



CORPORATE GOVERNANCE AND FINANCE DEPARTMENT

NOTICE

The Commission hereby requests comments on the attached draft Memorandum Circular on the Rules on Corporate Debt Fund.

Please submit duly signed written comments on the exposure draft to the Corporate Governance and Finance Department of this Commission **not** later than **17 July 2020 (Friday)**, by way of any of the following:

Letter	Corporate Governance and Finance Department Ground Floor, North Wing Hall, Secretariat Bldg. PICC Complex, Vicente Sotto St. 1307 Pasay City
Email	cgfd@sec.gov.ph and cgfd_ld@sec.gov.ph

All interested parties are requested to use the attached *Comments Table* in submitting comments and proposed revisions.

Issued on 08 July 2020.

**COMMENTS ON THE PROPOSED MEMORANDUM CIRCULAR ON THE RULES
ON CORPORATE DEBT FUND**

RULES	COMMENTS	PROPOSED REVISIONS
I. Coverage		
II. Definition of Terms		
III. Minimum Requirements and Registration of a closed end CDF		
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**SEC MEMORANDUM CIRCULAR NO. ___
SERIES OF 2020**

TO: ALL CONCERNED CORPORATIONS

SUBJECT: RULES ON CORPORATE DEBT FUND

WHEREAS, Section 35(a) of Republic Act No. 2629 or the Investment Company Act (ICA) and Section 72 of Republic Act No. 8799 or the Securities Regulation Code (SRC), vest upon the Commission the authority to make, issue, amend, and rescind rules and regulations and orders which are necessary or appropriate to the exercise of the powers conferred upon it in the ICA and the SRC;

WHEREAS, the ICA prescribes the regulation of investment companies and other parties to offer investment companies' securities, and requires the registration of such securities with the Securities and Exchange Commission and to comply with certain standards including, among others, the regular public disclosures of investment policies and objectives and their portfolios as well as the pricing and costs incurred.

WHEREAS, in response to the dampened economy brought about by the 2019 Coronavirus Disease (COVID-19) pandemic and in order to avert credit and liquidity crises, the mutual fund industry proposed to allow them to offer or launch a new investment vehicle called the Corporate Debt Fund (CDF) that invests in portfolios of corporate debt papers of large corporations and medium sized enterprises.

IN VIEW OF THE FOREGOING, without prejudice to the provisions of ICA-IRR the following are the proposed rules to be promulgated:

I. Coverage

These rules shall apply to a Corporate Debt Fund (CDF) classified as a closed-end Investment Company that offer shares or units of participation with the objective of investing in portfolios of corporate debt papers of (1) large corporations and medium sized enterprises operating or deriving income in the Philippines; or (2) any company guaranteed by a large or medium-sized domestic corporations or by the Philippine government and/or its agencies.

II. Definition of Terms

Closed-end Fund – shall mean a fund which offers for sale of fixed number of non-redeemable units of participation or shares and has a limited offer period

Corporate Debt Fund (CDF)– shall mean a Closed-end Investment Company to be offered to Qualified Buyers (QBs) or non-Qualified Buyers (non-QBs) not exceeding nineteen (19) persons in the Philippines during any twelve-month period with the specific objective of investing in the Corporate Debts of large corporation and medium sized enterprises.

Corporate Debt – shall mean corporate bonds and debentures of (1) large and medium-sized corporations operating or deriving income in the Philippines; or (2) guaranteed by a large or medium-sized domestic corporation or by the Philippine government and/or its agencies.

Large Corporations – are those corporations with total assets of more than Three Hundred Fifty Million Pesos (Php350,000,000.00) or total liabilities of more than Two Hundred Fifty Million Pesos (Php250,000,000.00).

Medium Sized Enterprise – are those corporations with more than One Hundred Million Pesos (Php100,000,000.00) to Three Hundred Fifty Million Pesos (Php350,000,000.00) total assets or total liabilities of more than One Hundred Million Pesos (Php100,000,000.00) to Two Hundred Fifty Million Pesos (Php250,000,000.00). If the entity is a parent company, the said total amounts shall be based on the consolidated figure.

