

NPO Sector Assessment:

Philippine Report

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The contents of this Report have been developed by a multi-sectoral team (called the Local Advisory Committee or LAC) organized by the Caucus of Development NGO Networks, Quezon City, Philippines, from October 2007 to August 2008. Portions of this study can be quoted as long as the proper acknowledgement of the report authors can be made. The following is the suggested citation of this report:

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Acknowledgments

This NPO Sector Assessment Report is a manifestation of the important contributions of non-government organizations (NGOs), people's organizations (POs), foundations, associations, cooperatives and other non-profit organizations (NPOs) to the well-being of Philippine society.

It comes from a project that aimed: 1) to pilot test and assess the NPO Sector Assessment Tool developed by the Charity Commission of England and Wales; 2) to gather desk-based data on the NPO sector; 3) to review the existing framework of NPO regulation in the Philippines and 4) to identify key risks to the NPO sector.

This report has been born from the labors and support of many individuals and institutions. We gratefully recognize the assistance and guidance of the International Program of the Charity Commission of England and Wales, particularly Mr. Ben Evans and Ms. Sarah Jane Digby. We are also grateful for the support provided by the International Monetary Fund Regional Office for Asia and the Pacific, the UK Foreign and Commonwealth Office and the Philippine government.

We would also like to thank the numerous government agencies and non-government organizations whose representatives participated in the Local Advisory Committee, provided information, were interviewed for this project and/or participated in the validation workshop, especially the Bangko Sentral ng Pilipinas (BSP), Department of Social Welfare and Development (DSWD), Cooperatives Development Authority (CDA), Department of Environment and Natural Resources (DENR), Securities and Exchange Commission (SEC), Association of Foundations (AF), Philippine Council for NGO Certification (PCNC), University of the Philippines National College of Public Administration and Governance (UP-NCPAG), as well as the Department of Health, Housing and Land Use Regulatory Board, Insurance Commission, Anti-Money Laundering Council Secretariat, Bureau of Internal Revenue, National Statistical Coordination Board and the National Economic and Development Authority.

The research and administrative support of the Foundation for Media Alternatives (FMA) is also gratefully acknowledged.

CODE-NGO was blessed to have worked on this project with highly committed and competent members of the Local Advisory Committee (LAC) and the Project Team. The LAC members are Atty. Celia Escareal-Sandejas (BSP), Ms. Raquel R. Ascaño (DSWD), Mr. Joey E. Austria (DENR), Ms. Ma. Alicia S. Bonoan (DSWD), Dr. Ma. Oliva Z. Domingo (UP-NCPAG), Ms. Marieta P. Hwang (CDA), Mr. Norman Joseph Q. Jiao (AF) and Ms. Felicidad I. Soledad (PCNC). Mr. Arnel Garcia of DSWD was a member of the LAC from November 2007 until July 1, 2008, when he was promoted to Regional Director (Region 2). The Project Team was composed of Mr. Randy Tuaño (Project Coordinator) and Ms. Josephine Tria (Project/Research Assistant) and was supported also by Mr. Al Alegre of FMA and Ms. Roselle Rasay, Mr. Mike Timajo and the Finance and Administrative Unit of CODE-NGO. We express to all of them our deep gratitude.

Sixto Donato C. Macasaet

Executive Director

CODE-NGO

8 August 2008

Executive Summary

Main Features of the Non-profit Organization (NPO) Sector:

According to the most recent comprehensive study, there were around a quarter of a million to half a million non-profit organizations in the country in 1997. More than half of this number was registered with national government agencies and were accredited by local government units.

As of 2007-08, registered organizations include, by legal type, around 89,000 non-stock corporations, 70,000 cooperatives, 5,000 homeowners associations and 15,000 workers organizations and trade unions. Most of non-stock organizations are small; the median size of the income and expenditures and assets and liabilities of these non-stocks is around P100,000.00 and P750,000.00. Around a third of registered non-stocks are based in Metro Manila, while a fifth are based in Central Luzon and Southern Tagalog. On the other hand, 60 percent of registered workers organizations are based in Metro Manila.

There were around 70,000 people's organizations registered with government in the late 1990s, and there is some evidence that this number may have declined at present. NPOs primarily assist or are organizations of marginalized sectors and the poor, but there are a significant number of non-profits that also advocate the interests of the professional and middle class.

Main Features of the Regulatory Framework:

The 1987 Philippine Constitution recognizes the right to organize non-government organizations and people's organizations. There are various laws that govern the operation of different types of non-profit organizations, including the Corporation Code, the Cooperative Code, and the Labor Code. There are also government agency and local government issuances that govern the registration, accreditation and licensing of various non-profit organizations, which is required for these organizations to obtain a juridical personality and to participate in public sector-initiative programs and projects. Most NPOs are tax-exempt. There have also been self-regulation initiatives in the NPO sector.

Strengths of the Sector and the Regulatory Framework:

NPOs provide a wide range of services to different sectors of society and have helped in institutionalizing many socio-economic policies and enhancing political participation that have widened opportunities for many sectors. Regulations have been rated effective to highly effective in terms of registration of the different types of NPOs.

Main Risks Identified:

There are five types of risks that have been identified- these include the following:

- risks that relate to the lack of government resources (limited resources of government regulatory agencies, incidental costs of registration for small NPOs is quite large vis-à-vis their incomes and assets);
- risks that relate to lack of information on NPOs (unevenness of information on NPOs, in terms of dissemination and availability; lack of detailed data on non-profit organizations; lack of distinction between profit and non-profit organizations in some agency databases);
- risks that relate to political influence in registration and regulation of NPOs (some for-profit

institutions are registered as non-profits institutions for tax purposes or as conduit of funds of politicians; NPO self regulatory initiatives are subject to political influences);

- risks that are related to limited awareness of regulations (NPOs' limited awareness about the regulatory measures and how they are implemented; differences in perception (between government and NPOs, and among NPOs) of 'protection' that has to be undertaken by government regulators);
- risks that are related to the lack of formal structures for regulation (many non-profits are not adequately regulated and supervised; limited formal structures and mechanisms for coordination among agencies in dealing with NPO matters).

In addition, some of the NPO risks that were identified are the following: dependence on declining grant funding from overseas; intervention of politicians and political groups in NPO decision-making processes; lack of accountability of NPO and their boards to their stakeholders and the general public; human and financial management issues; and the lack of clear outcomes and impacts. The causes of these vulnerabilities were attributed to: limited administrative capacity, pre-occupation with building donor relationships, inactive boards, and lack of clarity of board responsibilities and limited influence of non-profit organizations in official development assistance planning and programming.

Overall Assessment:

The present regulatory framework in terms of registration and licensing NPOs is very effective; and the rules are clear to most organizations. However, there is some debate on the effectiveness of rules in the areas of protecting non-profits and mitigating risks; government and non-government organization representatives in the LAC disagree based on their differing perspectives on the clarity of the guidelines issued by the government and the mandate and capacity of the government regulators.

Recommendations:

The main recommendations are to enhance coordination of regulatory agencies and develop and enhance structures that improve dialogue between NPOs and the government, improve proportionality in terms of regulation, develop rules that would enhance formalization of NPOs, and improve data quality and dissemination of NPO information.

Which agencies are responsible for implementing recommendations:

The bodies that are responsible for implementing the recommendations in this report are the regulatory agencies, especially the primary registering bodies, which are the Securities and Exchange Commission, the Cooperatives Development Authority, the Housing and Land Use Regulatory Board and the Bureau of Labor Relations. The focal agency identified by the LAC is the National Economic and Development Authority, the central planning agency of government, which has policy-making powers that can lead the regulatory bodies in implementing many of the listed recommendations.

Caveats and Dissenting Views:

None

Introduction

Recent years have seen unprecedented interest in the issue of non-government organization (NGO) sector legislation and regulation. There are many reasons: the unprecedented growth of the global NGO sector; the increasing sophistication of the sector; the growth of multinational NGOs; a more complex relationship with government as partner, service provider, critic and rival; and a focus on the sector as a potential weak-spot in global anti money laundering and counter terrorist financing efforts. These factors put pressure on both governments and NGOs to identify the risks to the NGO sector and develop effective regulatory systems to protect and support the NGO sector.

Effective regulation enhances the contribution NGOs can make in a country by promoting good governance and accountability within the NGO sector and consequently instilling donor confidence and public trust in NGOs' work. Effective regulation promotes a healthy NGO sector, and achieves a balance - minimizing the risk of misuse and abuse without stopping the legitimate development work of the vast majority of NGOs.

In contrast, poor regulation restricts the NGO sector's potential. Regulation that does not allow NGOs to work flexibly and respond rapidly to situations may stop vital work - NGOs often provide crucial assistance to people in very challenging situations. Most importantly, where countries have burdensome and/or unclear rules for NGOs, it is far more likely that donor resources will be driven underground and given to unknown and unseen organizations. In other words, introducing measures which overly restrict NGO activities may be counter-productive to increasing transparency and accountability.

Several papers on governance in the past few years have also noted the importance for NGOs to be more accountable to society. Regulatory frameworks and mechanisms have been set in place to ensure such accountability, whereby NGOs are required by law and regulation to provide baseline information periodically and to be subjected to supervision and monitoring to guaranty that programs and projects are effectively provided to intended beneficiaries.

Recent developments in the global community have focused on promoting self-regulation as the best means of ensuring ethical, responsible conduct by NGOs, especially in the wake of terrorism and terrorist financing issues.

The European Commission issued guidelines for Member States to coordinate the non-profit sector in the context of the fight against terrorism.⁷ This was adopted by the Committee of Ministers on 10 October 2007 at the 1006th meeting of the Ministers' Deputies. The EC Guidelines categorically provided that "*The activities of NGOs should be presumed to be lawful in the absence of contrary evidence*" and "*No external intervention in the running of NGOs should take place unless a serious breach of the legal requirements applicable to NGOs has been established or is reasonably believed to be imminent.*"

In September 2006, the U.S. Department of the Treasury issued updated *Anti-Terrorist Financing Guidelines: Voluntary Best Practices for U.S.-based Charities (Guidelines)*, taking into

⁷See, for example, <https://wcd.coe.int/ViewDoc.jsp?id=1194609&Site=CM&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75>. Retrieved on May 6, 2008.

consideration the comments and suggestions provided by the public to assist the charitable community in efforts to safeguard itself from the threat of abuse and exploitation by terrorist organizations. The Guidelines urge charities to take a proactive risk-based approach to protecting against illicit abuse and are intended to be applied by those charities vulnerable to such abuse in a matter that is commensurate with the risks they face and the resources with which they work.⁸

In realization and awareness of the essential contribution made by NGOs to the cultural life and social well-being of Philippine civil society, a technical assistance project was provided by the Charity Commission of England and Wales through its International Programme, for the conduct of an NGO Sector Assessment.

This report documents the findings of the assessment which was undertaken within the period of October 2007 to March 2008 pursuant to the pilot testing of an NGO Sector Review Tool developed by the Charity Commission of England and Wales. The history and methodology of the Tool are discussed in following chapters of this Report. The Tool is the copyrighted property of the International Programme of the Charity Commission for England and Wales. The Charity Commission does not charge for the use of the Tool. If you wish to use the Tool in your country, please contact the International Programme via the website (www.NGOregnet.org).

The Project has several objectives: 1) to pilot test and assess the Tool; 2) to gather desk-based data on the NGO sector; 3) review the existing framework of NGO regulation in the Philippines and 4) attempt to establish key risks to the NGO sector. For clarificatory purposes, this study will utilize the term ‘non-profit organization’ (or NPOs) as the broad definition of non-state agencies in the country. This is due to the fact that the term ‘non-government organization’ in the Philippines connotes a specific type of organization with volunteer board members or trustees that provides a wide range of social and economic development interventions by full-time and mostly paid professional workers to primary organizations (Korten, 1990).

The Tool deals with many of the recommendations and requirements of Financial Action Task Force (FATF)⁹ Special Recommendation VIII (SR VIII) on Terrorist Financing¹⁰. However, it has not been designed for the specific purpose of ensuring compliance with that recommendation. Whilst this Tool may assist in this process, government agencies responsible for ensuring compliance with SRVIII should refer directly to FATF or the relevant FATF-Styled Regional Body (FSRB)^{11, 12}.

A Local Advisory Committee (LAC) was established to oversee the assessment process in the Philippines. The LAC consisted of five representatives from government and four representatives

⁸ See the United States Treasury Press Release, <http://www.ustreas.gov/press/releases/hp122.htm>. Retrieved May 6, 2008.

⁹ See Glossary for definition of Financial Action Task Force.

¹⁰ FATF SR VII: Countries should review the adequacy of laws and regulations that relate to entities that can be abused for the financing of terrorism. Non-profit organizations are particularly vulnerable, and countries should ensure that they cannot be misused:

- (i) by terrorist organizations posing as legitimate entities;
- (ii) to exploit legitimate entities as conduits for terrorist financing, including for the purpose of escaping asset freezing measures; and
- (iii) to conceal or obscure the clandestine diversion of funds intended for legitimate purposes to terrorist organizations.

¹¹ See Glossary for Definition of FSRB.

