



**20 November 2020**

**MR. LIDUVINO S. GERON**

*Chairman*

**MS. LIZETTE MARGARET MARY J. RACELA**

*President and CEO*

**UCPB SAVINGS BANK, INC.**

18F UCPB Corporate Offices

Makati City

**RE: UCPB SAVINGS BANK, INC. AS A GOCC  
UNDER R.A. No. 10149**

Dear Chairman Geron and PCEO Racela,

In the advent of the Supreme Court rulings, declaring that the so-called Farmers' shares in UCPB and the Coconut Industry Investment Fund (CIIF) Companies are conclusively owned by the Republic,<sup>1</sup> the PCGG<sup>2</sup> and GCG entered into a Memorandum of Agreement (MOA)<sup>3</sup> whereby the former retained the regulation, supervision, and oversight functions over sequestered GOCCs, including the United Coconut Planters Bank (UCPB) and its subsidiaries.

Pursuant to the MOA, "[xxx] [a]fter it has been determined that a Sequestered/Surrendered GOCC falls within the definition of a GOCC and **after PCGG has been able to resolve all pending issues on the Government's equity ownership over the Sequestered/Surrendered GOCCs**, including resolution/settlement of all cases arising therefrom; it shall, using its best judgment, formally turn over jurisdiction over said GOCC in formal documentation which would then be acknowledged by a formal re-classification by GCG that such GOCC shall henceforth be covered by the provisions of RA No. 10149."<sup>4</sup>

Consequently, on 15 February 2016, the PCGG and GCG entered into a Supplemental MOA (SMOA), through which PCGG turned over the jurisdiction of UCPB, among others, to the GCG, with the PCGG continuing to exercise its mandate concerning sequestration, execution of judgement and other related legal issues involving UCPB.

On 09 November 2020, the PCGG and GCG signed an Addendum to the MOA and Supplemental MOA, mutually agreeing therein to modify the terms of the MOA and Supplemental MOA. In particular, the Addendum to the MOA confirmed the formal turnover to the GCG of several UCPB subsidiaries, including **UCPB SAVINGS BANK, INC.** (or the Bank).

<sup>1</sup> G.R. Nos. 177857-177858 and 1781933, 25 January 2012; G.R. No. 180705, 27 November 2012; Civil Case No. 0033-A entitled *Republic of the Philippines v. Eduardo M. Cojuangco, Jr. et. al.*

<sup>2</sup> Presidential Commission on Good Government

<sup>3</sup> Dated 4 July 2013.

<sup>4</sup> Item 4 of the MOA.

**UCPB SAVINGS BANK, INC.  
IS A GOCC/GFI**

Under Section 3 of Republic Act No. 10149, otherwise known as the *GOCC Governance Act of 2011*, a government-owned or -controlled corporation (GOCC) is defined as:

- (o) Government-Owned or -Controlled Corporation (GOCC) refers to any agency organized as a stock or nonstock corporation, vested with functions relating to public needs whether governmental or proprietary in nature, and **owned by the Government of the Republic of the Philippines** directly or through its instrumentalities either wholly or, where applicable as in the case of stock corporations, **to the extent of at least a majority of its outstanding capital stock**: Provided, however, That for purposes of this Act, the term "GOCC"- shall include GICP/GCE and GFI as defined herein. (*Emphasis supplied*)

Further, under the same section, a government financial institution (GFI) is defined as:

- (m) *Government Financial Institutions (GFIs)* refer to financial institutions or corporations in which **the government directly or indirectly owns majority of the capital stock** and which are either: (1) registered with or directly supervised by the Bangko Sentral ng Pilipinas; or (2) collecting or transacting funds or contributions from the public and places them in financial instruments or assets such as deposits, loans, bonds and equity including, but not limited to, the Government Service Insurance System and the Social Security System. (*Emphasis Supplied*)

UCPB Savings Bank, Inc. is an incorporated domestic thrift bank which provides deposit-taking, loans, domestic fund transfers, and treasury services.<sup>5</sup> The Bank is under the supervision of the Bangko Sentral ng Pilipinas, categorized as a thrift bank.<sup>6</sup> On the basis of the above definitions, thus, UCPB Savings Bank, Inc. is a GFI.

**1. UCPB SAVINGS BANK, INC. IS NOW  
COVERED BY R.A. No. 10149**

Being a GOCC/GFI, UCPB Savings Bank, Inc. is now covered by R.A. No. 10149, and is therefore subject to the regulatory powers of the Governance Commission for GOCCs (GCG).

