

[**OP Executive Order No. 179, March 18, 2015**]

PROVIDING THE ADMINISTRATIVE GUIDELINES FOR THE INVENTORY AND PRIVATIZATION OF COCO LEVY ASSETS

Adopted: 18 March 2015

Date Filed: 07 April 2015

WHEREAS, Presidential Decree (PD) No. 755 mandated the acquisition of a commercial bank for the benefit of coconut farmers (now the United Coconut Planters Bank, "UCPB") through the use of the Coconut Consumers Stabilization Fund (CCSF) and the distribution, for free, of the shares of stocks in UCPB to coconut farmers;

WHEREAS, pursuant to Section 9 of PD No. 1468, the Philippine Coconut Authority (PCA) was mandated to ascertain the amount of collections out of the CCSF and/or the Coconut Industry Development Fund (CIDF) which may be treated as surplus, and subsequently this ascertained surplus came to be known as the Coconut Industry Investment Fund (CIIF);

WHEREAS, UCPB was authorized under PD No. 1468 to utilize the CIIF in making investments in the form of shares of stocks in corporations organized for the purpose of engaging in the establishment and operation of industries and commercial activities and other allied business undertakings;

WHEREAS, pursuant to the foregoing mandate in respect of the CIIF and Letter of Instruction (LOI) No. 926 (s. 1979), UCPB acquired six (6) coconut oil mills corporations using the CIIF (collectively, the "CIIF Companies");

WHEREAS, the CIIF Companies thereafter acquired or organized fourteen (14) holding companies (collectively, the "CIIF Holding Companies");

WHEREAS, the CIIF Holding Companies later acquired shares of stock of San Miguel Corporation (SMC);

WHEREAS, the Supreme Court held, in *Philippine Coconut Producers Federation, Inc. (COCOFED), et al. v. Republic of the Philippines, et al.* (G.R. Nos. 177857-177858 and G.R. No. 178193), and *Republic of the Philippines v. Sandiganbayan, et al.* (G.R. No. 118661), that:

- a. Coconut levy funds are in the nature of taxes;
- b. Coconut levy funds cannot be used to purchase shares of stocks to be given for free to private individuals, and thus the so-called Farmers' UCPB Shares covered by 64.98% of the UCPB shares of stock are owned by the Republic of the Philippines; and

- c. The CIIF Companies, the CIIF Holding Companies, and the Converted SMC Series 1 Preferred Shares, totaling 753,848,312 shares, together with all dividends, are owned by the Government, to be used only for the benefit of the coconut farmers and for the development of the coconut industry;

WHEREAS, PD No. 1234 requires that all income and collections for special funds authorized by law, including the Coco Levy Funds, shall be remitted to the Treasury in the General Fund of the State but shall be treated as Special Accounts in the General Fund and shall be released to the implementing agencies subject to the approval of the President;

WHEREAS, it is necessary to prescribe administrative guidelines for the treatment of the Coco Levy Assets and the deposit of any privatization proceeds in the Special Account in the General Fund for Coco Levies (Coco Levy SAGF) to ensure that the Coco Levy Funds and Coco Levy Assets will only be utilized for the benefit of the coconut farmers and the Philippine coconut industry;

NOW, THEREFORE, I, BENIGNO S. AQUINO III, President of the Republic of the Philippines, by virtue of the powers vested in me, do hereby order and direct:

Section 1. Reiteration of Policy. All Coco Levy Funds and Coco Levy Assets reconveyed to the Government, whether voluntarily or through lawful order from a competent court, and all proceeds of any privatization of the Coco Levy Assets, shall be used solely and exclusively for the benefit of all the coconut farmers and for the development of the coconut industry.

Any disposition and utilization shall be guided by the following objectives:

- a. Improving coconut farm productivity, developing coconut-based enterprises, and increasing the income of coconut farmers;
- b. Strengthening coconut farmers' organizations; and
- c. Attaining a balanced, equitable, integrated, and sustainable growth, rehabilitation and development of the coconut industry.

Section 2. Definition of Terms.

2.1 *Coconut Levy* shall refer to the levies, taxes, enforced contributions, collections, assessments, or exactions imposed by the government pursuant to or in connection with the sale, delivery, or purchase of copra, copra resecada, or its equivalent in other coconut products, and collected for the most part from coconut farmers, planters, millers, refiners, processors, exporters, desiccators and other end-users of copra resecada or its equivalent in other coconut products, under, but not limited to, the following:

- a. Republic Act (RA) No. 6260, otherwise known as the Coconut Investment Act;
- b. PD No. 276 (s. 1973), entitled "Establishing a Coconut Consumers Stabilization Fund;"
- c. PD No. 582 (s. 1974), entitled "Further Amending Presidential

- Decree No. 232, as amended,”
- d. PD No. 961 (s. 1976), entitled “An Act to Codify the Laws Dealing with the Development of the Coconut and Other Oil Palm Industry and for other purposes;”
 - e. PD No. 1468 (s. 1978), entitled “Revising Presidential Decree No. 961;”
 - f. LOI No. 926 (s. 1979);
 - g. PD No. 1841 (s. 1981), entitled “Prescribing a System of Financing the Socio-Economic and Developmental Program for the Benefit of the Coconut Farmers, and accordingly amending the laws thereon;” and
 - h. PD No. 1842 (s. 1982), entitled “Amending Certain Provisions of Presidential Decree No. 1841, and creating a Coconut Reserve Fund;”
- 2.2 *Coco Levy Funds* shall refer to all the funds created or sourced from the Coconut Levy, including, but not limited to, the Coconut Investment Fund (“CIF”), the CCSF, which was later renamed as the Coconut Industry Stabilization Fund, the CIDF, and the CIIF.
- 2.3 *Coco Levy Assets* shall refer to the money, assets or properties, whether real or personal, tangible or intangible, wherever situated, arising from or otherwise funded by or acquired through the use or by means of any of the Coconut Levies or the Coco Levy Funds, directly or indirectly, including but not limited to shares, rights, and interests, whether vested, contingent, expectant, choate or inchoate, and any and all fruits, income, interest, or profits derived from these assets including those acquired in exchange or substitution thereof.

Section 3. Inventory of the Coco Levy Assets. Within sixty (60) days from the effectivity of this Order, the Presidential Commission on Good Government (“PCGG”) is hereby directed to:

- 3.1 With the assistance of the Office of the Solicitor General (OSG), submit a certified report to the Bureau of the Treasury (BTr), the Commission on Audit (COA) and the Office of the President, identifying and accounting for all known Coco Levy Assets. The Report shall indicate:
- a. Whether specific assets were surrendered to or sequestered by the PCGG;
 - b. The ownership structure of all corporations organized or acquired through the use, directly or indirectly, of the Coco Levy Funds, including their money, investments and assets, and all their subsidiaries and affiliates;
 - c. The investments in shares of stock of corporations, indicating the number of shares acquired through the use of Coco Levy Funds, the ownership structure, the business of such corporations and the subsidiaries and affiliates of such corporations;
 - d. The money, assets and investments (inclusive of any corporate interests) of the CIIF managed by UCPB;
 - e. The money, assets and investments of the CIIF Companies; and
 - f. The money, assets and investments of the CIIF Holding Companies.
- 3.2 Submit to the BTr for safekeeping, all stock certificates, certificates of