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SEC REVOKES TOGACHAT ACADEMY'S REGISTRATION

The Securities and Exchange Commission (SEC) has canceled the corporate registration of TogaChat Academy Philippines, Inc. for running an unauthorized investment program resembling a Ponzi scheme.

The SEC Enforcement and Investor Protection Department (EIPD) issued the order of revocation on January 23, after finding TogaChat to have engaged in investment-solicitation activities by selling or offering securities to the public without the necessary license from the Commission.

In doing so, TogaChat committed an ultra vires act prohibited under Section 45 of Batas Pambansa Blg. 68, or the Corporation Code of the Philippines, now Section 44 of Republic Act No. 11232, or the Revised Corporation Code of the Philippines, the EIPD ruled.

The company's activities also constituted serious misrepresentation as to what it can do to the great prejudice or damage to the general public, a ground for the revocation of a corporation's certificate of registration under Presidential Decree No. 902-A, according to the EIPD.

The SEC initially issued on July 17, 2019 an advisory warning the public against investing in TogaChat. It then issued on December 17, 2019 a cease and desist order against the company, its officers, directors, representatives, salespersons, agents and any and all persons claiming and acting for and in their behalf.

Under its investment program, TogaChat entices the public to avail of a package of Toga Credits, which investors may purportedly use to buy shares in Toga Limited upon its supposed listing on Nasdaq.

The company offers seven packages worth \$100 to \$100,000 in exchange for 200 to 500,000 Toga Credits. Investors may pay for a package in US dollars or the peso equivalent.

TogaChat encourages a member to recruit another investor by giving him/her Toga Credits equivalent to 50% of what the new investor would avail of. Members may earn additional Toga Credits from pairing bonuses.

The company's agents also claim that Toga stocks are traded on Toga Exchange, an internal platform of Toga Limited where the buying and selling of stocks occur.



The scheme falls within the definition of securities, particularly investment contracts, as defined under Republic Act No. 8799, or the Securities Regulation Code (SRC), according to the EIPD.

Section 3.1 of the SRC defines securities as “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.”

A security may take the form of an investment contract, defined under Rule 26.3.5 of the 2015 Implementing Rules and Regulations of the SRC as “a contract, transaction or scheme whereby a person invests his money in a common enterprise and is led to expect profits primarily from the efforts of others.”

“Said investment contract, being in the nature of securities, is required under Section 8 of the SRC to be registered before being offered or sold to the general public,” the EIPD noted.

However, records of the SEC show that no application for the registration of securities has been filed by TogaChat with the Commission.

“More so, the act of respondent TogaChat in allowing its members to discuss, orient and make the public familiar with its schemes and inviting them to join the company through its Facebook account posts constitutes public offering,” the EIPD noted.

In addition, the investment scheme of TogaChat resembled a Ponzi scheme, an investment program that offers impossibly high returns and pays these returns to early investors out of the capital contributed by later investors, according to the EIPD.

“WHEREFORE, for violation of Section 45 of the Corporation Code of the Philippines [now, Section 44 of the Revised Corporation Code (R.A. No. 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 TOGACHAT ACADEMY PHILIPPINES, Inc. is hereby revoked,” the EIPD ordered.

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