Recognizing the potential of GOCCs as significant tools for economic development, the State created the GCG with the power to properly classify GOCCs according to sector,<sup>7</sup> as well as ascertain whether a GOCC should be reorganized, merged, streamlined, abolished or privatized.<sup>8</sup>

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<sup>5</sup> Notes to the Financial Statements, December 31, 2016 and 2015, as submitted to the SEC.

<sup>6</sup> As of 22 September 2020, BSP Director of Banks and Non-Banks.

<sup>7</sup> Sec. 5(b), R.A. No. 10149.

<sup>8</sup> Sec. 5(a), R.A. No. 10149.

In addition, the GCG is also charged with the duty to coordinate and monitor the operations of the GOCCs, and to review and assess their functions and performance for submission to the President. To ensure efficient and effective management of GOCCs, the GCG is empowered to identify the necessary skills and qualifications required for Appointive Directors and recommend to the President a shortlist of suitable and qualified candidates for Appointive Directors.<sup>9</sup>

In line with its regulatory function, the GCG is also empowered to recommend to the Board of Directors/Trustees of the GOCCs the suspension of any member of its Board for violation or non-compliance with the Ownership and Operations Manual,<sup>10</sup> without prejudice to the filing of administrative and criminal charges.<sup>11</sup>

With the aim of attracting and retaining talented personnel in the GOCC Sector, the GCG is also mandated to conduct compensation studies, develop and recommend to the President a competitive compensation and remuneration system, while at the same time, allowing the GOCC to be financially sound and sustainable.<sup>12</sup>

## **2. UCPB SAVINGS BANK, INC. IS NOW COVERED BY R.A. NO. 7656<sup>13</sup> (DIVIDENDS LAW)**

It is a declared policy of the State that in order for the National Government to realize additional revenues, GOCCs, without impairing their viability and the purposes for which they have been established, are required to share a substantial amount of their net earnings to the National Government. The UCPB Savings Bank, Inc., as a GOCC, is now required to declare and remit at least fifty percent (50%) of their annual net earnings as cash, stock or property dividends to the National Government.<sup>14</sup>

## **3. UCPB SAVINGS BANK, INC. IS NOW COVERED BY THE MORATORIUM ON INCREASES IN SALARIES, ALLOWANCES, INCENTIVES AND OTHER BENEFITS**

Section 8 of R.A. No. 10149 provides that:

The GCG, after conducting a compensation study, shall develop a Compensation and Position Classification System [CPCS] which **shall apply to all officers and employees of the GOCCs whether under the Salary Standardization Law or exempt therefrom** and shall consist of classes of positions grouped into such categories as the GCG may determine, subject to approval of the President. (*Emphasis supplied*)

Executive Order (E.O.) No. 7, s. 2010,<sup>15</sup> imposed a moratorium on increases in the rates of salaries, and the grant of new increases in the rates of

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<sup>9</sup> Sec. 5(e), R.A. No. 10149.

<sup>10</sup> GCG M.C. No. 2012-06.

<sup>11</sup> Sec. 5(d), R.A. No. 10149.

<sup>12</sup> Sec. 5(h), R.A. No. 10149.

<sup>13</sup> *An Act Requiring Government-Owned or Controlled Corporations to Declare Dividends Under Certain Conditions to the National Government, and For Other Purposes.*

<sup>14</sup> Sec. 3, R.A. No. 7656.

<sup>15</sup> *Directing the Rationalization of the Compensation and Position Classification System in the Government-Owned and Controlled Corporations (GOCCs) and Government Financial Institutions (GFIs), and For Other Purposes.*

allowances, incentives and other benefits, except salary adjustments pursuant to E.O. No. 900 dated 23 June 2010, until specifically authorized by the President. This moratorium continues to be in full force and effect until the CPCS developed by the GCG is approved by the President.

For the purposes of transparency, the Governance Commission enjoins UCPB Savings Bank, Inc. to submit a copy of its current total compensation framework.

#### **4. PARTICIPATION OF IN THE PERFORMANCE EVALUATION SYSTEM (PES)**

R.A. No. 10149 mandates the Governance Commission to actively exercise the State's ownership rights through the institutionalization of a Performance Evaluation System (PES).

