

**[ BSP CIRCULAR NO. 593, S. OF 2008, January 08, 2008 ]**

**AMENDMENTS TO UNIT INVESTMENT TRUST FUNDS (ULTFS) REGULATIONS**

Pursuant to Monetary Board Resolution No. 1499 dated 27 December 2007, Subsections X410.6/4410Q.6 and X410.7/4410Q.7 of the Manual of Regulations for Banks (MORB)/Manual of Regulations for Non-Bank Financial Institutions (MORNBFI), respectively, are hereby amended to read as follows:

*SECTION 1.* "Subsection X410.6/4410Q.6 Plan rules. Each UIT Fund shall be established, administered and maintained in accordance with a written trust agreement drawn by the trustee, referred to as the "Plan" which shall be approved by the Board of Directors of the trustee and a copy of which shall be submitted to the Bangko Sentral for PROCESSING AND approval prior to its implementation. EACH NEW UIT FUND PLAN FILED FOR APPROVAL SHALL BE CHARGED A PROCESSING FEE OF P10,000.00.

The Plan shall contain the following minimum elements:

- a. Title of the Plan. This shall correspond to the product/brand name by which the UIT fund is proposed to be known and made available to its clients. THE PLAN RULES SHALL STATE THE CLASSIFICATION OF THE UIT FUND (E. G., MONEY MARKET FUND, BOND FUND, BALANCED FUND AND EQUITY FUND).
- b. Manner by which the fund is to be operated. A statement of the fund's investment objectives and policies including limitations, if any.
- c. RISK DISCLOSURE. THE PLAN RULES SHALL STATE BOTH THE GENERAL RISKS AND RISKS SPECIFIC TO THE TYPE OF FUND.
- d. investment powers of the trustee with respect to the fund, including the character and kind of investments, which may be purchased, by the fund. There must be an unequivocal statement of the full discretionary powers of the trustee as far as the fund's investments are concerned. These powers shall be limited only by the duly stated investment objective and policies of the fund.
- e. The unitized NAVPu valuation methodology as prescribed under Subsection UX410.5.d /U4410Q.5.d shall be employed.
- f. Terms and conditions governing the admission or redemption of units of participation in the fund. THE PLAN RULES SHALL STATE THAT THE TRUSTEE, PRIOR TO ADMISSION OF A CLIENT'S INITIAL PARTICIPATION IN THE UIT FUND, SHALL CONDUCT A CLIENT SUITABILITY ASSESSMENT TO PROFILE THE RISK-RETURN ORIENTATION AND SUITABILITY OF THE CLIENT TO THE SPECIFIC TYPE OF FUND, if

the frequency of admission or redemption is other than daily; that is any business day, the same should be explicitly stated in the Plan rules: Provided that the admission and redemption shall be based on the END OF DAY NAVPU OF THE FUND COMPUTED AFTER THE CUT-OFF TIME FOR FUND PARTICIPATION AND REDEMPTION FOR THAT REFERENCE DAY, IN ACCORDANCE WITH EXISTING BSP REGULATIONS ON MARK TO MARKET VALUATION OF INVESTMENT SECURITIES.

g. Aside from the regular audit requirement applicable to all trust accounts, an external audit of each UIT funds shall be conducted annually by an independent auditor acceptable to the BSP and the results thereof made available to participants. The external audit shall be conducted by the same external auditor engaged for the audit of the Trust Entity.

h. Basis upon which the fund may be terminated. The RULES shall state the rights of participants in case of termination of the fund. Termination of the fund shall be duly approved by the trustee's Board of Directors and a copy of the resolution submitted to the appropriate department of the BSP.

i. Liability clause of the trustee. There must be a clear and prominent statement adjacent to where a client is required to sign THE PARTICIPATING TRUST AGREEMENT THAT (1) THE UIT FUND IS A TRUST PRODUCT AND NOT A DEPOSIT ACCOUNT OR AN OBLIGATION OF, OR GUARANTEED, OR INSURED BY THE TRUST ENTITY OR ITS AFFILIATES OR SUBSIDIARIES; (2) THE UIT FUND IS NOT INSURED OR GOVERNED BY THE PHILIPPINE DEPOSIT INSURANCE CORPORATION (PDIC); (3) DUE TO THE NATURE OF THE INVESTMENT, YIELDS AND POTENTIAL YIELDS CANNOT BE GUARANTEED; (4) ANY LOSS/INCOMARISING FROM MARKET FLUCTUATIONS AND PRICE VOLATILITY OF THE SECURITIES HELD BY THE UIT FUND, EVEN IF INVESTED IN GOVERNMENT SECURITIES, IS FOR THE ACCOUNT OF THE CLIENT/PARTICIPANT (5) AS SUCH, THE UNITS OF PARTICIPATION OF THE INVESTOR IN THE UIT FUND, WHEN REDEEMED, AMY BE WORTH MORE OR BE WORTH LESS THAN HIS/HER INITIAL INVESTMENT/CONTRIBUTORS; (6) HISTORICAL PERFORMANCE, WHEN PRESENTED, IS PURELY FOR REFERENCE PURPOSES AND IS NOT A GUARANTEE OF SIMILAR FUTURE RESULT; AND (7) THE TRUSTEE IS NOT LIABLE FOR LOSSES UNLESS UPON WILLFUL DEFAULT, BAD FAITH OR GROSS NEGLIGENCE.