Qualified Buyers – shall mean banks, registered investment house, insurance company, pension fund or retirement plan maintained by the Government of the Philippines or any political subdivision thereof or managed by a bank or other persons authorized by the BSP to engage in trust functions, investment company, or such other persons as the Commission may by rule determine as qualified buyers, on the basis of such factors as financial sophistication, net worth, knowledge, and experience in financial and business matters, or amount of assets under management.

Qualified Individual Buyer (natural person) – shall mean those persons who (i) has an annual gross income of at least Ten Million Pesos (P10,000,000.00) at least two (2) years prior to the registration, or a total portfolio investment in securities registered with the Commission of at least Ten Million Pesos (Ph10,000,000.00), or a personal net worth of not less than Thirty Million Pesos (Php30,000,000.00); and (ii) has been engaged in securities trading personally through a fund manager for a minimum period of one (1) year, or held for at least two (2) years a position of responsibility in any professional business entity that requires knowledge or expertise in securities trading, such as, legal consultant, financial adviser, sales person, or associated person of a broker-dealer, bank finance or treasury officer, or other similar executive officers.

Qualified Individual Buyer (juridical person) – shall mean those which have a gross assets of One Hundred Million Pesos (Php100,000,000.00) or a total portfolio investment in securities registered with the Commission or financial instruments issued by the government of at least Sixty Million Pesos (Php60,000,000.00).

III. Minimum Requirements and Registration of closed end CDF:

1. A Corporate Debt Fund (CDF) may only be offered by a closed-end investment company with the primary objective of investing in portfolios of corporate debt papers. A CDF may offer different share or unit classes with similar investment objective but managed as separate asset pools. Each class corresponds to a distinct part of the assets and liabilities of the CDF.
2. The following are the minimum requirements for the incorporation and registration of an Investment Company organized as a Corporate Debt Fund:
 - a. File documentary requirements for the registration of its Articles of Incorporation (“AOI”) and By-Laws (BL);
 - b. File SEC ICA Form 7-A and pay the filing fee of ₱10,000.00 plus LRF;
 - c. The name of the corporation shall contain the word “*Corporate Debt Fund*” or “*Unitized Corporate Debt Fund*” in case of offering of units;
 - d. The primary purpose clause of the AOI shall state its classification as a closed-end investment company and provide the specific primary objective of investing in corporate debts of large corporations and medium sized enterprises;
 - e. In case of a CDF that will offer share/unit classes, the AOI shall clearly indicate its structure as such, as well as the nature, type of classes, rights and privileges of their holders;
 - f. All shares shall be common and voting and, in general, redeemable only after the end of the term of the fund share/unit class as disclosed in the Prospectus. For CDFs that will issue units, the unitholders shall have no voting rights but are entitled to be notified of any material change to the Prospectus, Product Highlight Sheet and the subscription agreement;
 - g. All members of the Board of Directors shall be Filipino citizens;
 - h. It shall have a minimum subscribed and paid up capital of Fifty Million Pesos (₱50,000,000.00). However, if the Investment Company is one of or part of a group of investment companies to be created or already in existence to be managed or under management by the same Fund Manager with a track record of at least five years, the subscribed and paid up capital shall not be lower than One Million Pesos (₱1,000,000.00) with the requirement of the submission of an affidavit stating that the fund manager is operating for at least five years.
 - i. The original proponents of a newly formed CDF, which is not related to an existing fund or Fund Manager with a track record of at least five (5) years, shall not be allowed to sell, transfer, convey, encumber or otherwise dispose of their securities within twelve (12) months from the registration of the CDF;
 - j. The pre-emptive right of stockholders to all issues or disposition of shares in proportion to their respective shareholdings shall be denied in the AOI of an Investment Company; and
 - k. The AOI shall likewise provide the following statement:
 - i. That any amendment to the CDF’s investment policies and objectives shall be approved by the shareholders of the fund;

- ii. That the CDF shall not either on its own or in conjunction with any person take legal or effective management control of its underlying investments;
- l. If it be a CDF with share/unit classes, the By-laws must expressly provide for the power of the Board of Directors to create and set up new classes of shares/units not exceeding the total number of shares/units approved or confirmed by the Commission.