Consistent with this mandate, the Governance Commission issued GCG M.C. No. 2013-02<sup>16</sup> to establish the Performance Evaluation System for the GOCC Sector. Under the PES, a GOCC is required to enter into a Performance Agreement, through their respective Governing Boards, as representative of the GOCC, and the GCG as representative of the State.

Section 4 of GCG M.C. No. 2013-02 provides that the Performance Agreement shall consist of (a) Charter Statement and Strategy Map (b) Performance Scorecard (c) Strategic Initiatives (d) Briefer and (e) Board Resolution.

The achievement of the targets of a GOCC in the PES is used as basis for determining the grant of the Performance Based Bonus (PBB) to qualified GOCC Officers and Employees and Performance Based Incentives (PBI) to Appointive Directors. The PES score of the GOCC is one of the components of the Performance Evaluation for Directors (PED), which is the basis to determine whether an incumbent Appointive Director is eligible for reappointment.

Currently, the GCG requires the GOCCs to comply with the PES documentary requirements and submission periods stated in GCG M.C. No. 2017-02<sup>17</sup>.

#### **5. APPOINTIVE DIRECTORS IN THE GOVERNING BOARD**

Section 3(c) of R.A. No. 10149 defines an Appointive Director as:

- (2) In the case of subsidiaries and affiliates, members of its Board of Directors/Trustees whom the GOCC is entitled to nominate, to the extent of its percentage shareholdings in such GOCC.

Under the Articles of Incorporation and By-Laws of the UCPB Savings Bank, Inc. the Board of Directors shall be composed of seven (7). Being a wholly-owned subsidiary of the UCPB who is also a GOCC under R.A. No. 10149, all the seats in the UCPB Savings Bank, Inc. Board of Directors are now considered Appointive Director seats.

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<sup>16</sup> Performance Evaluation System for the GOCC Sector.

<sup>17</sup> Interim Performance Evaluation System (PES) for the GOCC Sector, dated 30 June 2017.

**6. APPOINTIVE DIRECTORS ARE PRESIDENTIAL APPOINTEES WITH A TERM OF ONE (1) YEAR**

As provided under Section 15 of R.A. No. 10149, the seven (7) Appointive Directors in the UCPB Savings Bank, Inc. Governing Board shall now be appointed by the President of the Philippines from a shortlist prepared by the GCG. Said Appointive Directors shall have a term of one (1) year,<sup>18</sup> unless sooner removed for cause: *provided, however*, that the Appointive Director shall continue to hold office until the successor is appointed.<sup>19</sup>

**7. APPOINTIVE DIRECTORS ARE PUBLIC OFFICERS**

As presidential appointees, the Appointive Directors are now covered by the laws on public officers such as the *“Code of Conduct and Ethical Standards for Public Officials and Employees”*<sup>20</sup> and *“Anti-Graft and Corrupt Practices Act.”*<sup>21</sup>

Further, pursuant to Article XI, Section 17 of the 1987 Constitution and Section 8 of R.A. No. 6713, Appointive Directors, as public officers, are required to submit their annual Statements of Assets, Liabilities and Networth (SALNs). Civil Service Commission (CSC) Resolution No. 1500088 provides that the SALN of the Heads of GOCCs with original charters must be filed with the Office of the President (OP) and all other officials and employees in the central/main/national offices of GOCCs with or without original charters and their subsidiaries in the regions shall file their SALN with the CSC.

**8. FIT AND PROPER RULE AND PERFORMANCE EVALUATION FOR DIRECTORS (PED)**

It is a policy of the State to ensure that the governing boards of every GOCC and its subsidiaries are competent to carry out its functions, fully accountable to the State as its fiduciary, and act in the best interest of the State.<sup>22</sup>

As such, all members of the Board, the CEO and other officers of the GOCCs shall be qualified by the Fit and Proper Rule which is defined as the standards for determining whether a member of the Board of Directors/Trustees or CEO is fit and proper to hold a position in a GOCC which shall include, but not be limited to, standards of integrity, experience, education, training and competence.<sup>23</sup>

Further, an incumbent Appointive Director may be recommended for reappointment only if one obtains a performance score of above average or its equivalent or higher in the immediately preceeding year of tenure based on the performance criteria for Appointive Directors for the GOCC.<sup>24</sup> As such, an Appointive Director may be nominated for reappointment only if he obtains an overall rating of 85% in the Performance Evaluation for Directors (PED) for the previous Term of Office.<sup>25</sup>

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<sup>18</sup> Begins on 01 July of each year and ends on 30 June of the following year.

