

**[ SEC MEMORANDUM CIRCULAR NO. 11, S. OF  
2008, December 05, 2008 ]**

**GUIDELINES ON THE DETERMINATION OF RETAINED EARNINGS  
AVAILABLE FOR DIVIDEND DECLARATION**

Pursuant to Sections 43 and 143 of the Corporation Code of the Philippines and Section 5 of the Securities Regulation Code, the following guidelines are set forth below and adopted in determining the appropriate amount of Retained Earnings available for dividend distribution taking into consideration the effective accounting standards and rules of the Commission.

*SECTION 1.* These guidelines shall cover the determination of availability of retained earnings for the following dividend declarations of stock corporations organized and existing under the Corporation Code of the Philippines, to wit:

- a) Cash dividend;
- b) Property dividend; and
- c) Stock dividend.

*SECTION 2. Definition of Terms*

*Retained earnings* - the accumulated profits realized out of normal and continuous operations of the business after deducting therefrom distributions to stockholders and transfers to capital stock or other accounts. The Retained Earnings shall be the amount as shown in the financial statements audited by the company's independent auditor. If applicable, such amount shall refer to the retained earnings of the parent company but not the consolidated financial statements.

*Unrestricted Retained Earnings* - the amount of accumulated profits and gains realized out of the normal and continuous operations of the company after deducting therefrom distributions to stockholders and transfers to capital stock or other accounts, and which is: (1) not appropriated by its Board of Directors for corporate expansion projects or programs; (2) not covered by a restriction for dividend declaration under a loan agreement; and (3) not required to be retained under special circumstances obtaining in the corporation such as when there is a need for a special reserve for probable contingencies.

*Outstanding capital stock* - means the total shares of stock issued to subscribers or stockholders, whether or not fully or partially paid (as long as there is a binding subscription agreement), except treasury shares.

*Board* - Board of Directors.

*Dividend* - refers to corporate profits allocated, lawfully declared and ordered by the Directors to be paid to the stockholders on demand or at a fixed time.

*Delinquent subscription* - refers to a subscription that has been declared by the Board as such after the subscriber failed to settle the same after a period of 30 days from the date the subscription became due as specified in the contract of subscription or in the call made by the board of directors.

*Paid-In Capital* - the amount of outstanding capital stock and additional paid-in capital or premium paid over the par value of shares.

*SECTION 3. Items affecting the Unrestricted Retained Earnings Account from an accounting purview:*

- a. Nominal or temporary or income statement accounts closed to Income and Expense Summary at the end of the period to determine actual results of operations during the period and further closed to Retained Earnings Account;
- b. Effects of changes in accounting policy;
- c. Foreign exchange gains and losses;
- d. Actuarial gains or losses;
- e. Share in the net income of associates/joint venture accounted under equity method of accounting;
- f. Dividend declarations during the period;
- g. Appropriations of Retained Earnings during the period;
- h. Reversals of appropriations;
- i. Effects of prior period adjustments;
- j. Treasury shares.

*SECTION 4. Prohibition on retention of profits in excess of paid-in capital.* Stock corporations are prohibited from retaining surplus profits in excess of one hundred (100%) percent of their paid-in capital stock, except:

- a. when justified by definite corporate expansion projects or programs approved by the board of directors; or
- b. when the corporation is prohibited under any loan agreement with any financial institution or creditor, whether local or foreign, from declaring dividends without its consent, and such consent has not yet been secured; or
- c. when it can be clearly shown that such retention is necessary under special circumstances obtaining in the corporation, such as when there is need for special reserve for probable contingencies.

*SECTION 5. Retained earnings available for dividends.* Dividends, whether cash, property or stock, shall be declared out of unrestricted retained earnings of the Corporation. Accordingly, a corporation cannot declare dividends when it has zero or negative retained earnings otherwise known as Retained Earnings deficit. For such purpose, the surplus profits or income must be a bona fide income founded upon actual earnings or profits. The existence, therefore, of surplus profits arising from the operation of corporate business is a condition precedent to the declaration of dividend.

For purposes of these Guidelines, the phrase "actual earnings or profits" as mentioned above shall be the net income for the year based on the audited financial