IV. Disclosure Requirements in the Simplified Prospectus

A notarized simplified Prospectus and Product Highlight Sheet shall be submitted and approved by the Commission prior to the commencement of the offer. The prospectus must be prepared in accordance with the requirements set out in the Guidelines for CDF (Annex A) and provide the following minimum disclosures:

1. Business background of the Investment Company/CDF;
2. Description of Features of the Securities to be Offered including the characteristics of each share/unit class if any, as well as payment dates and probable yields for each class;
3. The commencement offering date of the CDF as well as commencement/ offering date of each unit/share class, if any;
4. The tenure and maturity of the CDF as well as tenure and maturity of each unit/share class, if any;
5. Policy on payment of proceeds of investment in case of liquidation or maturity of underlying assets of each share/unit class
6. Target Investors;
7. Investment Objective, Strategy and Limitations;
8. Valuation Methodology;
9. Level of protection for the investors including the rights of each holder;
10. Key Risks and Risk Management;
11. Plan of Distribution;
12. Investment powers of the Fund Manager with respect to the Fund;
13. Power of the Board of Directors to create and set up new classes of shares/units not exceeding the total number of shares/units approved or confirmed by the Commission;
14. Liability Clause of the Investment Company and Fund Manager;
15. Brief background of the parties involved in the offering of a CDF securities; and
16. Charges and Fees chargeable against the fund and investors.

V. Offering of the CDF

1. Product feature
 - a. CDF is a closed-end fund and subscription is done only on initial public offering and redemption at maturity.
 - b. The CDF may offer several share or unit classes managed as separate asset pools with the same investment objectives.
 - c. The CDF may make periodic distribution of income to investors of the fund on a pro-rata basis.
 - d. The CDF may pay out the proceeds of the underlying investments of each share/unit class upon their liquidation until the termination and maturity of all the securities of the Fund.

- e. The accounting business model of the underlying corporate debt portfolio is the Hold-to-Collect Business Model considering that the investments are held to the maturity. The business model shall ensure that the valuation of most of the portfolio shall be amortized cost, apart from instruments that do not meet the Solely Payments for Principal and Interest.
 - f. The CDF need not be listed or traded in an exchange.
 - g. The sale of CDF securities to any number of any qualified buyers (QBs) or to nineteen (19) persons and below in the Philippines during any twelve-month period are exempt from registration requirement under Section 8.1 of the SRC. Notwithstanding its exemption, the conduct by any person in the purchase, sale, distribution of such securities, settlement and other activities shall comply with the provisions in the SRC and any applicable rules.
2. Target investors
- a. A CDF may only be offered to Qualified Buyers (QBs) under private placements, however, CDF securities may also be offered to non-qualified buyers (non-QBs) not exceeding nineteen (19) persons in the Philippines during any twelve-month period
 - b. Every investor shall be given an evidence of participation which clearly indicates the terms and conditions of the CDF.
3. Distribution of CDF securities
- a. Shares or units of a CDF may be issued in tranches at more than one instance after the securities have been approved or confirmed by the Commission provided all the requirements in these Rules have been complied with and the corresponding filing fee has been paid;
 - b. The first tranche of CDF securities must be issued within six (6) months from approval of the Commission while the subsequent tranches shall be issued within three (3) months from the submission of the Current Report and Updated Simplified Prospectus;
 - c. At least thirty (30) days prior to the offering or sale of the securities of the subsequent tranches, the CDF shall inform the Commission through a Current Report of the material changes in the Simplified Prospectus previously approved or confirmed by the Commission, submit and reflect such changes in the Simplified Prospectus on file with the Commission and update those being distributed to the prospective investors including the relevant information in the website and other selling or advertising materials;
 - d. Unless the Commission shall prescribe otherwise, the initial minimum investment and additional investment by any single investor in any CDF shares or units issued shall be provided in the Simplified Prospectus.
 - e. Unless otherwise provided in the prospectus and approved by the Commission, CDF securities sold shall be on a cash basis. Installment sales are prohibited;
 - f. The distribution shall be performed only by a registered Mutual Fund Distributors and Certified Investment Solicitor.
4. Payment of Filing Fees
- a. The approval or confirmation by the Commission of the CDF shares as an exempt transaction shall be subject to a fee equivalent to one-tenth (1/10) of one percent (1%) of the maximum aggregate price based on the NAVPS of the CDF plus Legal Research Fee (LRF) but in no case shall be less than Php1,000.00.
 - b. Fees for issuance of units