<sup>19</sup> Sec. 17, R.A. No. 10149.

<sup>20</sup> R.A. No. 6713.

<sup>21</sup> R.A. No. 3019.

<sup>22</sup> Section 2(e), R.A. No. 10149.

<sup>23</sup> Section 3(j), R.A. No. 10149 as adopted in GCG Memorandum Circular No. 2012-05.

<sup>24</sup> Section 17, R.A. No. 10149.

<sup>25</sup> GCG M.C. No. 2014-03.

**9. ELIGIBILITY OF APPOINTIVE DIRECTORS, OFFICERS AND EMPLOYEES TO THE GRANT OF PERFORMANCE-BASED INCENTIVES (PBI) AND PERFORMANCE-BASED BONUS (PBB)**

Section 23 of R.A. No. 10149 provides that the compensation, *per diems*, allowances and incentives of the members of the Board of Directors/Trustees of GOCCs shall be determined by the GCG using as reference E.O. No. 24.

In line with this, the Governance Commission has issued M.C. No. 2018-04.<sup>26</sup> The Circular outlines the conditions which the GOCC and the Members of the Governing Board need to fulfill to entitle the appointive members of the Governing Board to receive the performance-based incentive. The value of the PBI is based on the aggregate amount of the *per diems* received by a director during the calendar year accordingly computed with the rating which the director shall obtain from the Performance Evaluation for Directors (PED).

On the other hand, pursuant to E.O. No. 80,<sup>27</sup> s. 2012, the Governance Commission in its M.C. No. 2019-02,<sup>28</sup> issued rules and regulations for the grant of the Interim Performance Based Bonus to qualified GOCC Officers and Employees, pending the approval by the President of the **COMPENSATION AND POSITION CLASSIFICATION SYSTEM (CPCS)** as mandated by the R.A. No. 10149.

The grant of the PBB shall be based on the overall company performance, compliance with the Good Governance Conditions (GCGs), and Other Conditions and Requirements (OCRs), and and other requirements which may be identified in existing GCG issuances. The PBB amount authorized for release shall then be distributed to individual Officers and Employees based on the parameters defined in existing GCG issuances.

**10. COMPENSATION OF APPOINTIVE DIRECTORS  
SHALL BE BASED ON E.O. No. 24, s. 2011<sup>29</sup>**

In relation to this, the Governance Commission requests the submission of the audited financial statements of the UCPB Savings Bank, Inc. for the past three (3) years in order for us to evaluate and classify the same for purposes of the E.O. No. 24 Classification.

**11. ADOPTION OF A MANUAL OF CORPORATE GOVERNANCE**

Consistent with the policy of the State that the governance of GOCCs must be carried out in a transparent, responsible and accountable manner and with the utmost degree of professionalism and effectiveness, GCG M.C. No. 2012-07<sup>31</sup> requires every GOCC, acting through its Governing Board, to promulgate and adopt its corporate governance rules and principles in accordance with the Code of Corporate Governance for GOCCs.

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<sup>26</sup> 2014 Interim Performance- Based Incentive (PBI) System for Appointive Directors/ Trustees of GOCCs covered by R.A. No. 10149.

<sup>27</sup> Interim Performance-Based Incentive (PBI) System for the Appointive Directors of GOCCs Covered by GCG for FY 2016 and For The Years Thereafter..

<sup>28</sup> Interim Performance-Based Bonus (PBB)

<sup>29</sup> Prescribing Rules to Govern the Compensation of Members of the Board of Directors/Trustees in Government-Owned-or-Controlled Corporations Including Government Financial Institutions.

<sup>31</sup> Code of Corporate Governance for GOCCs.

## **12. ADOPTION OF A “NO GIFT POLICY”**

Section 29 of GCG M.C. No. 2012-07<sup>32</sup> mandates the Governing Board of GOCCs to formally adopt a “No Gift Policy” within their respective GOCCs and ensure its full advertisement to the community and strict implementation.

With UCPB Savings Bank, Inc. now considered a GOCC under R.A. No. 10149, it shall adopt the “No Gift Policy” and ensure its full implementation in line with the principle that public office is a public trust.