¹² The Charity Commission NPO Assessment Tool Handbook, page 6.

from the NPO community – this cross representation was a vital factor in the implementation of the Tool. The LAC membership is as follows:

Name	Job Title	Organization
Raquel R. Ascaño	Regional Director, MIMAROPA (retired)	Department of Social Welfare and Development
Joey E. Austria	Chief, Indigenous Community Affairs Division	Department of Environment and Natural Resources
Ma. Alicia S. Bonoan	Director IV, Standards Bureau	Department of Social Welfare and Development
Ma. Oliva Z. Domingo, D. P. A.	Associate Professor	National College of Public Administration and Governance, University of the Philippines
Marieta P. Hwang	Chief, Registration Division	Cooperatives Development Authority
Norman Joseph Q. Jiao	Executive Director	Association of Foundations
Sixto Donato C. Macasaet	Executive Director	Caucus of Development NGO Networks
Celia Escareal-Sandejas	Chief of Staff of the Governor on Anti-Money Laundering	Bangko Sentral ng Pilipinas
Felicidad I. Soledad	Executive Director	Philippine Council for NGO Certification

The Assessment was divided into three main Parts:

- **Part One: Sector Survey** profiled the sector and the risks that affect it, also identifying areas where no information is available and further work is needed.
- **Part Two: Assessment of the Regulatory Framework** was an assessment of the effectiveness of the current regulatory framework. Effective regulation is broken down into six objectives. The objectives were then tested against seven key standards of effective regulation.
- **Part Three: Strategic Issues** was an opportunity to consider the broad strategic issues impacting upon the effectiveness of sector and the regulatory framework.

For the purposes of this report a non-profit organization has been defined as the following:

- an organization of several individuals;
- non-governmental, autonomous and self-governing;
- freely formed and run by a group of people;
- for a purpose which benefits a section of society;
- does not distribute a profit to its officers, board or members;
- can be either registered or unregistered;
- is not a political party nor a microfinance organization; and,
- includes cooperatives and religious organizations.

The following pages summarize the main findings of the Assessment and key recommendations which need to be taken forward. It has been completed to the best of the LAC's knowledge. This study covered the regulation of non-profit organizations being undertaken by the national government, through the four 'primary' regulatory agencies, including the Securities and Exchange Commission, the Cooperatives Development Authority, the Housing and Land Use Regulatory Board, and the Bureau of Labor Relations, and several 'secondary' regulatory agencies, such as the Department of Social Welfare and Development, the Department of Health, and the Insurance

Commission. The Philippine Council for NGO Certification as a self-regulatory mechanism for non-profit organizations was also briefly reviewed.

This study acknowledges that there is even a broader section of the non-profit organization sector, including people's organizations, except for those registered by the SEC, the Bureau of Labor Relations and the Housing and Land Use Regulatory Board, which needs to be understood as these were not extensively reviewed in this study. This study also was not able to examine the role of local government units in regulating the NPO sector.

The study was approved by the LAC members on July 28, 2008, with their signatures below:

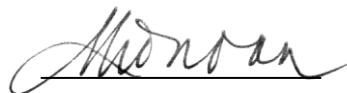
Raquel R. Ascaño



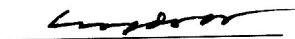
Joey E. Austria



Ma. Alicia S. Bonoan



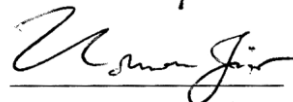
Ma. Oliva Z. Domingo



Marieta P. Hwang



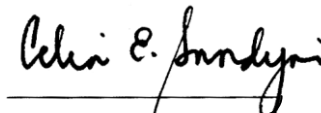
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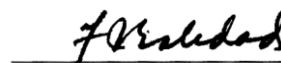
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Celia E. Sandejas



Felicidad I. Soledad



Research Process and Limitations

The roots of the project started in February 2006, when representatives of the International Program of the Charity Commission of England and Wales (CC), a non-ministerial department in the United Kingdom that serves as the regulator and registrar of charities in England and Wales, arrived in the Philippines to conduct a Southeast Asian regional workshop on the management of the NPO sector with the Department of Social Welfare and Development as Convenor. The workshop was held in Antipolo.

In June 2006, upon invitation of the CC, Securities and Exchange Commission Chairperson Fe B. Barin and Atty. Celia E. Sandejas, formerly Chief of Staff of SEC Chairperson Lilia R. Bautista and currently Chief of Staff on Anti-Money Laundering of the Bangko Sentral ng Pilipinas (BSP) Governor Amando M. Tetangco, Jr. (Chairman, Anti-Money Laundering Council) visited the CC offices in London. It was agreed during the meeting that the CC officials would conduct another workshop in Manila after the Asia-Pacific Group's Plenary Meeting in July 2006 with the SEC as Convenor. The workshop was attended by Philippine representatives from government and non-government sectors, who proposed several recommendations to improve the regulatory environment of NPOs.

In September 2006, the CC undertook a second regional workshop in Hongkong, where discussions were held on each participating country's government regulations on registration, supervision and monitoring of NPOs, as well as identification, investigation and prevention of misuse and abuse and the processes of dealing with such misuse and abuse.

Pursuant to the recommendation of the Philippine delegation, in January 2007, SEC Chairperson Fe B. Barin agreed to convene a Technical Working Group (TWG) to formulate Terms of Reference seeking technical assistance from the CC for the conduct of an NPO Sector Assessment. The CC agreed to provide technical assistance and conceptualized the Tool that was used in this project. The Tool was developed with the assistance of an advisory group made up of expert representatives from the NPO sector, government, donor and inter-governmental communities. Funding was provided by the International Monetary Fund and the Foreign and Commonwealth Office (the foreign affairs ministry in the UK government).

The CC entered into an agreement with the Caucus of Development NGO Networks (CODE-NGO) in September 2007, for the latter to be its partner in undertaking the project to pilot test and evaluate the Tool. CODE-NGO was chosen by the CC because as stated in the Tool, *"NGOs have greater access to other NGOs than governments. They have a much wider reach – geographically, their networks meet many different levels from the very local to the international, and with many different kinds of people. The NGO sector will therefore have a different way of engaging with society to that of the regulator and therefore they will have access to different information than government and access to a much wider network of NGOs."*

Thereafter, the Local Advisory Committee (LAC) was created to help CODE-NGO in the assessment and Tool evaluation process. The representatives from the government were chosen and invited by the CC based on their participation at the Regional Conferences in Antipolo (February 2006) and Hongkong (September 2006), at the special workshop held at Pasig City (July 2008) and their membership in the Technical Working Group that formulated the terms of reference for technical assistance. The representatives from the NPO sector were chosen and invited by

CODE-NGO based on their experience and active involvement in NPO affairs and activities. A Project Management Team acted as the Secretariat, gathered and analyzed data on NPOs from government agencies and NPO databases and from secondary sources, as well as existing laws and regulations on NPOs, and drafted the reports.

The Tool methodology is broken down into four parts.

A. Part One: Sector Survey

Part One is a desk-based survey of the NPO sector to gather information on the size and nature of the NPO sector and the major risks that affect it, or are perceived to affect it. It provides a framework for identifying and recording the key information on the NPO sector. It also identifies areas where no information is available or is outdated and helps establish where further work may be needed.

There are 4 stages to Part One:

Stage	Scope	Activities
1	Survey Scope or Scope of the Study	The LAC agrees on the scope of the survey or study and determines what organizations within the country fall within the definition of NPO.
2	Resource Management	The LAC develops a plan for implementing the Sector Survey/Study plan. The plan includes the allocation of resources, methods for obtaining information, a timetable and review and oversight procedures.
3	Research	Research begins to obtain information on the profile of the sector and the major risks that affect it. The information that needs to be collected is set out in the Sector Survey Questions. The results from the survey are entered into the Sector Survey spreadsheet
4	Report	The results are presented to the LAC. The LAC considers the results and notes any caveats, concerns or comments. The LAC completes the Sector Survey Summary Report.

The desk-based survey included data on the following:

- number and income of NPOs, including overseas income; risk/ abuse profile including vulnerabilities and nature, purpose, causes and perception of abuse (first priority according to the CC tool);
- profile of NPOs by size, legal type, activity, donors and funders, income types, beneficiary and expenditures (second priority);
- profile of NPOs by geographical location, membership size, and ‘invisible’ income (third priority).

The desk-based survey was undertaken by the project manager, Randy Tuaño, and the project research assistant, Josephine Tria, who collated several books and journals and statistical information available from the regulatory agencies and other publications to complete this step of the report. A survey was also undertaken for a small sample of SEC registered organizations. It had envisioned that the information collected will be of interest to a wide range of stakeholders. As well as being of general interest, it would provide specific information which should help policy makers when considering laws and regulations for the NPO sector.

In order to make allowances for capacity and capability in conducting the desk-based survey, the information collated by the profile is divided into a hierarchy of three different priority levels. Priority one data (number and total income, including those from overseas) is the most important information to be gathered, and up to 75% of resources should be allocated to obtaining this information to a good degree of confidence. Priority two information includes data on NPO activities, beneficiaries, sources of income and expenditures. The least essential information is priority three, and not every country will gather this information. However, during the collation of the data, all data containing all three levels of confidence were included in this Report.

In order to make a judgment on each source of information and how this might impact the result, the sources were classified into primary and secondary, whether the information is based on fact or anecdote or whether it is verified. The list of references for this Report is included in the Appendix.

B. Part Two: Assessment of the Regulatory Framework

Part Two assesses the effectiveness of the regulation framework and describes the totality of laws, regulations, systems, processes and activities which are designed to regulate the NPO sector.

The regulation framework is made up of six specific regulatory objectives: Establishing NPOs; Identifying NPOs; Identifying Concerns; Investigating Concerns; Protecting NPOs; and Mitigating Risk. Each 'objective' is designed to achieve a specific goal.

Part Two provides indicators to help assess how well these laws and regulations achieve the regulatory objectives. These indicators are: Well communicated, Fair, Proportionate, Feasible and Realistic, Context, Efficient and Enabling.

Part Two is divided into five (5) stages.

Stage	Scope	Activities
1	The Assessment Plan and Team	The LAC identifies the Assessment Team and develops an assessment plan. The plan should identify the laws, regulations, policies, regulatory agencies and organizations that will be subject to review. The plan should also establish the allocation of resources for the assessment, and provide such further clarifications and restrictions as are necessary.
2	The Assessment Approach	Assessment Team members should discuss and clarify the assessment plan and agree a common approach.
3	Paper Reviews	The first part of the review process is the paper review. Assessment team members should undertake a desk-based review of all relevant laws and regulations.
4	Review Visits	The second part of the review process is the review visit to the agencies and NPOs.
5	Assessment Meetings	Part Two concludes with a meeting of all Assessment Team members and the LAC. The meeting will use the information gathered to assess each regulatory objective as a whole, using the seven regulatory standards to assess how effectively it is being implemented. A regulatory score and comments for each objective will be agreed and recorded.

The LAC members took turns in interviewing government and non-government informants. More than 35 persons were interviewed from 20 government agencies and NPO organizations in Metro Manila, Cebu and Davao. Of the government agencies, four were the primary registration authorities for NPOs: the Securities and Exchange Commission (SEC), the Cooperative Development Authority (CDA), the Housing and Land Use Regulatory Board (HLURB) and the Department of Labor and Employment (DOLE). The other government agencies were the secondary registration, licensing or accreditation authorities for NPOs: the Department of Social Welfare and Development (DSWD), the Department of Health (DOH) and the Insurance Commission (IC). An NPO certification body, the Philippine Council for NGO Certification (PCNC), was also briefly reviewed. CC representatives, Ben Evans and Sarah Jane Digby, arrived from London to join the LAC members in conducting the interviews in Metro Manila, Cebu and Davao and observed the assessment process, which was undertaken for a period of two weeks, from January 14 to 25, 2008 although several interviews were also undertaken outside of these dates.

There are four effectiveness assessment ratings coded according to color: Effective (Green), Mostly Effective (Yellow), partially Effective (Orange) and Not Effective (Red). These were utilized in the assessment of whether the Philippine government in general was able to achieve the regulatory objectives set in the manual.

C. Part Three: Strategic Issues

Strategic issues are the broad issues which impact on the effectiveness of the regulatory framework. Part Three takes these issues one level higher and encourages discussion and brainstorming at a more strategic level.

Stage	Scope	Activities
1	Considers Keys Risks and Issues	The LAC takes the information it already has on the sector and the regulatory framework and considers what factors (risks and wider issues) might prevent the overall system from working;
2	Identification of Key Risks and Issues	A tool is provided which will help the LAC identify these risks. The use of the “Five “Whys” or the Problem Tree is recommended as a useful tool to aid discussion.
3	Prioritization of Key Risks and Issues	The issues are then prioritized terms of impact and significance and probability of occurrence – classifying them according to high, medium or low – and plotting them in a risk matrix to help determine how significant the problems are and what kind of action might be necessary. The closer the issue or risk is to ‘high probability’ and ‘high impact’ the greater the need for immediate action.
4	Strategizing to overcome Key Risks and Issues	Thereafter, strategies need to be considered following a Tool Template on how these key risks and issues can be overcome.

The results of Parts 1 and 2 were collated and discussed in full during a workshop conducted in Tagaytay City on January 24 and 25, 2008, which finalized the assessments of individual regulatory agencies including the four primary NPO registration agencies (the SEC, the CDA, Bureau of Labor Relations, and the Housing and Land Use Regulatory Board) and three secondary registration agencies (the DSWD, the Insurance Commission and the Department of Health).

The assessment of the NPO regulatory environment was undertaken in a collective way among government and NPO representatives of the LAC. Key strategic risks in the regulatory environment and their root causes were also identified, and a preliminary assessment of the regulatory tool was undertaken.

Two LAC meetings on February 15 and 29, 2008, were undertaken after the Tagaytay workshop. During these meetings, the LAC identified key regulatory issues were finalized and then prioritized. A probability score (high, medium, low) was assigned to each of the issues. The issues were then plotted against a risk matrix. The second of the two meetings focused on finalizing the strategies to mitigate the risks.

Although not a requirement under the Tool, the LAC decided to hold a workshop to validate the results and findings of the assessments. The validation workshop was conducted on March 28, 2008, in Pasig City, with around thirty participants coming from both government and non-profit organization sectors. The results of the workshop validated the assessments of specific regulatory agencies made by the LAC, and the list of risks and vulnerabilities and the interventions to reduce the impacts of these risks were also developed by the LAC in consultation with the workshop participants. The results of the workshop were utilized to modify certain parts of this Report.