The processing fee for every application for approval of units of participation shall be Ten Thousand Pesos (₱10,000.00) plus LRF, or such amount as may be prescribed by the Commission, regardless of the quantity of units to be confirmed

or approved. Each year thereafter, an annual fee of 1bps based on the average net asset value of the unitized funds shall be paid within thirty (30) days from the recently ended calendar year, or not later than 31 January of every year after the approval or confirmation of the units.

In case of shares intended to be issued in tranches at more than one instance after the Prospectus has been approved or confirmed by the Commission, the payment of filing fee is as follows:

- a. Upon filing of the Prospectus, a filing fee of 1/10 of 1% of the issued value based on the Net Asset Value Per Share (NAVPS) of the CDF of the first tranche of securities shall be paid. The same amount shall apply to subsequent tranches.
- b. The filing fees of the subsequent tranches shall be payable within thirty (30) days prior to commencement of the offer/sale of the particular tranche of the securities.
- c. The registrant shall execute an undertaking to:
 - i. Pay the remaining registration fees no later than thirty (30) business days prior to the expiry of the three (3) year period reckoned from the date of the approval or confirmation of the Prospectus; and
 - ii. And shall not offer the unpaid portion of the securities to the public until payment of the required fees.

5. Permissible Investments

- a. The proceeds from the issuance of CDF securities will be invested in corporate debts such as bonds and promissory notes, of large corporations and medium sized enterprises, however, pending deployment of CDF in accordance with its investment objectives, it can invest in deposits and money market instruments;
- b. The Investment Company/CDF and Fund Manager must ensure that the proceed from the issuance of CDF securities are in accordance with the investment policies and objectives provided in the Prospectus;
- c. The remaining term of corporate papers where the fund invests must not exceed the term of the CDF offered. In case of unit/share class, the corporate papers where the CDF invests shall not also exceed the term of such unit/share class;
- d. The Investment Company and/or Fund Manager must ensure that the issuer of the corporate debt security is regulated by the relevant regulatory authority.

6. Investment Limitations

- a. The value of a CDF's investments in Corporate Debt issued by a single enterprise must not exceed 25% of the fund's NAV and 50% in single group entities. The investment limit shall be computed based on the total proceeds of securities sold within the initial offering period.

Payout of the proceeds of underlying investments under a share/unit class upon their maturity or liquidation shall not affect the calculation of the single enterprise and single group investment limit provided there is no new class of share/unit added or launched by the CDF until the termination or maturity of the remaining classes.

However, in case of any additional launch of new share/unit class and issuance of securities thereunder by the CDF after the maturity of one share/unit class, the computation of the investment limit shall be based on the total proceeds of securities sold by the remaining classes and those of the new share/unit class.