## **13. ADOPTION OF A “WHISTLEBLOWING POLICY”**

In accordance with GCG MC No. 2016-02 on the Revised Whistleblowing Policy for the GOCC Sector, all GOCCs under the regulatory jurisdiction of the Governance Commission are required to establish their own whistleblowing system, duly approved by their respective Governing Boards. Further, an online link to GCG’s whistleblowing web portal ([www.whistleblowing.gcg.gov.ph](http://www.whistleblowing.gcg.gov.ph)) must be established in their in their official websites.<sup>33</sup>

Compliance with all the requirements under the Revised Whistleblowing Policy for the GOCC Sector and amendments thereto is a Good Governance Condition for the grant of the PBB and PBIs, pursuant to GCG MC No. 2019-02.<sup>34</sup>

As such, the Bank is required to establish its own whistleblowing policy, subject to the purpose and policy considerations indicated in GCG MC No. 2016-02.

## **14. DIRECTORS’ AND OFFICERS’ LIABILITY INSURANCE**

GCG MC No. 2012-10 (3<sup>RD</sup> ISSUE)<sup>35</sup> grants all GOCCs covered by R.A. No. 10149 the authority to obtain DOLI coverage for the GOCC itself and/or members of their Governing Boards and Officers, subject to the guidelines set forth in the said circular.<sup>36</sup>

The GCG, however, recognizes that for some GOCCs, taking out DOLI coverage from accredited insurance providers may not be practical due to various circumstances. In this regard, the Governing Board may deem it more feasible and efficient to instead establish a “Directors’ and Officers’ Liability Fund” (DOLF), subject to the conditions enumerated in GCG MC No. 2012-10.<sup>37</sup> It bears stressing, however, that the DOLF must be submitted to the GCG for formal approval.<sup>38</sup>

It is worth noting that it is within the authority of the GOCC Governing Board to adopt a scheme which may be wholly DOLI-covered, or wholly DOLF-covered, or a combination of both, to ensure optimum coverage for the GOCC,

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<sup>32</sup> “No Gift Policy” of the Governance Commission for GOCCs (GCG).

<sup>33</sup> Item 12 of GCG MC No. 2012-06.

<sup>34</sup> Interim Performance-Based Bonus (PBB) dated 25 July 2019.

<sup>35</sup> Dated 07 January 2014.

<sup>36</sup> Item 6 of GCG MC No. 2016-02.

<sup>37</sup> Item V of GCG MC No. 2012-10.

<sup>38</sup> Item V(5) of GCG MC No. 2012-10.

taking into account its corporate operating environment, and the GOCC's litigation history.

#### **15. COMPLIANCE WITH THE INTEGRATED CORPORATE CORPORATE REPORTING SYSTEM (ICRS)**

As part of the disclosure and transparency requirements mandated under Section 5 (c)(6) and (9) of R.A. No. 10149, GCG M.C. No. 2014-02<sup>39</sup> requires GOCCs to publish and maintain in their respective websites and submit the required documents to the Governance Commission based on the components of the Integrated Corporate Reporting System as follows:

GOCC Monitoring System (GMS), which pertains to the financial information about the GOCC, such as but not limited to financial statements and corporate operating budgets; and

GOCC Leadership Management System (GLMS), which pertains to non-financial information regarding the GOCC's profile, such as but not limited to the latest version of the charter, performance scorecards and organizational structures. It includes information on incumbent Appointive Directors.

Moreover, under GCG M.C. No. 2019-02, the compliance and submission of reports through the ICRS is part of the OCRs in which the non-compliance thereof renders the officials and employees responsible for the compliance and implementation not entitled to the PBB for the applicable year.

All the memoranda circulars referred to above, including other circular that may be relevant in the carrying-on of the business of UCPB Savings Bank, Inc., are available on our website, [www.gcg.gov.ph](http://www.gcg.gov.ph).

**FOR YOUR INFORMATION AND GUIDANCE.**

Very truly yours,

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<sup>39</sup> *Policies and Guidelines on the Integrated Corporate Reporting System for the GOCC Sector.*



**[Name of GOCC]**

**SUMMARY OF FULL-TIME EQUIVALENT (FTE) EMPLOYEES**

<b>DEPARTMENT / UNIT</b>	<b>NUMBER OF REGULAR POSITION</b>	
	<b>AUTHORIZED</b>	<b>FILLED</b>
<b>TOTAL</b>		

\_\_\_\_\_  
Head of Human Resources

\_\_\_\_\_  
President/CEO