D. Part Four: The Final Report

Part Four is the Final Report. The Final Report is the ultimate outcome of the Assessment. It summarizes the results from Parts One, Two and Three and identifies the main features of the sector, the main risks and recommends priority steps for the future. The LAC undertook meetings in April and then in July, 2008, to finalize this report.

Not all secondary registration and licensing/accreditation agencies were covered in this study. Letter-requests were sent by CODE-NGO to other agencies but, due to the short time frame of the project and the non-availability of interviewees within the schedules for interviews requested by the LAC, the requests were not accommodated. Other than the fact that Metro Manila, Cebu and Davao were among the biggest urban centers (and represent the major island regions) in the country, cost considerations and time constraints were also major factors in choosing the branch and regional offices of SEC, CDA and DSWD located in these cities for the interview part of this project.

Profile of NPO Sector

I. INTRODUCTION

This section provides a brief overview of the non-profit organization (NPO) sector in the Philippines. The data includes the estimated number of NPOs, estimated total income/ funds, as well as funds from overseas, and a profile of the sector using the following level of disaggregation:

- by legal type, size, and activity;
- by profile of funders/donors, and types of income;
- by beneficiary profile;
- by expenditure profile.

NPOs as defined by the LAC includes both registered and unregistered organizations, and are limited to those who do not distribute their profits to their members, plus cooperatives which distribute “surplus” to its members, who are their main customers or beneficiaries. Thus, NPOs refer to all non-stock and non-profit organizations, cooperatives, labor unions, mutual benefit organizations, social development groups and people’s organizations, and other types of organizations not explicitly affiliated with any government entity. Religious and indigenous groups are also included but not political parties and microfinance organizations.

II. SOURCES OF DATA

This data will be presented using the different NPOs, by their legal type:

- A. **NPOs in general.** Unfortunately, there is very scant recent quantitative evidence on NPOs. Published results of surveys that were consulted, including Racelis (2002) and Barlis- Francisco (2002), both derived from the Johns Hopkins - University of the Philippines Comparative Nonprofit Sector Project study undertaken in the 1997-1999 period. Data on development NGOs, or the section of the NPO sector that are engaged in social development activities, both registered and unregistered, was taken from the Association of Foundations (2001), while those of people’s organizations were derived from Buendia (2005).
- B. **Non-stock, non-profit corporations:** The data for this section was gathered from the Securities and Exchange Commission data as of March 15, 2008. The data included the estimated number of non-stock corporations by their regional location, industrial code and nature of organization. A smaller sample of 885 organizations was also examined by the research team for specific data including number of officers and trustees, staff and members, income and expenditures and assets and liabilities.
- C. **Cooperatives:** The data is exclusively derived from the annual reports of the Cooperatives Development Authority for 2006 to 2008.
- D. **Homeowners associations:** The data is derived from the Housing and Land Use Regulatory Board National Capital Region data.
- E. **Trade unions:** The data is derived from the Bureau of Labor Relations (BLR), which provided a list of data on basic labor statistics, including the number of workers

organizations and trade unions and their membership, the number of collective bargaining agreements and the number of covered workers. A detailed list of both independent unions and local affiliations of trade union federations was also provided by the BLR.

III. DISCUSSION OF SECTORAL PROFILE

A. Non-Profit Organizations in General

Size. The last estimate of the total number of non-profit organizations was made in 1997; according to Cariño (2002), this number range from a low of 249,000 to a maximum size of 497,000 (see Table 1 for more details on the estimated number of registered non-stocks, cooperatives, non-government organizations, accredited people's organizations and other people's organizations).

Table 1. Number of non-profit organizations, 1997, in thousands

Type of non-profit organization	Low estimate	High estimate
Registered non-stock, non-profit corporation	21	75
Cooperatives	25	41
Non-government organizations	34	68
Accredited people's organizations	109	114
Other people's organizations	60	199
Total size	249	497

Source: Cariño (2002).

Income size. It has been estimated by Racelis (2002) that the non-profit sector has a total income size of P 6.2 billion pesos to P 69.4 billion in 1997 prices with a mean of P 36.5 billion (see Table 2 on total estimated expenditures of non-profit organizations). This has been estimated from various sources including an approximation of the proportion of personal consumption expenditure spent on non-profit organizations and on a four-city survey of non-profit organizations. Using the weighted SEC-registered non-profit estimate of expenditures, the estimated revenues of the non-profit sector is around P 40.8 billion (or 1.7 percent of the country's gross domestic product).

Table 2. Total expenditures of non-profit organizations, 1997, in millions of pesos

Estimation method	Expenditures	Percent of GDP
Non-profit institution serving household (NPISH) estimate	6,167	0.25
NPISH plus non-profit schools, hospitals and electric cooperatives	25,187	1.04
Four-city survey estimate	20,930	0.86
Four-city survey estimate with SEC raising factor	69,409	2.86
Weighted SEC-registered non-profit estimate	36,497	1.50

Source: Racelis (2002).

Sources of income. Barlis-Francisco (2002) using a survey from Makati non-profit organizations in 1997 showed that a large percentage of the incomes of development and housing organizations, business, professional organizations, and unions, are derived from membership dues, endowments and investments are also significant sources of income of business and professional organizations. On the other hand, education and research organizations derived more than three-quarters of their incomes from enterprise-based (or service) fees.

Table 3. Source of income of Makati non-profit organizations, 1997, percent of total income, except for total revenues

Revenue sources	Development and housing organizations	Business, professional organizations, unions	Education and research organizations
Government grants and contracts	0.4	0.0	10.2
Private donations	8.3	8.8	2.7
Transfers from parent organizations	0.2	0.4	0.0
Economic enterprise-based fees	4.6	8.6	78.3
Membership dues	85.0	61.3	0.0
Endowments/ investments	1.6	20.9	8.7
Total revenues (nominal pesos)	85,724,859	33,801,885	294,006,935

Source: Barlis-Francisco (2002).

On the other hand, Racelis (2002) estimated the distribution of sources of non-profit sector revenue by the International Classification of Non-Profit Organization (ICNPO) category. ICNPO is the system of categorization adopted by the United Nations to denote the different types of non-profit organizations. Table 4 shows the source of income by different types of non-government organizations. Enterprise-based fees dominate the income of education and research groups and health groups. Government fees comprise a majority of income of groups involved in law, advocacy and politics and social services. Philanthropic intermediaries receive a significant percentage of their incomes from private transfers. Membership dues provide two-thirds of incomes of environment groups and business associations and trade unions, while half of the incomes of culture and recreation groups are derived from investment earnings.

Table 4. Source of income of different types of non-profit organizations, 1997, percent of total income, by ICNPO group

ICNPO group	Government	Private transfers	Transfers from private organizations	Enterprise-based fees	Membership dues	Investment earnings
Culture and recreation	2.8	1.3	1.5	40.7	3.8	49.9
Education and research	0.6	0.5	0.4	94.6	0.0	3.9
Health	12.9	9.2	30.5	44.5	2.5	0.4
Social services	11.5	56.3	14.3	6.7	6.6	4.6
Environment	10.7	25.3	0.0	0.0	64.0	0.0
Devt. and housing	8.2	1.6	0.1	22.7	39.1	28.2
Law, advocacy and politics	58.3	35.7	1.6	0.0	4.2	0.3
Philanthropic Intermediaries	12.2	56.1	14.8	0.8	0.5	15.6
International	0.0	0.0	100.0	0.0	0.0	0.0
Religions	0.0	31.8	49.4	0.7	18.2	0.0
Business associations, unions	10.1	7.3	0.0	13.0	62.5	7.0
Not classified	0.0	0.0	0.0	0.0	0.0	0.0
All groups	9.6	14.6	3.9	43.5	10.3	18.1

Note: For more information on the International Classification of Non-Profit Organization system, see the United Nations Handbook on Non-Profit Institutions in the System of National Accounts http://unstats.un.org/unsd/publication/SeriesF/SeriesF_91E.pdf.

Source: Racelis (2002).

Expenditure profile. Barlis-Francisco (2002), from their survey of non-profit organizations in Makati, estimated that more than a third of expenditures are spent on operating expenses, while

administrative expenses take up more than forty percent of business and professional organizations and trade unions and education and research organizations. Table 5 shows the expenditures of non-profit organizations in 1997.

**Table 5. Expenditures of non-profit organizations, 1997,
by percent of spending (except for total revenues which is in nominal figures)**

Expenditure items	Development and housing organizations	Business, professional organizations, unions	Education and research organizations
Programs and Projects	23.5	9.9	10.1
Administrative	19.4	42.9	47.9
Transfers to other organizations	6.0	0.0	2.3
Operating expenses	36.4	36.7	38.1
Capital expenditures	3.4	0.4	1.6
Others	11.4	10.1	0.0
Total revenues (in nominal pesos)	29,542,934	106,128,235	12,290,863

Source: Barlis-Francisco (2002).

Sectoral clientele. Barlis-Francisco (2002) estimated that almost half of the clientele of non-profit organizations are the members of these organizations. One-fifth of the beneficiaries, on the other hand, are classified as ‘the poor’, while more than 16 percent are middle class. Table 6 below show the beneficiaries of non-profit organizations in selected cities.

**Table 6. Beneficiaries of non-profit organizations in selected cities, 1997,
by proportion of beneficiary**

Beneficiary type	Davao	Iloilo	Makati	Mean
Members	56	22	52	45
Others				
- Social welfare groups	9	8	9	9
- 'The poor'	18	32	12	19
- Middle class	12	24	14	16
- Institutions	1	5	4	3
- The public	3	9	5	7
Organizations	414	207	246	867

Source: Barlis-Francisco (2002).

Invisible Income/ Volunteers. Racelis (2002) estimated that there are more than 600,000 volunteers that work in non-profit organizations; this is the full-time equivalent of 195,532 workers. Table 7 show the estimated number of volunteers and the full-time equivalent of these volunteers for 1997.

Table 7. Estimated number of volunteers & full-time equivalent, 1997, by ICNPO classification

ICNPO group	Estimated number of volunteers	Full-time equivalent
Culture and recreation	241,402	53,032
Education and research	12,085	5,619
Health	18,080	7,550
Social services	24,151	5,537
Environment	2,676	268
Development and housing	107,969	23,148
Law, advocacy and politics	2,268	661
Philanthropic Intermediaries	1,169	462
International	503	25
Religions	24,361	10,796
Business associations, unions	193,535	78,566
Not classified	NA	NA
All groups	630,696	195,532

Source: Racelis (2002).

In sum, there are numerous NPOs in the Philippines, reaching more than half a million by the mid to late 1990s. Their total economic contribution reached more than one percent of gross national product. A significant number of these NPOs rely on earned fees and investment earnings, which are used for administrative expenses. A significant proportion of NPO beneficiaries are their own members rather than poor groups.

i. Non-government organizations

Non-government organizations (NGOs) are defined as intermediary agencies and organizations that operate with a full-time staff complement and provide a wide range of services to primary organizations. The data on NGOs are taken from the 2001 Association of Foundations (AF) - Caucus of Development NGO Networks (CODE-NGO) survey of development NGOs, which was published in 2002; around 732 non-government organizations participated in the survey.

Size profile; total income and funds. It has been estimated by the AF-CODE-NGO survey that the total income of the NGO sector is P 12.3 billion. Around 38 percent of the income, or around P 4.2 billion, are sourced from grants from foreign foundations, and bilateral and multilateral institutions.

Sources of income. The 2001 AF – CODE-NGO survey showed that a significant percent of income of development NGOs are sourced from foreign foundations and bilateral grants. Donations ranged from 16 to 19 percent of NGO revenues while earned (or service) fees also comprise around 15 to 17 percent of total NGO income. Table 8 shows the sources of revenues of selected development NGOs.

Table 8. Sources of revenues of selected development NGOs, by type, 1997- 1999

Sources of Funds	1997	1998	1999
Membership Fees	1.8%	1.7%	2.0%
Earned Fees	17.3%	16.2%	15.4%
Bilateral Grants	5.7%	10.1%	10.3%
Multilateral Grants	2.2%	2.0%	3.0%
Foreign Foundation Grants	21.1%	23.4%	24.5%
Local Private Grants	4.0%	3.0%	2.8%
Church Grants	2.6%	3.0%	3.2%
Government Grants	3.7%	3.4%	4.3%
Endowment	8.5%	7.7%	7.3%
Loans from Government	0.1%	0.2%	0.0%
Loans from Conduits	0.1%	0.2%	1.1%
Loans from Private Sector	0.1%	0.0%	0.3%
Fundraising Programs	0.8%	0.9%	0.1%
Donations	19.9%	19.2%	16.1%
Other Income	11.8%	9.0%	8.7%

Source: Association of Foundations (2002).

Beneficiary profile. A majority of non-government organizations provide services for youth and children (56.9 percent of respondents) and women (53.4 percent); around a third assists peasants (34.5 percent), urban poor (32.9 percent), indigenous peoples (29.9 percent) and fisherfolk (29.1 percent). On a small percent of development NGOs in the survey assist veterans and persons with disabilities.

Table 9. Clientele of selected development NGOs, by type, 1999

Sectoral clientele	Percent
Youth and Children	56.9
Women	53.4
Peasants	34.5
Urban Poor	32.9
Indigenous Peoples	29.9
Fisherfolk	29.1
Victims of Calamities and Disasters	16.9
Labor	13.2
Elderly	11.1
Persons with Disability	7.2
Veterans	3.3

Source: Association of Foundations (2002).

Geographical profile. According to the AF- CODE-NGO survey, besides the National Capital Region, almost one in ten (9.2 percent) of respondents are located in Region 11 (Southern Mindanao) and almost one in twelve (7.9 percent) have main offices located in Region 6 (Western Visayas). More than one in twenty each are located in Region 4 (Southern Tagalog) (5.6 percent) and Region 5 (Bicol Region) (5.2 percent). The regions with the least number of respondents having offices in their areas are Region 1 (Ilocos) (0.7 percent), Region 2 (Cagayan Valley) (0.8 percent) and Region 12 (Central Mindanao) (1.6 percent).