- b. The single issuer limit in may be increased to 30% if the Corporate Debts are rated by any domestic or global rating agency to be the best quality and offer highest safety for timely payment of interest and principal, or may be waived if the CDF has a capital protection feature.
- c. The CDF shall be prohibited from investing in the securities it is issuing;
- d. The CDF shall not purchase from or sell to any of its officers or directors of the officers or directors of its investment advisor/s, manger/s, or distributor/s or firm/s of which any of them are members, any securities, other than capital stock of the CDF.

7. Other Limitations

- a. The total operating expenses of the CDF shall not exceed 10% of its average investment fund or net worth as shown in its previous audited financial statements covering the immediately preceding year.
- b. The CDF may borrow, on a temporary basis, for the purpose of meeting redemptions and bringing requirements provided that:
 - i. The borrowing period should not exceed one month;
 - ii. The aggregate borrowing shall not exceed 10% of the net assets of the CDF.

8. Parties to the Offer

The following parties to the offer of CDF shall comply with the basic qualifications requirements and responsibilities provided in the ICA IRR and any amendments thereto:

- a) Fund Manager
- b) Mutual Fund Distributor
- c) Certified Investment Solicitor
- d) Transfer Agent
- e) Independent NAV Calculator
- f) Custodian Bank, as applicable

VI. Reports and Records Requirements

1. Monthly Report showing net assets of the CDF, details of corporate debts acquired for the month, and the outstanding balance of the investments held in the portfolio;
2. Annual Audited Financial Statements and Interim Financial Statements must present a combined statement of net assets. However, it must also include a detailed breakdown of the financial statement for each class of share/unit.
3. Commencement and completion of the termination of the fund disclosing the actual date of commencement and termination period of the offering including the securities offered under a share/unit class and number and total amount of CDF securities sold;
4. Other reports and records as may be required by the Commission from time to time;
5. An Investment Company that offers CDF securities and/or a Fund Manager that manages an MFC and a CDF shall ensure proper booking and recording of transactions to separate the assets, liabilities, income and expenses corresponding to each type of securities issuance;
6. The daily Net Asset Value Per Share (NAVPS)/Net Asset Value Per Unit (NAVPU) of the CDF securities shall be posted on the Fund's Manager's and distributor's website/s provided the NAVPS/NAVPU must be calculated for each class of share/unit.

VII. Applicability of certain regulations

The provisions of ICA, SRC and their implementing rules regulations, and other regulations insofar as they are applicable and not inconsistent herewith, shall apply.

IX. Effectivity.

These rules shall take effect immediately after publication in two (2) newspapers of general circulation of the Philippines.



Annex A

Guidelines on the Submission of Simplified Prospectus

General Requirements:

1. Applications may only be submitted to the SEC by the following:
 - a) Investment Company
 - b) Fund Managers if authorized by the Board of Director of the investment company
2. Application must be submitted in accordance with the requirements set out under this guidelines, unless otherwise specified. Submission of application which does not comply with the requirements or which is incomplete will be returned.
3. The submitting party and any other person accepting responsibility for all or part of the information and documents submitted to the Commission must exercise due diligence for all or any part of the information submitted relating to, or in connection with the application.
4. The information provided in the submitted documents must be correct as of the latest practicable date.
5. The Commission must immediately be informed of (a) any material change in circumstances that would affect the Commission's evaluation of the application; and/or (b) any material change or development in circumstances relating to the application, occurring subsequent to the Commission's approval;
6. All applications must be accompanied with appropriate fee, where applicable. An application is deemed incomplete if the appropriate fee is not paid;
7. Payment of filing fee must be made in the form of cash, Manager/Cashier's Checks, or Postal Money Orders in favor of the Securities and Exchange Commission.
8. The submission of documents to the Commission must comprise the following:
 - a. Cover letter, specifying –
 - i. The application for approval of the exempt transaction;
 - ii. A confirmation that the accompanying documents are complete, signed and dated;
 - iii. A declaration stating that the offer complies with the requirements of the applicable rules in the ICA-IRR, Rules on CD~~VE~~ and the minimum requirements stipulated under these Guidelines.