j. Amount of fees/commission and other charges to be deducted from the fund. The amount of fees that shall be charged to a fund shall cover the fund's fair and equitable share of the routine administrative expenses of the trustee such as salaries and wages, stationery and supplies, credit investigation, collateral appraisal, security, messengerial and janitorial services, EDP expenses, BSP supervision fees and internal audit fees. However, the trustee may charge a UIT fund for special expenses IN CASE SUCH EXPENSES ARE (1) NECESSARY TO PRESERVE OR ENHANCE THE VALUE OF THE FUND, (2) PAYABLE TO A THIRD PARTY COVERED BY A SEPARATE CONTRACT, AND (3) DISCLOSED TO PARTICIPANTS. THE TRUSTEE SHALL SECURE PRIOR BSP APPROVAL FOR OUTSOURCING SERVICES PROVIDED UNDER EXISTING REGULATIONS. No other fees shall be charged to the fund.

Marketing or other promotional related expenses shall be for the account of the trustee and shall be presumed covered by the trust fee.

k. Such other matters as may be necessary or proper to define clearly the rights of

participants in the UIT Fund. The provisions of the plan shall govern participation in the fund including the rights and benefits of persons having interest in such participation, as beneficiaries or otherwise. The Plan may be amended by a resolution of the Board of Directors of the trustee: Provided however, That participants in the fund shall be immediately notified of such amendments and shall be allowed to withdraw their participation within a reasonable time but in no case less than thirty (30) calendar days after the amendments are approved, if they are not in conformity with the amendments made thereto: Provided further, That amendments to the plan shall be submitted to the Bangko Sentral within ten (10) business days from approval of the amendments by the Board of Directors. FOR PURPOSES OF IMPOSING MONETARY PENALTIES PROVIDED UNDER SUBSECTIONS X162.2/4162Q.3 OF THE MORB/MORNBFI, RESPECTIVELY, FOR DELAYED SUBMISSION OF REPORTS, THE AMENDMENTS TO THE PLAN SHALL BE CONSIDERED AS "CATEGORY A-3" REPORT. The amendments shall be deemed approved after thirty (30) business days from date of completion of requirements.

A copy of the Plan shall be available at the principal office of the trustee during regular office hours, for inspection by any person having an interest in the fund or by his authorized representative. Upon request, a copy of the plan shall be furnished such interested person."

*SECTION 2. "Subsection X410.7/4410Q.7 Minimum disclosure requirements.*

a. Disclosure of Unit Investment Trust Fund investments. A list of prospective and out standing investment outlets shall be made available by the trustee for the review of all UIT Fund clients. Such disclosure shall be substantially in the form hereto attached as Appendix 'A'<sup>\*</sup>. The list of investment outlets shall be updated quarterly.

b. Distribution of investment units. The trustee may issue such conditions or rules, as may affect the distribution of investment units subject to the minimum conditions enumerated hereunder.

(1) Marketing Materials. All printed marketing materials related to the sale of a UIT Fund shall clearly state:

a) The designated name and CLASSIFICATION of the fund and the fund's trustee.

b) Minimum information regarding:

(i) The general investment policy and applicable risk profile. THERE SHALL BE A CLEAR DESCRIPTION/EXPLANATION OF THE GENERAL RISKS ATTENDANT WITH INVESTING IN A UIT FUND, INCLUDING RISK SPECIFIC TO A TYPE OF FUND. TECHNICAL TERMS SHOULD LIKEWISE BE DEFINED IN LAY MEN'S TERMS.<sup>1</sup>

(ii) Particulars or administrative and marketing details like pricing and cut-off time.

(iii) All charges made/to be made against the fund, including trust fees, other related charges.