Based on the survey, the number of NGOs in provinces with large urban centers is quite high. In Luzon, respondents are located in Albay, Camarines Sur (Naga), Benguet (Baguio) and Palawan. A majority of those located in Mindanao are in Davao del Sur (Davao), Misamis Oriental (Cagayan de Oro) and Zamboanga del Sur (Zamboanga), and in the Visayas, Cebu, Iloilo and Negros Occidental (Bacolod).

Table 10. Regional location of selected development NGOs, by type, 1999

Region	Percent
Ilocos	0.7
Cagayan Valley	0.8
Central Luzon	1.3
Southern Tagalog	5.6
Bicol	5.2
Western Visayas	7.9
Central Visayas	4.6
Eastern Visayas	2.2
Western Mindanao	2.6
Northern Mindanao	3.1
Southern Mindanao	9.2
Central Mindanao	1.6
Cordillera Administrative Region	3.8
National Capital Region	21.2
CARAGA	1.8
Autonomous Region for Muslim Mindanao	1.4

Source: Association of Foundations (2002).

NGOs, in summary, locate their main office in urban areas, provide services mainly for socially-marginalized groups such as women and children, and were dependent on foreign foundation grants and earned fees.

ii. People's organizations (POs).

POs are membership-based organizations formed largely on a voluntary basis (occasionally having full-time staff) function as community-sector, or issue-based primary groups at the grassroots (e.g. trade unions, environmental advocacy groups, peasant groups.).

According to Buendia (2005), there are a total of 70,306 people's organizations in the Philippines in the late 1990s; in his count, he included cooperatives and trade unions as part of the universe of people's organizations. Table 11 below shows the breakdown of the number by type of organizations. Based on the recent report of some government agencies, there has been a decline in the number of these organizations.

Table 11. Number of people's organizations, by type

Type	Buendia (2005)	Year	Latest	Year	Source
Rural workers' organizations	14,039	1999	12,187	2006	Department of Labor and Employment
Agrarian reform beneficiaries associations	2,464	1999	na		
Fisherfolk organizations	2,205	1999	na		
Indigenous people's councils	1,607	1999	na		
Urban poor organizations	3,524	1999	11,794	2007	Presidential Commission on the Urban Poor
Rural improvement clubs	9,326	1987	8,857	2007	Department of Agriculture
Working women's organizations	7,257	1999	na		
Agrarian reform beneficiaries women's organizations	1,714	1999	na		
Working youth organizations	1,474	1999	na		
4-H clubs	4,303	1999	3,189	2007	Department of Agriculture
Senior citizens' associations	22,393	1999	na		
Total	70,306		na		

Note: The year in the third column shows the period in which the number of POs was based, according to the primary sources of Buendia (2005). Data in the fourth to sixth columns provides a brief update on the data obtained by this research study.

Source: Buendia (2005), Presidential Commission on the Urban Poor (2007), Department of Agriculture (2007).

B. Registered Non-Stock, Non-Profit Organizations.

Non-stock, non-profit corporations are defined under Section 87 of Batas Pambansa 68 or the Corporation Code of the Philippines, which states: “xxx a non-stock corporation is one where no part of its income is distributable as dividends to its members, trustees, or officers, xxx, Provided, That any profit which a non-stock corporation may obtain as an incident to its operations shall, whenever necessary or proper, be used for the furtherance of the purpose or purposes for which the corporation was organized. There are a total of 76,512 non-stock, non-profit corporations in the Philippines, as of March 15, 2008, from data provided by the Securities and Exchange Commission. Around 51,363 non-stocks (or 67.1 percent) have been registered from 2001 to 2008, while the rest were registered from 1936 to 2000.

Table 12. Regional location of registered non-stock, non-profit organizations, as of March 15, 2008

REGION	Old	New	Total	Percent
Ilocos	1526	1841	3367	4.4%
Cagayan Valley	419	1156	1575	2.1%
Central Luzon	2113	5186	7299	9.5%
Southern Tagalog	3938	10822	14760	19.3%
Bicol	780	1581	2361	3.1%
Western Visayas	1253	2162	3415	4.5%
Central Visayas	1043	1896	2939	3.8%
Eastern Visayas	311	630	941	1.2%
Zamboanga Peninsula	502	783	1285	1.7%
Northern Mindanao	701	690	1391	1.8%
Davao Region	1478	2780	4258	5.6%
Socksargen	224	180	404	0.5%
Metro Manila	8163	18545	26708	34.9%
CAR	890	1356	2246	2.9%
ARMM	220	434	654	0.9%
CARAGA	408	522	930	1.2%
Not specified	1180	799	1979	2.6%
Grand Total	25149	51363	76512	100.0%

Note: Old organizations refer to those that were registered from 1936 to 2000, while new organizations were those registered from 2001 to 2008.

Source of basic data: Securities and Exchange Commission (2008).

A large proportion of those registered are ‘other membership organizations’ which comprise more than 40 percent of registered non-stocks. Twelve percent of those registered are ‘activities of trade unions and workers organizations’, ten percent are activities of ‘religious organizations’, while eight percent are business and employers organizations. See Table 13 below for the industrial classification of the non-stock corporations.

Table 13. Industrial classification of registered non-stock, non-profit organizations, as of March 15, 2008

Industrial classification	Old	New	Total	Percent
Organizations involved in real estate activities	268	170	438	0.6%
Organizations involved in research and experimental development	79	1	80	0.1%
Miscellaneous business activities	3	681	684	0.9%
Public technical and vocational post-secondary non-degree	109	2	111	0.1%
Private pre-school education	1235	1002	2237	2.9%
Private elementary education	324	1981	2305	3.0%
Private general secondary education	178	209	387	0.5%
Private technical and vocational post-secondary non-degree	63	739	802	1.0%
Private higher education	206	348	554	0.7%
Activities of business and employers organizations	3904	2147	6051	7.9%
Activities of professional organizations	849	970	1819	2.4%
Activities of trade unions	2469	6700	9169	12.0%
Activities of other membership organizations	117	25	142	0.2%
Activities of religious organizations	2201	5232	7433	9.7%
Activities of political organizations	1001	3	1004	1.3%
Activities of other membership organizations, n. e. c.	10352	21501	31853	41.6%
Sports associations	217	1	218	0.3%
Organizations involved in other recreational activities	81	1	82	0.1%
Organizations involved in other amusement and recreational activities, n. e. c.	162	1	163	0.2%
Miscellaneous service activities, n.e.c.	4	886	890	1.2%
Others	1316	1004	2320	3.0%
Not classified	11	7759	7770	10.2%
Total	25149	51363	76512	100.0%

Note: Others are those other organizations that cannot be classified as one of the categories listed above. See Appendix for definition of the classifications.

Source of basic data: Securities and Exchange Commission (2008).

i. Sample data set from SEC database

Number. A sample of 885 non-profit organizations was taken from the full list of 82,356 organizations to check for data that can be obtained from the respective group's general information sheet and audited financial statement. Of the 885 organizations, 355 or 42.5 percent, were registered from 1936 to 2000, while 480 or 57.5 percent, were registered from 2001 to 2007.

Geographical location. A significant proportion of non-profit organizations that were registered originated from Metro Manila (36.6 percent). This ratio did not change significantly between the two time periods (1936 to 2000 and after 2000). Southern Tagalog had the next highest proportion at 17.8 percent. But the ratio of registered organizations was smaller in the period after 2000, compared to before 2000. The increase in the proportion of registered organizations in the post-2000 period were recorded for the Ilocos, Cagayan Valley, Western and Central Visayas, Western, Southern and Central Mindanao, CARAGA, Cordilleras Administrative Region (CAR) and the Autonomous Region for Muslim Mindanao (ARMM). See Table 14 below for the regional location of sample non-stocks.

Table 14. Sample number of non-stock corporations, by region and year of registration, 2008

Region	Registered between 1936 to 2000		Registered from 2001 to 2007		Total registered with the SEC	
	Number	Percent	Number	Percent	Total	Percent
NCR	125	35.2%	181	37.7%	306	36.6%
Ilocos	22	6.2%	14	2.9%	36	4.3%
Cagayan Valley	13	3.7%	4	0.8%	17	2.0%
Central Luzon	25	7.0%	55	11.5%	80	9.6%
Southern Tagalog	42	11.8%	107	22.3%	149	17.8%
Bicol	11	3.1%	16	3.3%	27	3.2%
Western Visayas	18	5.1%	19	4.0%	37	4.4%
Central Visayas	21	5.9%	11	2.3%	32	3.8%
Eastern Visayas	2	0.6%	7	1.5%	9	1.1%
Western Mindanao	7	2.0%	8	1.7%	15	1.8%
Northern Mindanao	6	1.7%	9	1.9%	15	1.8%
Southern Mindanao	21	5.9%	18	3.8%	39	4.7%
Central Mindanao	15	4.2%	11	2.3%	26	3.1%
CARAGA	5	1.4%	2	0.4%	7	0.8%
CAR	16	4.5%	15	3.1%	31	3.7%
ARMM	6	1.7%	3	0.6%	9	1.1%
Total	355	100.0%	480	100.0%	835	100.0%

Source of basic data: Securities and Exchange Commission (2008).

The offices of most of the registered organizations are located in cities. 233 (or 65.6 percent) of the 355 organizations registered until 2000, and 298 (or 62.0 percent) of the 480 organizations registered after 2000 had their main offices in cities.

Availability of General Information Sheets and Audited Financial Statements. Table 15 below shows the number of sample non-profit organizations with general information sheets (or GIS in the second column) and audited financial statements (or AFS in the fourth column). The availability of GIS and AFS data for the years 2001 to 2007 was checked in the I-View. Of the sample organizations registered from 1936 to 2000, 177 (or 46.6 percent of 1936- 2000 registered organizations in the sample) have submitted at least one year of GIS data, while of those registered from 2001 to 2007, 56 (or 11.1 percent of 2001- 2007 registered organizations in the sample) have provided at least one year of their GIS data.

A slightly smaller percentage of organizations in the sample have submitted their AFS; 149 (or 39.2 percent) for 1936- 2000 sampled organizations and 66 (or 13.1 percent) for 2001- 2007 sampled organizations.

Table 15. Sample organizations with GIS and AFS data, and those with updated 2006 data

Year of registration	With GIS	With 2006 GIS data	With AFS	With 2006 AFS data	Sample
1936- 2000	177 (46.6%)	26 (6.8%)	149 (39.2%)	60 (15.8%)	380
2001- 2007	56 (11.1%)	10 (2.0%)	66 (13.1%)	17 (3.4%)	505
Total	243 (27.5%)	26 (4.1%)	214 (24.3%)	77 (8.7%)	885

Source of basic data: Securities and Exchange Commission (2008).

Note: Percentages beside nominal figures refer to the ratio within the sub-sample of the year of registration (i.e., sample of organizations registered between 1936 to 2000, and 2001 to 2007) and for the whole sample. With 2006 GIS data means that the non-profit has submitted 2006 GIS/ AFS and data on number of officers or staff, in the case of GIS, or assets, liabilities, income or expenditures, in the case of AFS, are available.

Of the sample organizations registered between 1936 and 2000, only 26 have 2006 general information sheets in which the numbers of their officers or staff are actually listed. Only ten of those registered between 2001 and 2007 have these numbers.

Of the sample organizations registered between 1936 and 2000, only 60 have 2006 annual financial statements; only 17 of those registered between 2001 and 2007 have these statements.

Organizational and Financial Data. Of the non-profits registered from 1936 to 2000, according to the SEC-I-View, the online database of records registered in the SEC (include zero and non-zero categories):

- a) The 177 organizations with GIS data had an average of around 9.8 members or staff members or trustees, and 6.7 officers per organization. The median number of staff was 7, while the median number of officers was 5.
- b) The 149 organizations which had audited financial records had combined assets of P6.84 billion or an average of P51.1 million, and combined liabilities of P2.93 billion or an average of P26.7 million. These organizations had a combined annual income of P1.23 billion, or an average of P11.3 million, and a combined annual expenditure of P1.43 billion, or an average of P13.2 million.
- c) However, the average numbers were influenced by the inclusion of the Manila Electric Company Employees' Savings and Loan Association. With this figure, the average income of the sample would be P 5.8 million while the average asset size would be P 16.5 million. Most of the non-profits had income and assets between P100,000.00 and P 1 million.
- d) The financial records of many organizations in the sample are not available for the most fiscal recent years (2005 or 2006). In most cases, in getting the combined financial amounts, we utilized the most recent financial record, which can be as late as 2002.

Table 16. Data for sample non-stock, non-profit corporations registered from 1936 to 2000

Data	Mean	Median
Staff	9.8	7.0
Officers	6.7	5.0
Assets (pesos)	51,081,683.07	640,013.62
Liabilities (pesos)	26,723,526.06	303,629.58
Income (pesos)	11,283,948.75	505,500.00
Expenses (pesos)	13,220,975.46	465,048.28

Source of basic data: Securities and Exchange Commission (2008).

Of the organizations registered from 2001 to 2007, according to the I-View, the online database of records registered in the SEC in Table 17:

- a) The 56 organizations that had GIS data had an average of around 7.5 staff and 5.2 officers per organization. The median number of staff was 8 while the median number of officers is 5.
- b) The 66 organizations that had AFS data had a combined assets of P179.6 million or an average of P3.0 million, and combined liabilities of P59.6 million or an average of P1.4 million. These organizations had a combined annual income of P95.8 million, or an average of P1.7 million, and a combined annual expenditure of P76.8 million, or an average of P1.4 million.

Table 17. Data for sample non-stock, non-profit corporations registered from 2001 to 2007

Data	Mean	Median
Staff	7.5	8.0
Officers	5.2	5.0
Assets	3,043,629.40	162,628.46
Liabilities	1,419,184.09	61,718.90
Income	1,711,529.27	170,602.40
Expenditures	1,449,427.75	161,922.80

Source of basic data: Securities and Exchange Commission (2008).

