra vires act. These constitute serious misrepresentation as to what the corporation can do or doing to the great prejudice to the general public."

Considering that nowhere is it stated in the primary purpose of Organico that it is authorized to engage in investment-solicitation activities through the offering or selling for public sale securities in the form of investment contracts, the activities of Organico of offering or selling unregistered securities to the public and without the corresponding registration or license as a securities broker is considered an ultra vires act and therefore, constitutes serious misrepresentation as to what the corporation can do to the great prejudice or damage to the general public which is a ground for the revocation of a corporation's primary franchise or certificate of registration/incorporation under PD 902-A.

WHEREFORE, for violation of Section 45 of the Corporation Code of the Philippines [now, Section 44 of the Revised Corporation Code (R.A. 11232)] in relation to Sections 8.1 and 28.1 of the Securities Regulation Code and Section 6 (i) (2) of P.D. 902-A, the corporate registration or Certificate of Incorporation/Registration of ORGANICO AGRIBUSINESS VENTURES CORP. is hereby REVOKED.

Accordingly, let this Order be attached by the Corporate Filing and Records Division of the Company Registration and Monitoring Department (CRMD) to the records of the corporation on file with the Commission. Further, the Information and Communications Technology Department (ICTD) of this Commission is likewise requested to enter the "revoked" status of subject corporation in the online database of the Commission.

SO ORDERED

Pasay City, 31 May 2019.

[Signature]
JOSE P. AQUINO
Director