- b. Simplified Prospectus and Supporting documents;
 - c. For an application to establish more than one fund, a separate application must be submitted for each fund.
9. The Prospectus is a document intended to provide investors and party to the offer with key information and disclosures to facilitate better understanding of the Fund.
10. The following format serve as a standard template in preparing the prospectus. The headings, layouts and disclosures shall be strictly followed; however, the issuer may opt to add sub-headings provided that these additions will result to clearer disclosure of key information:

SEC Form ICA – CDF

APPLICATION FOR COLLECTIVE DEBT VEHICLE

1. SEC Identification Number
2.
Exact name of registrant as specified in its charter
3. 4.
Province, country or other jurisdiction of BIR Tax Identification Number
incorporation or organization
5.
General character of business of registrant.
6. Industry Classification Code. (SEC Use Only)
- 7.....
Address, including postal code, telephone number, FAX number including area code,
of registrant's principal offices
8. Fiscal Year Ending Date (Month and Day):

INFORMATION REQUIRED IN THE PROSPECTUS

Item 1. General Information

- a. Name of the issuer
- b. Form of organization and date of registration
- c. General character of business of registrant (whether closed-end or open-end)

Item 2. Fundamental Policies of the Fund

Describe the policy or proposed policy of the issuer and the securities to be offered with respect to each of the following activities:

- a. Description of Features of the Securities to be Offered including the characteristics of each share/unit class if any, as well as payment dates and probable yields for each class;
- b. The commencement offering date of the CDF as well as commencement/ offering date of each unit/share class, if any
- c. Tenure of the Fund as well as the maturity of each share/unit class, if any
- d. Policy on payment of proceeds of investment in case of liquidation or maturity of underlying assets of each share/unit class
- e. Target Investors
- f. Investment Objective, Strategy and Limitations
- g. Valuation Methodology of Investments
- h. Level of protection for the investors including the rights of each holder;
- i. Plan of Distribution
- j. Investment powers of the Fund Manager with respect to the Fund
- k. Power of the Board of Directors to create and set up new classes of shares/units not exceeding the total number of shares/units approved or confirmed by the Commission.
- l. Liability Clause of the Investment Company and Fund Manager
- m. Brief background of the parties involved in the offering of a CDF securities
- n. Charges and Fees Chargeable to the Fund and Investors

Item 3. Key Risks and Risk Management

Disclose the key risks of the fund and provide short illustrations/explanations and the risk management processes employed in managing the Fund, as necessary.

Item 4. Financial Information of the Fund

Furnish the Issuer's most recent -financial statement for the two preceding fiscal years or such shorter period of existence.

Item 5. Fund Manager, Distributor and other participants

Disclose brief background for each participants and the nature of services to be rendered to the Fund.

PART II

Item 5. Exhibits

- a. Sample Product Highlight Sheet

- b. Board Resolution of the Investment Company approving the offering and authorizing the filing of the application;
- c. Board Resolution of the Investment Company approving the creation of new class of shares/units
- d. Board Resolution of the Investment Company and Fund Manager approving the disclosures contained in the simplified prospectus and assuming the responsibility for the information contained therein;
- e. Contracts/ Agreements
- f. Curriculum Vitae of Board of Directors and officers of the Fund and Fund Manager

PART III

Item 6. Signature

The application shall be signed by the President, Treasurer, Corporate Secretary, or any officer occupying a position equivalent to any of the foregoing or performing similar functions, and a majority of the Board of Directors of the Investment Company and the Fund Manager

SIGNATURES

Pursuant to the requirements of the rule, this simplified Prospectus is signed on behalf of the issuer by the undersigned, thereunto duly authorized, in the City of _____ on _____, 20__.

By:

SUBSCRIBED AND SWORN to before me this _____ affiants exhibiting to me his/her _____ as follows:

Name	Type of Identification	I.D. Number	Date/Place of Issue

Name	Type of Identification	I.D. Number	Date/Place of Issue

NOTARY PUBLIC

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