Of the whole sample, according to the SEC I-View, the online database of records registered in the SEC in Table 18:

- a) Those with GIS data had an average of 8.9 staff and 6.3 officers, and a mean of three staff and five officers.
- b) Those with AFS data had an average of P 36.4 million and P 19.7 million in assets and liabilities, respectively, and an average of P 8.0 million in income and P 9.3 million in liabilities. The median for assets is P 367,979, for liabilities is P 105,114.65, for income, P 286,554.25, and for expenditures, P 282,364.93.

Table 18. Data for non-stock, non-profit corporations in the whole sample

Data	Mean	Median
Staff	8.9	3.0
Officers	6.3	5.0
Assets	36,396,474.96	367,979.04
Liabilities	19,731,536.83	105,114.65
Income	8,035,127.59	286,554.25
Expenditures	9,345,869.69	282,364.93

Source of basic data: Securities and Exchange Commission (2008).

C. Cooperatives

A cooperative is defined under Republic Act 6938 or the Cooperative Code of the Philippines as “*a duly registered association of persons, with a common bond of interest, who have voluntarily joined together to achieve a lawful common social or economic end, making equitable contributions to the capital required and accepting a fair share of the risks and benefits of the undertaking in accordance with universally accepted cooperative principles.*” There are 70,154 cooperatives in the Philippines as of February 2008, according to preliminary figures obtained from the Cooperatives Development Authority. These included 21,068 operating cooperatives, 21,473 non-operating cooperatives, 15,427 cooperatives that have been dissolved and 12,286 that had their cooperative registrations cancelled. This is in Table 19.

Table 19. Number of cooperatives, by type of operation/ registration, as of February, 2008

Region	Registered	Operating	Non-Operating	Dissolved	Cancelled	Delisted
National Capital Region	5851	2239	431	394	2808	-
Ilocos	4662	1205	1022	1410	1045	-
Cagayan Valley	3491	727	1856	215	694	-
Cordillera Administrative Region	2174	640	174	379	984	-
Central Luzon	8523	2425	2143	845	3118	-
Southern Tagalog	8683	2188	2964	2891	645	-
Bicol	4091	908	536	1615	1043	-
Western Visayas	5559	1542	3476	178	373	-
Central Visayas	3388	1863	1366	124	38	-
Eastern Visayas	3959	976	121	2454	410	398
Western Mindanao	3157	898	1022	583	658	-
Northern Mindanao	3759	1238	655	1658	208	-
Southern Mindanao	5410	1964	3202	190	56	-
Central Mindanao	4794	1169	2037	1422	168	-
CARAGA	2653	1086	468	1069	38	-
ARMM	NA	NA	NA	NA	NA	NA
Total	70154	21068	21473	15427	12286	398

Source: Cooperatives Development Authority (2008).

Geographical location. The regions with the most number of registered cooperatives are those closest to Metro Manila. These are Southern Tagalog with 8,669 cooperatives (12.4 percent) and Central Luzon with 8,514 cooperatives (12.2 percent). There are 5,851 registered cooperatives (8.4 percent) in the National Capital Region. The following is the breakdown of cooperatives in other regions: Ilocos, 4,674 (6.7 percent); Cagayan Valley, 3,031 (4.3 percent); Cordilleras Administrative Region, 2,175 (3.1 percent); Bicol, 4,098 (5.9 percent); Western Visayas, 5,563 (8.0 percent); Central Visayas, 3,379 (4.8 percent); Eastern Visayas, 3,956 (5.7 percent); Western Mindanao/ Zamboanga peninsula, 3,159 (4.5 percent); Northern Mindanao, 3,752 (5.4 percent); Southern Mindanao/ Davao, 5,410 (7.8 percent); Central Mindanao, 4,795 (6.9 percent); and CARAGA, 2,656 (3.8 percent).

Metro Manila and its neighboring regions had the highest percentages of operating cooperatives. Central Luzon had 2,408 cooperatives (11.5 percent), National Capital Region, 2,218 (10.6 percent), and Southern Tagalog, 2,169 (10.3 percent). The following is the breakdown of other regions: Ilocos, 1,197 (5.7 percent); Cagayan Valley, 725 (3.5 percent); Cordilleras, 638 (3.0 percent); Bicol, 904 (4.3 percent); Western Visayas, 1,536 (7.3 percent); Central Visayas, 1,851 (8.8 percent); Eastern Visayas, 994 (4.7 percent); Western Mindanao/ Zamboanga peninsula, 896 (4.3 percent); Northern Mindanao, 1,243 (5.9 percent); Southern Mindanao, 1,962 (9.3 percent); Central Mindanao 1,168 (5.6 percent); and CARAGA, 1,081 (5.2 percent).

In the May 2007 semi-annual report of the CDA, the agency reported that there were 68,141 primary cooperatives and 1,184 secondary and primary cooperatives. These figures do not include 98 ‘laboratory’ cooperatives, which are not formally registered but are issued with certificates of recognition, are organized by minors and should be affiliated with registered cooperatives.

Table 20- A. Number of primary cooperatives, by type, 2007

Cooperative type	Credit	Consumer	Production	Marketing	Service	MULTI-PURPOSE		Total Primary
						Agriculture	Non-agriculture	
TOTAL	4,794	1,355	1,379	841	1,797	33,352	24,623	68,141

Note: Primary cooperatives are defined as cooperatives whose members are 15 or more individuals.

Source: Cooperatives Development Authority (2007).

Table 20-B. Number of secondary and tertiary cooperative, by type, 2007

Cooperative type	Area-based Marketing Cooperative	Cooperative Rural Bank	Federation	Union	Total secondary and tertiary	Total Cooperatives	Laboratory coops
TOTAL	6	84	952	142	1184	69,325	98

Note: Secondary cooperatives are defined as cooperatives whose members are primary cooperatives, while tertiary cooperatives are defined as a conglomeration of two or more secondary cooperatives.

Source: Cooperatives Development Authority (2007).

Types. Of the primary cooperatives, 57,975, or 85.1 percent, are multi-purpose cooperatives (33,352 are agriculture-based, while 24,623 are non-agriculture based), 4,794 (7.0 percent) are purely credit cooperatives, 1,355 (2.0 percent) are purely consumer cooperatives, 1,379 (2.0 percent) are purely production-based cooperatives, 841 (1.2 percent) are purely marketing cooperatives and 1,797 (2.6 percent) are purely service cooperatives.

Of these operating cooperatives as reported in May 2007, 263 are secondary and tertiary cooperatives, 20,321 are primary cooperatives while 60 are laboratory cooperatives. Of the primary cooperatives that are operating, 1,649 (8.1 percent) are purely credit cooperatives, 355 (1.7 percent) are purely consumer cooperatives, 266 (1.3 percent) are purely production-based cooperatives, 188 (0.9 percent) are purely marketing cooperatives, 666 (3.3 percent) are purely service cooperatives and 17,197 (84.6 percent) are multi-purpose cooperatives, of which 8,502 are agriculture-based and 8,695 are non-agriculture based.

Table 21- A. Number of operating primary cooperatives, by type, 2007

Cooperative Type	Credit	Consumer	Production	Marketing	Service	MULTI-PURPOSE		Total Primary
						Agriculture	Non-agriculture	
TOTAL	1649	355	266	188	666	8502	8695	20321

Source: Cooperatives Development Authority (2007).

Table 21-B. Number of operating secondary and tertiary cooperative, by type, 2007

Cooperative type	AMC	CRB	Federation	Union	Total secondary and tertiary	Total Cooperatives	Laboratory coops
Number	41	161	55	6	263	20,584	61

Source: Cooperatives Development Authority (2007).

The types of cooperatives which have the highest percentage of operating cooperatives are cooperative banks (77 percent), cooperative unions (63 percent), and laboratory cooperatives (61 percent). The regions which have the highest percentage of operating cooperatives (out of the total number of cooperatives) are Central Visayas (56 percent), CARAGA (40 percent), Metro Manila (38 percent), and Northern Mindanao (37 percent).

Financial sizes. Among the operating cooperatives, 87 percent (or 16,913 cooperatives) of these are categorized as micro (those with P 3 million or less in total assets), 9 percent (or 1,744 cooperatives), are categorized as small (those with between P 3 million to P 15 million in total assets), 4 percent, (715 cooperatives) are categorized as medium (those with P 15 million to P 100 million in total assets), and 1 percent (or 126 cooperatives) are categorized as large (those with more than P 100 million in assets). Total assets of operating cooperatives amount to P 85.6 billion; micro cooperatives have 6 percent of the total amount (P 5.11 billion), small cooperatives 14 percent (P 11.83 billion), medium cooperatives 30 percent (P 25.75 billion) and large cooperatives 50 percent (P 42.77 billion).

In terms of asset size, three of the top five cooperatives are located in Metro Manila. These are Philippine Army Finance Center Producers Integrated Cooperative, a multi-purpose cooperative (P 3.7 billion), ACDI credit cooperative (P 2.5 billion), and PLDT Employees Credit Cooperative (1.3 billion). In terms of paid-up capital, these cooperatives are also the largest. The Philippine Army Finance Center Producers Integrated Cooperative has a capital of P 690 million, the ACDI credit cooperative, P 345 million, and the PLDT Employees Credit Cooperative, P 415 million.

Between January 1 to June 30, 2007, a total of 913 cooperatives, including one laboratory cooperative were registered with the CDA. Among the primary cooperatives registered, 87.4 percent or 796 are multi-purpose cooperatives, 6.3 percent or 57 are credit cooperatives, 2.3 percent or 21 are service cooperative, 2.0 percent or 18 are consumer cooperatives, 1.5 percent or 14 are production cooperatives, and 0.5 percent or 5 are marketing cooperatives.

Southern Tagalog still had the highest proportion of newly-registered cooperatives at 20 percent (182 cooperatives), followed by Central Luzon and Central Visayas at 11.6 percent (106 cooperatives) each and Metro Manila at 9.8 percent (89 cooperatives). Other regions with newly-registered cooperatives are the following: Ilocos, 34 or 3.7 percent; Cagayan Valley, 31 or 3.4 percent; Cordilleras, 24 or 2.6 percent; Bicol, 26 or 2.9 percent; Western Visayas, 54 or 5.9 percent; Eastern Visayas, 42 or 4.6 percent; Western Mindanao, 23 or 2.5 percent; Northern Mindanao, 49 or 5.4 percent; Southern Mindanao, 73 or 8.0 percent; Central Mindanao, 47 or 5.2 percent; and, CARAGA, 26 or 2.9 percent.

In summary, by sheer numbers, cooperatives are one of the largest non-profit organizations in the Philippines. However, only a third of them are active. A significant proportion of cooperatives are based in regions surrounding Metro Manila, where growth in their numbers still continues to be considerable. While large cooperatives are only one percent of the total number, their total assets is 50 percent of the sector. Most of these large cooperatives are based in Metro Manila.

D. Homeowners associations.

There are 4,862 homeowners associations (HOAs) in the National Capital Region. Data on HOAs in other regions was not obtained since these are available only in the HLURB extension offices and not in the central office. In 2007, 730 HOAs registered with the HLURB.

Table 22. Number of Registered Homeowners Association, by Region, 2007

Region	Number registered
CAR	8
I	9
II	2
III	114
IVA	118
IVB	6
V	10
VI	18
VII	99
VIII	23
IX	8
X	21
XI	41
XII	20
CARAGA	11
ARMM	Not available
NCR	222
Total	730

Source: Housing and Land Use Regulatory Board (2007).

E. Trade unions.

Definition. Under the Labor Code of the Philippines (Presidential Decree 442), labor organizations are defined as “any union or association of employees which exists in whole or in part for the purpose of collective bargaining or of dealing with employers concerning terms and conditions of employment,” and a “legitimate labor organization” means “any labor organization duly registered with the Department of Labor and Employment, and includes any branch or local thereof.”

Number. There are a total of 17,021 existing workers organizations in the Philippines with a total membership of 1.9 million by the end of 2007. However, the growth of unions has been declining, with only 260 newly registered unions in 2007, down 29.9 percent from previous year figures. Of the total number of workers organizations, 16,893 are enterprise-based unions with a total membership of 1.6 million.

The number of collective bargaining agreements is also declining. By 2007, only 1,542 agreements exist, covering 218,000 workers, down from a 1993 peak of 4,983, covering 609,000 workers, and the number of new agreements declined to 318, covering only 44,375 workers, down from 1990 peak of 2,481, covering 230,000 workers.

In the fourth quarter of 2007, data available from the Bureau of Labor Relations of the Department of Labor and Employment show that there are a total of 7,804 local unions (local affiliates of trade union federations or alliances) and 7,515 independent unions (which are unaffiliated to other national or regional-based federations or alliances), with a listed membership of 873,378 and 707,266. Most of these unions are located in Metro Manila and in neighboring regions. Around sixty percent of the total number of unions or 9127 are located in Metro Manila, 12.7 percent or 1,950 are located in the Cavite-Laguna-Batangas-Rizal-Quezon (CALABARZON) region, while 6.4 percent or 974 are located in the Central Luzon region.

Table 23. Number of independent and local unions, by region, 2008

Region	Independent unions	Local unions	Total	Percent
Ilocos	78	12	90	0.6%
Cagayan Valley	43	2	45	0.3%
Central Luzon	572	402	974	6.4%
CALABARZON	1019	931	1950	12.7%
MIMAROPA	17	7	24	0.2%
Bicol	121	21	142	0.9%
Western Visayas	363	194	557	3.6%
Central Visayas	326	573	899	5.9%
Eastern Visayas	126	78	204	1.3%
Western Mindanao	69	39	108	0.7%
Northern Mindanao	167	152	319	2.1%
Southern Mindanao	132	269	401	2.6%
Central Mindanao	135	41	176	1.1%
CARAGA	56	38	94	0.6%
Cordillera Administrative Region	46	8	54	0.4%
National Capital Region	4229	4898	9127	59.6%
Autonomous Region for Muslim Mindanao/ Missing	16	139	155	1.0%
Total	7515	7804	15319	100.0%

Source of basic data: Bureau of Labor Relations (2008).

Majority of the trade unions are located in the manufacturing sector (52.8 percent or 8,087 unions). There are smaller percentages of unions that are located in the public and private services industry (12.2 percent or 1,875 unions), trade, transport and communications (10.1 percent or 1,541 unions) and wholesale and retail trade (7.8 percent or 1,193 unions).

Table 24. Number of independent and local unions, by industry, 2008

Industry	Independent unions	Local unions	Total	Percent
Agriculture	439	416	855	5.6%
Mining	60	37	97	0.6%
Manufacturing	3844	4243	8087	52.8%
Electricity, gas and water	181	61	242	1.6%
Construction	130	123	253	1.7%
Wholesale and retail trade	553	640	1193	7.8%
Trade, Transportation & Communications	746	795	1541	10.1%
Financial	219	127	346	2.3%
Public and Private Services	1136	739	1875	12.2%
Missing/ Others	207	623	830	5.4%
Total	7515	7804	15319	100.0%

Source of basic data: Bureau of Labor Relations (2008).

Most local unions had been registered from the years 1990 to 2004, while a significant percentage of independent unions were registered between 2000 and 2004.

Table 25. Number of independent and local unions, by date of registration, 2008

Year registered	Local unions	Percent	Independent unions	Percent
Before 1980	117	1.5%	0	0.0%
1980- 1984	457	5.9%	3	0.0%
1985- 1989	741	9.5%	2	0.0%
1990- 1994	2346	30.1%	5	0.1%
1995- 1999	1765	22.6%	680	9.0%
2000- 2004	1766	22.6%	1188	15.8%
2005-	589	7.5%	384	5.1%
Missing	23	0.3%	5253	69.9%
Total	7804	100.0%	7515	100.0%

Source of basic data: Bureau of Labor Relations (2008).

Registered trade unions and workers organizations are mostly based in Metro Manila, and these represent mainly the manufacturing sector.

IV. RISK AND ABUSE PROFILE

A review of the vulnerabilities of non-profit organizations was also briefly undertaken. The following is a listing of some of the issues and problems faced by these types of organizations, although these are focused on non-government organizations. A sample list of these vulnerabilities is the following:

- a) **Dependence on declining volume of grant funding.** Non-profit organizations have been traditionally dependent on foreign grants. In the 1999- 2000 Association of Foundations survey of development s cited above, foreign foundation grants and bilateral government grants were the top sources of funding. Unfortunately, according to Gonzales (2005), many of the largest NPO funding windows have been closing and this has affected the financial stability of these organizations. On the upside, non-profit groups have become more focused on the listing of their activities and in improving the technical and financial details of their project proposals.
- b) **Intervention of political organizations in NPO decision-making processes.** NPOs are vulnerable to intervention by politicians and political groups which have set up non-profit groups as a means of channeling their support to their constituents, according to Alegre (1996). These groups have intervened in the design of the programs and projects in order to maximize the assistance given to their supporters; there have also been reports that NPOs have been also used to launder state and foreign donor funds in order to support activities of political groups.
- c) **Lack of accountability of non-profits and non-profit boards to the general public.** Gonzales (2005) noted that many sectors of Philippine society, including the government and the general public, have been concerned about the accountability of non-profit organizations. There have been several high profile cases in which non-profit organizations have mismanaged their funds due to the lack of board diligence. This has diminished somewhat the high regard of the general public in handling resources.
- d) **High staff turn-over and the lack of human resources especially at the middle and upper echelons.** Cariño (2003) reported that this problem can be traced to the lack of sufficient financial resources of non-profits, ‘deficiencies in human resource management’ and the lack of a system to strengthen leadership in these organizations.

- e) **Lapses in financial management.** Cariño (2002) cited an audit review of 42 NPOs which received government financial assistance in the 1990s showed that there were lapses in as much as 56 percent of the funds, ranging from non-submission of reports, lax accounting procedures to non-return of unused funds. This may be attributed to the inability to keep books of account and also to a belief that they are not accountable to the public for the handling of these funds.
- f) **Lack of clarity in measurement of outcomes and impacts.** NPOs generally lack the capacity to measure their outcomes (i.e., utilization of their programs and projects), much less the impacts (changes in the welfare of their members or beneficiaries), of their programs and services, according to Abella and Dimalanta (2002). This is due to the lack of human resources, lack of development of monitoring systems, or the concentration on process orientation by them.

The causes of these vulnerabilities are the following:

- a) **Limited administrative capacity.** Cariño (2002) noted that NPOs have been constrained by the ‘technical competence required in developing public programs and projects’; Gonzales (1996) noted that NPOs lack sufficient capacity in policy research and development, technical documentation, organizational management and social entrepreneurship. Abella and Dimalanta (2002) had also noted that the financial management systems of NPOs are focused on specific funding agencies; thus, these systems are not useful once the donor-funded programs had ended.
- b) **Pre-occupation with building donor relationships.** According to Abella and Dimalanta (2003), this dependence on donor funding has led critics (and in some cases, even the NPOs’ intended beneficiaries themselves) to accuse NPOs of pursuing programs and projects that reflect and promote donors’ interests and agenda more than the needs of the target communities.
- c) **Inactive boards and lack of clarity in board responsibilities; absence of administrative checks and balances.** Abella and Dimalanta (2003) noted that most NPO boards are nominal, inactive, and/or disinterested in their governance functions as it had been quite common in the Philippines to have members of the board who are relatives and/or acquaintances of the chief executive. Many NPOs thus have problems in distinguishing between the governing and accountability making functions of the boards and the executive or management functions of the NPO heads.
- d) **Limited influence in official development assistance (ODA) planning.** Gonzales (2005) noted that non-profit groups are excluded from participating in planning and monitoring of official development assistance to the country. NPOs are limited to implementation of projects, donor engagement has been limited to Metro Manila-based groups and donor-NPO tensions have arisen due to misunderstanding in project procedures, lack of transparency in selection of project sub-grantees and others.

Overview of the NPO Regulatory Environment

I. POLICY ENVIRONMENT OF NPOS

The perceived central role of non-profit organizations and networks, especially the politicized ones, in the anti-dictatorship struggle, as well as in the 1986 EDSA revolt, provided a radically changed milieu for state-civil society relations. Empowerment and people's participation became official policy overnight, although the formalization of this phenomenon was not easy during the complicated transition from dictatorship. The Aquino government, which reigned from 1986 to 1992, provided the legal and policy environment for non-profit organizations to flourish. This was extended and probably even intensified by the Ramos administration that came to power in 1992 until 1998. The Estrada administration (1998- 2001) has sent mixed signals about its friendliness to this sector. Despite the quick response to several demands of the non-profit organization sector by the Macapagal-Arroyo (2001- present) during its early years, there has been a perception that the government still needs to fully accept the self-accreditation initiatives of the NPO sector (see the section on PCNC below).

A. Constitutional Mandates and Key Policy Instruments

The existence of NPOs is justified under several provisions of the Philippine Constitution. These are:

Art. II Section 23: The State shall encourage non-governmental, community-based or sectoral organizations that promote the welfare of the nation.

Art. III Section 8: The State shall respect the role of independent people's organizations to enable people to pursue and protect, within the democratic framework, their legitimate and collective interests and aspirations through peaceful and lawful means.

Art. XIII Section 15: The rights of the people, including those employed in the public and private sector, to form unions, associations and societies, for purposes not contrary to law shall not be abridged.

People's organizations are bona fide associations of citizens with demonstrated capacity to promote the public interest and with identifiable leadership, membership and structure.

Art. XIII Section 16: The right of the people and their organizations to effective and reasonable participation at all levels of social, political and economic decisions making shall not be abridged. The State shall, by law, facilitate the establishment of adequate consultation mechanisms.

Thus, the 1987 Philippine Constitution explicitly recognizes the non-profit organization sector as the extension of 'people's power' and enshrines their right to participate on all levels of decision-making. The Policy Agendas, as well as Medium Term Development Plans of all the post-EDSA governments, recognized NPOs, POs, and cooperatives as partners in development.

There are also several socially progressive pieces of legislation that have been enacted following long and hard advocacy and lobbying work by civil society. These laws contain significant

provisions advantageous to civil society organizations, and are generally seen as positive policy instruments for pushing sectoral agendas. These include:

- *Comprehensive Agrarian Reform Law*, which provided for the implementation of agrarian reform in the country;
- *Urban Development and Housing Act* and the *Comprehensive and Integrated Shelter Financing Act*, which enshrined the right to housing for marginalized groups and institutionalized low cost housing programs;
- *Women In Nation-Building Act*, which recognized the role of women in economic, political and social development of the country;
- *Generic Drugs Law*, which strengthened the market for low-cost medicines;
- *Cooperative Code*, and the *Local Government Code*.

There are also laws which were passed as part of the social reform legislation in the 1996-1998 period, including the *Anti-Rape Bill*, *Act Repealing the Anti-Squatting Law*, and the *Indigenous Peoples' Rights Act*, the *Fisheries Code*, and the *National Anti-Poverty (Social Reform and Poverty Alleviation) Act*, which enshrined participation of marginalized groups in policy-making at the national level.

The enactment of these laws indicates the strength of the non-profit sector in the Philippines. These laws in turn explicitly recognize the role non-profit organizations play in society and provide a policy framework for a multi-stakeholder approach to development that involves this sector.

B. Decentralization and Devolution

The Local Government Code of 1991 devolved power from central governments to local government units. This was lobbied for heavily by the non-profit organizations for devolving power from the central government- further highlighted the role of NPOs in the local governance process. It provided for people's organization and non-government organization participation in the following areas: membership in local special bodies, sectoral representation in local legislative bodies and processes, partnership with government in joint ventures in development projects, and as recipients of funds as well as other forms of state assistance. Though implementation has been spotty as many local government units are still resistant to genuine civil society organization partnership (see, for example, Capuno (2005), enough best practices and institutional mechanisms have been set up for decentralization to take root and continue as an area for strategic intervention of civil society organizations.

II. REGULATORY ENVIRONMENT OF NPOS

A. Registration.

Registration is not required per se for the existence of non-profit organizations, but it is a requirement for NPOs to obtain a *legal* personality in order for them to be eligible for opening bank accounts, to enter into contracts, and to raise public funds. NPOs usually obtain their primary registration from any of the following state agencies:

Table 27. Primary registration agencies of non-profit organizations

Registering Agency	Appropriate NPO (and the legal basis)
1. Securities and Exchange Commission (SEC)	All non-stock, non-profit corporations (<i>Corporation Code of the Philippines</i>)
2. Cooperative Development Authority (CDA)	Cooperatives (<i>Cooperative Law of the Philippines</i> and the <i>Cooperative Development Authority Act</i>)
3. Department of Labor and Employment (DOLE)	Labor unions and federations; rural workers' associations (<i>Labor Code of the Philippines</i>)
4. Housing and Land Use Regulatory Board (HLURB)	Homeowners associations (<i>Republic Act 8763, Housing Guarantee Act</i>)

Source: Foundation for Media Alternatives (2001).

Non-stock, nonprofit corporations or associations, cooperatives, homeowners associations and labor unions form the basic legal forms of the non-profit organization sector; these are generally characterized for mutual benefit, public benefit and non-commercial purposes. These include but are not limited to: Church-initiated or secular groups, federation or associations of NPOs; people's organizations; service or self-reliance organizations, intermediary and development organizations and educational institutions.

An association or corporation may utilize the word 'Foundation' only if it is organized for charitable, religious, educational, professional, cultural, literary, scientific and civic services or other similar purposes and has an initial contribution of P1 million. Ordinary non-stock corporations registered with the SEC are required to put up an initial contribution of only P5,000.00, according to the Corporation Code.

In addition, NPOs are obliged to regularly report and disclose information in relation to their operations, such as a certificate of donation for each donation received should be submitted to the donor, and the Bureau of Internal Revenue. The SEC also requires that organizations undertake the following: registration or stamping of membership book (within 30 days from date of receipt of certification of incorporation), submission of general information sheet (within 30 days from date of actual meeting) and audited financial statements (within 120 days from the end of the fiscal year), affidavit of non-operation (within 120 days from the end of the fiscal year), notice of postponement or non-holding of annual meetings (within 30 days from the day of the annual meeting as specified in corporate by-laws), and report on death, resignation, cessation to hold office of a director, trustee, or officer (immediately after the incident). (Lerma and Los Banos, 2002).

B. Licensing/ Accreditation (Secondary registration).

Licensing refers to the authorization to undertake a specific practice or task, while accreditation refers to the official acknowledgment of the merits of a person, corporation, entity, or organization in meeting a set of standards required for the delivery of a specific service. Licensing is required to practice specific professions, while accreditation is usually a requirement for specific state-sponsored program or project participation. For a growing number of projects funded by ODA, it is the project itself that specifies both the selection criteria and mechanisms for non-profit organization, while NPO accreditation systems are effectively decentralized and devolved to the local government units. Hence, systems for licensing and accreditation vary depending on the orientation or specific purpose of particular national agency or local government units, according to Lerma and Los Banos (2002).

Requirements are different according to the type of organization. Agencies that practice social welfare practices, for example, are required to submit to the DSWD the accomplished application forms and a certificate of agency's judicial personality and a certificate of employment of registered social workers. These groups may also pay filing or membership fees or processing fees as required.

National government agencies have developed accreditation systems, or at a minimum, have set up NPO liaison desks with screening and accreditation functions. These agencies include the following Departments: Environment and Natural Resources, Agrarian Reform, Trade and Industry, and Agriculture and the National Economic Development Agency. Though there is more openness now (compared to twenty years ago) between government and civil society organizations, the latter's preference for self-regulation as well as the former's inherent tendencies of bureaucratic control constantly pushes the NPO community to debate specific accreditation guidelines.

Table 28. Government licensing and accreditation agencies of non-profit organizations

Licensing Agency	Appropriate NPO (and the legal basis)
1. Department of Social Welfare and Development (DSWD)	Social welfare and development organizations (<i>Republic Act 4373, or Regulating the Practice of Social Work and the Operation of Social Work Agencies in the Philippines, and Presidential Decree 603 (as amended), or the Child and Youth Welfare Code</i>)
2. Department of Health (DOH)	Charity hospitals and laboratories (<i>Republic Act 4226, or Hospital Licensure Act</i>)
3. Department of Education (DepEd)	Primary and secondary schools (<i>Batas Pambansa 232, or Education Act of 1982</i>)
4. Insurance Commission (IC)	Mutual benefit associations, which is organized mainly for paying sickness, unemployment or death benefits to its members or their (<i>Presidential Decree No. 612, or Insurance Code</i>)
5. Commission on Higher Education (CHED)	Higher education institutions (<i>Republic Act 7722 or the Higher Education Act</i>)
6. Technical Education and Skills Development Authority	Technical-vocational institutions (<i>Republic Act 7796 or the Technical Education and Skills Development Act</i>)
7. National Youth Commission	Youth organizations (<i>Republic Act 8044, or An Act Creating the National Youth Commission</i>)
8. Civil Service Commission and DOLE	Government employees organization (<i>Executive Order 180, series of 1986</i>)
9. Department of Agrarian Reform	Agrarian reform cooperatives (<i>Republic Act 6938, or the Cooperative Code</i>)
10. Land Transportation Franchising and Regulatory Board	Transport cooperatives (<i>Executive Order No. 292, series of 1987 or the Administrative Code</i>)
11. National Electric Administration	Electric distribution cooperatives (<i>Republic Act 6938, or the Cooperative Code</i>)
12. Bangko Sentral ng Pilipinas	Cooperative banks (<i>Republic Act 6938, or the Cooperative Code</i>)
13. Department of Environment and Natural Resources	People's organizations, cooperatives or indigenous groups that are planning to participate in community-based forestry management agreements (<i>Department Administrative Orders 99-36, 99-53</i>)
14. National Anti-Poverty Commission	Organizations representing the rights of women, children, youth, persons with disabilities (<i>NAPC, Presidential Administrative Order 21, series of 2001, in coordination with National Youth Commission, Council for the Welfare of Children, National Commission on the Role of Filipino Women, National Council for the Welfare of Disabled Persons</i>)
15. National Economic and Development Authority	Organizations and groups to be consulted in the Medium Term Philippine Development Plan (<i>Cabinet memorandum dated July 1, 2004</i>)

Source: Foundation for Media Alternatives (2001).

Promoting accountability of NPOs is becoming an important concern as a result of the growing partnership with the State and donor agencies, as well as the proliferation of pseudo-NPOs.

III. Philippine Council for NGO Certification (PCNC)

NPOs in the Philippines have taken the accreditation process a step further with the launching of a certification body– the Philippine Council for NGO Certification (PCNC). Organized by six national NPO networks, including CODE-NGO, in partnership with the Department of Finance (DOF) and the Bureau of Internal Revenue (BIR), the PCNC certifies NPOs and non-stock, non-profit corporations for donee status after a stringent review of their qualifications. The certification becomes the basis for the BIR's granting 'donee institution' status to the organizations certified by PCNC.

'*Donee Institution*' status is granted only to the following entities:¹³

- non-stock corporations or associations organized and operated exclusively for religious, charitable, scientific, athletic or cultural purposes or for the rehabilitation of veterans, no part of whose net income or asset shall belong to or inure to the benefit of any member, organizer, officer or any specific person;
- civic league or organization not organized for profit but operated exclusively for the promotion of social welfare;
- a non-stock and non-profit educational institution.

Additional tax benefits accrue to the donors of NPOs/NGOs with Donee Institution status. Donors of Non-certified NPOs are entitled only to limited deductibility from income taxes whereas donors of certified NPOs are entitled to full deductibility and exemption from payment of donors' taxes.¹⁴

¹³ According to the PCNC website www.pcnc.com.ph. Retrieved August 3, 2008.

¹⁴ According to Section 3, Revenue Regulations 13-98, of the Bureau of Internal Revenue, donations to accredited non-stock, non-profit corporations/NGOs shall be entitled to the following benefits:

a) Limited Deductibility - Donations, contributions or gifts actually paid or made within the taxable year to accredited non-stock, non-profit corporations shall be allowed limited deductibility in an amount not in excess of ten percent (10%) for an individual donor, and five percent (5%) for a corporate donor, of the donor's income derived from trade, business or profession as computed without the benefit of this deduction.

b) Full Deductibility - Donations, contributions or gifts actually paid or made within the taxable year to accredited NGOs shall be allowed full deductibility, subject to the following conditions:

- The accredited NGO shall make utilization directly for the active conduct of the activities constituting the purpose or function for which it is organized and operated, not later than the fifteenth (15th) day of the third month after the close of the accredited NGOs taxable year in which contributions are received, unless an extended period is granted by the Secretary of Finance, upon recommendation of the Commissioner. For this purpose, the term "utilization" shall have the meaning as defined under Sec. 1(c) of these Regulations.
- The level of administrative expenses of the accredited NGO, shall, on an annual basis, not exceed thirty percent (30%) of the total expenses for the taxable year;
- In the event of dissolution, the assets of the accredited NGO, would be distributed to another accredited NGO organized for similar purpose or purposes, or to the State for public purpose, or purposes, or to the state for public purpose, or would be distributed by a competent court of justice to another accredited NGO to be used in such manner as in the judgment of said court shall best accomplished the general purpose for which the dissolved organization was organized.
- The amount of any charitable contribution of property other than money shall be based on the acquisition cost of said property.
- All the members of the Board of Trustees of the non-stock, non-profit corporation, organization or NGO do not receive compensation or remuneration for their service to the aforementioned organization.

c) Exemption from Donor's Tax - Donations and gifts made in favor of accredited non-stock, non-profit corporations/NGOs shall be exempt from the donor's tax: Provided, however, That not more than thirty percent (30%) of the said donations and gifts for the taxable year shall be used by such accredited non-stock, non-profit

Apart from being a body that helps donee institutions earn larger revenue by ensuring tax benefits to the donors, the PCNC is also a mechanism enabling NPOs to exercise professionalism, transparency, and accountability. Further, a Memorandum of Agreement has been signed between the PCNC and the Philippine Institute of Certified Public Accountants (PICPA) to provide financial management training and free auditing services to small NPOs to build their financial management capacities.

In late 2007, the government issued Executive Order (EO) 671, which rescinded the certification powers of the PCNC due to ‘undue delegation of governmental powers’ and transferred these to several government agencies. Several consultations and meetings were held after the PCNC board protested against the issuance stating that the institution had already been undertaking its functions efficiently and that the sole prerogative of granting tax-donee status still lies with the BIR. In March 2008, a compromise was hammered between the DSWD, the DoF and the PCNC, and EO 720 was drawn up by the Chief Presidential Legal Counsel. This EO was signed in April 2008 and published in June 2008, and requires all NPOs that are applying for donee institution status to first complete the requirements mandated by the government regulatory agencies, and a DSWD representative is now included in the PCNC Board.

IV. Self-Regulatory Initiatives.

NGO networks also have developed their own codes of conduct to help guide their respective members function ethically. In 1990, the CODE-NGO established a ‘Code of Conduct for Development NGOs’ that would help the network police its own ranks and strengthen accountabilities of individual organizations.

V. Taxation.

The 1997 National Internal Revenue Code allows tax exemption for certain gifts and donations, such as dowries of gifts made on account of marriage, and donations to national government and to ‘non-profit education and/or charitable institutions.’ According to the Code, these charitable institutions are defined as a “school, college or university and/or charitable corporation, accredited non-government organization, trust or philanthropic organization and/or research institution or organization, incorporated as a non-stock entity, paying no dividends, governed by trustees who receive no compensation, and devoting all its income, whether students' fees or gifts, donation, subsidies or other forms of philanthropy, to the accomplishment and promotion of the purposes enumerated in its Articles of Incorporation.”

Tax incentives given to the non-profit organizations include: duty and tax free foreign donations; exemption from income tax; exemption from donor’s (gift) tax (if the institution has been classified as a ‘tax-donee’ institution); and, income tax deduction for donors (if the donation is given to a ‘tax-donee’ institution and only up to 5 percent deductibility for donors and 10 percent for individuals). To avail of these incentives, NPOs must file a secondary registration with appropriate government agencies.

corporations/NGOs institutions qualified-donee institution for administration purposes pursuant to the provisions of Section 101 (A)(3) and (B)(2) of the Tax Code.

Table 29. Tax Incentives for NPOs through Secondary Registration

Registering Agency*	Tax Incentives (and their legal basis)
1. Bureau of Internal Revenue (BIR)	Income tax exemptions for non-profit corporations (<i>National Internal Revenue Code or NIRC; BIR-NEDA Regulations</i>)
2. Department of Finance (DoF)	Special exemption privileges from customs duties and tariffs of specific importation, evaluated on a case-to-case basis (<i>Tariff and Customs Code; NIRC; DoF and NEDA Guidelines</i>)
3. Department of Social Welfare and Development (DSWD)	Endorsement of duty-free importations of foreign agencies registered as SWDAs (<i>Tariff and Customs Code</i>)
4. DOLE*	Income tax exemption for labor organizations (<i>Labor Code of the Philippines</i>)
5. CDA*	tax exemption for cooperatives on: <ul style="list-style-type: none"> ▪ all business transactions with members; ▪ for cooperatives with net savings of not more than PhP10 million: <ul style="list-style-type: none"> > exemptions from all national, city, provincial, municipal or barangay taxes of any nature; > exemptions from duties and tariffs on importation of machinery and equipment not locally available ▪ taxes on transactions with banks and insurance companies (<i>Cooperative Code of the Philippines and the Cooperative Development Authority Act</i>)
<p>* <i>Specific government agencies may also have other special requirements for non-profit organizations (e.g., financial reports, articles of incorporation/constitution and by-laws, pertinent organizational information, registration fees, etc.).</i></p> <p>** <i>The latter two agencies extend tax incentives to their NPOs upon the latter's primary registration.</i></p>	

Source: Foundation for Media Alternatives (2001).

The 1997 National Internal Revenue Code of the Philippines exempts non-stock, non-profit corporations from income taxation (section 30); registration of a nonprofit organization with the BIR confers on it 'tax-exempt status'. Other organizations exempt from taxation include labor or agricultural organizations not organized for profit, mutual savings and cooperative banks organized for mutual purposes and without profit, beneficiary society, order or association, cemetery company owned and operated exclusively for its members, business leagues or chambers of commerce, civic leagues, non-stock and non-profit and government educational institution, mutual or cooperative organizations. However, according to the Bureau of Internal Revenue Memorandum Circular 76-2003, income derived from properties shall be 'returned for taxation'. In addition, interest income from bank deposits or trust funds are subject to 20 percent final withholding tax while those from foreign currency deposits subject to 7.5 percent final withholding tax.

However, according to section 34h and 101 of the Tax Code, donors and contributors to non-stock corporations or associations organized and operated exclusive for religious, charitable, scientific, athletic or cultural purposes or for the rehabilitation of veterans, civic league or organization not organized for profit and non-stock, non-profit educational institutions, can claim tax deductions or credits for contributions as per existing regulations. The PCNC (see above) has a process of certifying 'tax-exempt donee status' for nonprofit institutions who wish that the donations to them be made exempt from taxation (donor's tax).

The Tax Code provides for limited deductibility for income taxes for individual (in the amount not exceeding ten percent of donations or gifts) and corporate donors (in the amount not exceeding five percent). Revenue Regulations 14-2007 issued on December 12, 2007, clarifies tax treatment of microfinance services of cooperatives and non-government organizations.

Assessment of Regulatory Agencies

I. FRAMEWORK OF ASSESSMENT

The framework utilized by the tool developed by the Charity Commission consists of six objectives that would cover each area of NPO regulation.

- The first area is the establishment of NPOs, which try to assess the ease of establishment of different types of non-profits in the Philippines. The indicators are the right of citizens to pursue lawful purposes and that NPOs are subject to appropriate legal oversight by the government or by self-regulatory agencies.
- The second area is the proper identification of NPOs by regulatory agencies and the general public, which include the availability of information on NPOs. These include the ability to access information, to use this information in a way that could be useful, and that the information is accurate and available on all types of NPOs. Names and contact details of NPOs should be publicly available, as well as those who are responsible for the administration of specific NPOs.
- The third area covers concerns or the NPO risks can be easily identified, and that this information is accessible, can allow for detection of vulnerabilities and that this information is accurate and available on all NPOs being regulated. Basic information on what NPOs are doing should be disseminated, and specific questions on NPO operations could be made available, if requested, subject to the appropriate standards of privacy. Information on NPOs should be constantly updated, and that care has to be taken so that NPO information is not fraught with mistakes, or is provided in an attempt to make the NPO more effective to donors and the general public. Authorities should guard against deliberate attempts in the provision of wrongful information.
- The fourth area is investigating the risks and vulnerabilities. The areas of assessment include the extent to which government or self-regulatory bodies are able to identify concerns and scrutinize risks and vulnerabilities. At the minimum, there is a competent authority that can investigate issues of abuse, and systems exist to proactively identify potential abuse through information by stakeholders or through assessments by the regulatory authorities.
- The fifth area is protecting NPOs, which include the ability of government or self-regulatory agencies to limit the risk of abuse and that responsibilities parties can be sanctioned. Regulatory authorities actually exist that can undertake actions when there is serious risk of abuse of NPOs and/or its beneficiaries, and can legally punish those who are responsible for abuse of NPOs. And lastly, mitigating risks includes the ability to advise NPOs on compliance with laws and regulations through the conduct of seminars and workshops and the promotion of best practices. NPOs should be regularly consulted on changes in regulatory rules and policies and that there is information available on NPO best practice.

The following is the framework for assessment of the different regulatory agencies.

Table 30. Regulatory Objectives and Indicators

Regulatory objective	Indicators
1. Establishment of NPOs	Right of citizens to pursue lawful common purposes.
	NPOs are subject to appropriate legal oversight
2. Identifying NPOs	Stakeholders have access to information
	Information allows stakeholders to identify NPOs
	Information is accurate
	Information is available on all NPOs
3. Identifying concerns	Stakeholders have access to information
	Information allows abuse detection
	Information is accurate
	Information is available on all NPOs
4. Investigating concerns	Authorities exist that can investigate concerns
	Authorities identify cases they need to investigate
	Authorities are able to investigate
	Authorities can identify serious issues
5. Protecting NPOs	Authorities exist that can protect NPOs from abuse
	Authorities are able to limit risk of abuse
	Those responsible are/ can be sanctioned
6. Mitigating risk	Authorities advise NPOs on compliance with laws and regulations
	Involve NPOs in design and implementation of regulation
	Best practices are defined and promoted
	New information on NPOs is analyzed and processed
	Identify and adapt to new risks

Source: Charity Commission (2008).

The following are the regulatory standards or criterion for assessments. In the second column are the questions that would help assess whether the government rules able to pass the criteria for assessment and standards. These questions are used to assess the usefulness of current regulatory rules, policies and practices (both formal and informal), and one can ask the question if these are well-communicated (or whether the policies are understandable and clear), fair (or applied consistently among different NPOs), proportionate (or focuses the skills and resources of the regulator to sectors which will make the most difference), enabling the work of NPOs (or that the policies and practices should facilitate NPO operations), context or the appropriateness with the national and international aims and objectives of NPOs, feasible and realistic (regulatory environment engenders compliance with the policies and practices) and efficient (or that the resources applied to implementation of rules and practices are compatible to the benefits of these rules).

Table 31. Regulatory Standards and Indicators

STANDARD	INDICATORS
1. Well communicated	<ul style="list-style-type: none"> • Is it clear and concise? • Does it use plain language? • Is it readily available to all who need or want it? • Is it easy to understand? • Is it user friendly?
2. Fair	<ul style="list-style-type: none"> • Is it applied consistently and fairly? • Is it transparent and accountable? • Is it flexible enough to allow for exceptional circumstances? • Does it encourage trust between parties? • Can people appeal or make objections?
3. Proportionate	<ul style="list-style-type: none"> • Is it proportionate to the issue? • Do the benefits justify the costs? • Is it targeted at the problem? • Is the decision based on risk? • Is the burden on those affected reasonable and manageable?
4. Enabling	<ul style="list-style-type: none"> • Does it strengthen and support the work of the sector? • Does it provide incentives to encourage NPOs to be part of the regulatory regime? • Are any NPOs working outside of the regulatory regime? • Does it restrict any NPO activities?
5. Context	<ul style="list-style-type: none"> • Do the objectives fit with domestic and international priorities? • Do different stakeholders share and react to information? • Is the main strategic approach clear and being followed? • Is it integrated with the legal system? • Does it address a problem not addressed by other authorities?
6. Feasible and realistic	<ul style="list-style-type: none"> • Is it enforceable? • Can policies be monitored and policed? • Do all parties have the capacity and resource to comply? • Are there barriers to application? • Do all NPOs know about the system or process?
7. Efficient	<ul style="list-style-type: none"> • Does the system achieve what is intended? • Do all processes happen in a timely manner? • Is it overly bureaucratic? • Does it duplicate the work of other authorities? • Are processes cost-efficient?

Source: Charity Commission (2008).

The following pages show the assessment of four primary regulatory agencies, namely the Securities and Exchange Commission (responsible for non-stock corporations), the Cooperatives Development Authority (responsible for cooperatives), the Housing and Land Use Regulatory Board (responsible for homeowners associations), and the Bureau of Labor Relations (responsible for trade unions), and three (3) secondary agencies, the Department of Social Welfare and Development, the Insurance Commission, and the Department of Health. The accreditation process of the Philippine Council for NGO Certification is described in the last part of this chapter, but the body has not been formally assessed by the LAC.

II. SECURITIES AND EXCHANGE COMMISSION (www.sec.gov.ph)

The SEC is one of the primary registration authorities for NPOs, which under the Corporation Code, fall within the category of Non-Stock Corporations. In addition, there are two other special corporations listed under the Code: educational corporations and religious corporations (corporation sole and religious societies).

The main office of the SEC is in Mandaluyong, Metro Manila, while there are also seven extension offices (in Baguio, Legazpi, Iloilo, Cebu, Davao, Cagayan de Oro and Zamboanga cities) that accept applications for registration.

SEC's mandate is twofold:

- a. It is the regulator of the capital market. It issues secondary registration to corporations (with primary SEC registration) dealing in securities, pursuant to the Securities Regulation Code¹⁵; and
- b. It functions as a registration body to grant juridical personality to those who want to establish a stock corporation or a non-stock corporation pursuant to the Corporation Code of the Philippines¹⁶ or a partnership pursuant to the Civil Code of the Philippines.

It has the power to investigate officers, directors, stockholders, trustees of its registered corporations for violations of the Securities Regulation Code, the Corporation Code, except those which are intra-corporate in nature and other laws enforced by the Securities and Exchange Commission.

The next sections discuss the summary results of the evaluation of the SEC according to the regulatory objectives.

II.A. Regulatory Objective No. 1: Establishing NPOs

The minimum standards under the Tool for Regulatory Objective No. 1 are as follows:

- Citizens are free to establish NPOs except in limited and exceptional circumstances.
- Laws and regulations for establishing NPOs cover all those NPOs that need to be covered, whilst excluding those that do not.

The Philippine Constitution enshrines freedom of association as a basic fundamental right. Any group of persons may form an association as long as its purposes are not contrary to law.

The Corporation Code provides a very exhaustive framework for the incorporation and organization of NPOs. As of March, 2008, there are 76,512 non-stock corporations registered with SEC. See Tables 12 and 13 above for the breakdown of registered non-stocks by region and industrial classification.

¹⁵ <http://www.sec.gov.ph/>

¹⁶ <http://www.sec.gov.ph/laws/B.P.68/Corporation%20Code%20of%20the%20Philippines.pdf>

The SEC has issued the SEC Citizens' Manual for Registration of Corporations and Partnerships to assist the public in the registration process. The Manual provides matrices which are user-friendly, can be accessed at SEC's website (<http://www.sec.gov.ph/>) under the subheading Publication and contains the following information, among others:

STEPS IN REGISTRATION	
1	Verify/reserve proposed name with the Name Verification Unit.
2	Draw up the Articles of Incorporation and By-laws in accordance with the Corporation Code. Forms of Articles of Incorporation and By-Laws may be downloaded from the SEC Website.
3	If required, get endorsements from other government agencies as given in Table 4. In addition, the CRMD obtains clearances from other SEC departments whenever these are deemed appropriate.
4	Deposit paid-up capital / contribution (for foundations only) in the bank. Table 5 gives the minimum paid-up capital requirements for certain types of corporations.
5	Present 6 sets of the accomplished forms and documents for pre-processing at the CRMD. Only complete application documents are accepted for processing. All documents executed outside the Philippines must be authenticated by the appropriate Philippine embassy or consulate in the area concerned.
6	Pay the filing fees to Cashier.
7	Claim the Certificate/License from the Releasing Unit, Records Division upon presentation of the official receipt issued for payment of filing fee.

The SEC's website also provides the following information regarding the filing of applications.

- All applications and supporting documents must be in six (6) copies and have cover sheets.
- Documents signed abroad must be authenticated by the Philippine Embassy or Consulate in the country where signed.
- All persons whose names appear in the application forms must indicate their Tax Identification Number (TIN).

With respect to initial filings of application for registration, the following instructions in the website are given:

• **Non-Stock Corporation Basic Requirements:**

1. Name verification slip;
2. Articles of Incorporation and By-laws;
3. Affidavit of an incorporator or director undertaking to change corporate name;
4. List of members, certified by the Corporate Secretary; and,
5. List of contributors and amount (minimum of P 5,000.00 for ordinary non-stock) contributed certified by the treasurer.

Items 3, 4, and 5 need not be submitted if already stated in the Articles of Incorporation.

- **Additional Requirements:**

1. For Foundations: Notarized Certificate of Bank Deposit of the contribution of not less than P1,000,000.00¹⁷; and Statement of Willingness to allow the Commission to conduct an audit.
2. For religious corporations: Refer to Sections 109-116 of the Corporation Code of the Philippines, and an affidavit of affirmation or verification by the chief priest, rabbi, minister or presiding elder.
3. For federations: Certified list of member-associations by corporate secretary or president.
4. For condominium corporations/associations: Master Deed with primary entry of the Register of Deeds and certification that there is no other existing similar condominium association within the condominium project.
5. For neighborhood associations: Certification from the Housing and Land Use Regulatory Board (HLURB) that there is no other existing homeowners' or similar association in the community where the association is to be established.

Hard copies of Articles of Incorporation and By-Laws are available for a fee from the SEC offices. These are for those applicants who may wish to avail of the Express Lane forms where the information for specific kinds of corporations depending on purposes is already printed out.

An additional requirement for NPOs engaged in microfinance activities was imposed by the SEC thru SEC MC No. 2, Series of 2006¹⁸. All NPOs already engaging in or will engage in microfinance activities are mandated to state the same as one of their purposes in their respective Articles of Incorporation. All existing NPOs presently engaged in microfinance activities are required to amend their Articles of Incorporation and General Information Sheets to comply with the SEC directive.

In line with full disclosure requirements, the SEC issued MC No. 3, Series of 2006¹⁹, directing all corporations and partnerships applying for registration and in their subsequent filings of General Information Sheets the following information:

- 1) specific address of their principal office which shall include the street number, street name, barangay, city or municipality and,
- 2) specific residence address of each the incorporators, stockholder, trustee or partner.

In June 2008, SEC issued MC No. 5, series of 2008²⁰, providing Guidelines and procedures on the Use of Corporate and Partnership Names.

Filing fees²¹ for non-stock, non-profit corporations are the following:

- Name verification fee of P40.00 per name (available for a period of 30 days)
- Filing Fee of P 500.00 for Articles of Incorporation
- Filing Fee of P500.00 for By-Laws

¹⁷ SEC Memorandum Circular (MC) No. 1, Series of 2004 increased the initial minimum contribution for foundations to P1,000,000.00. (<http://www.sec.gov.ph/circulars/cy,2004/sec-memo-1,s2004.pdf>)

¹⁸ <http://www.sec.gov.ph/circulars/cy,2006/sec-memo-2,s2006.pdf>.

¹⁹ <http://www.sec.gov.ph/circulars/cy,2006/sec-memo-3,s2006.pdf>

²⁰ <http://www.sec.gov.ph/circulars/cy,2008/sec-memo-05,s2008.pdf>

²¹ See SEC Memorandum Circular 9, Series of 2004.

- Legal Research Fee (LRF) equivalent to 1% of filing fee but not less than P10.00.
- For Foreign Non-Stock: filing fee of P2,000.00 plus LRF.

SEC Memorandum Circular No. 1, Series of 2004 defined "Foundations" as “ a non-stock, non-profit corporation established for the purpose of extending grants and endowments to support its goals or raising funds to accomplish charitable, religious, educational, athletic, cultural, literary, scientific, social welfare or other similar objectives.” All foundations are now required to deposit its funds in a banking institution regulated by the Bangko Sentral ng Pilipinas.

The SEC rules and policies on registering non-stock, non-profit corporations were found to be effective, efficient and well-communicated to the general public. This is evidenced by the huge volume of applications for incorporation as non-stock corporations that the SEC receives each year and the relatively swift and transparent manner in which application is required to undertake. The rules for application are generally known, as these are posted in the SEC website, and published materials are also available in the SEC head office and in the regional offices. Several LGUs had requested SEC representation at their one stop action center but SEC had to decline the request since its online registration system is still being developed. SEC circulars are also provided to the Department of Interior and Local Governments for distribution among different local government units. There are some concerns, however, that small non-stocks may not be able to register with the SEC due to geographical limitations and incidental costs of travelling to main or extension offices for application purposes. The SEC also has formal and informal links with other government agencies with regards to application of specific types of non-stock, non-profit corporations.

For example, the SEC has established links for assessing the validity of applications:

1. of social welfare organizations, with the Department of Social Welfare and Development;
2. of entities using the word “police” in their corporate name or with a “peace and order purpose”, with the Philippine National Police;
3. filed by persons with derogatory records as found in the “watch lists” of Philippine National Police;
4. of educational institutions, with the Department of Education, the Commission on Higher Education and the Technical Education Skills and Development Authority;
5. of hospitals, with the Department of Health;
6. of professional organizations, with the Professional Regulatory Commission;
7. of voluntary fire brigades, with the Bureau of Fire Protection of the Department of Interior and Local Government (DILG).

Regulatory Objectives	Indicators	Assessment
Establishing NPOs	Well Communicated	<ul style="list-style-type: none"> Registration of NPOs is generally effective, efficient and well communicated. The rules for application are generally known, as these are posted in the SEC website, and published materials are also available in the SEC head office and in the regional offices.
	Fair	<ul style="list-style-type: none"> The registration process does not restrict establishment of NPOs and fairly applies in a transparent manner to all applicants. There is no undue denial of registration as long as all legal requirements are complied with. But the criteria/rules of the SEC for referral of applications for registration to the Philippine National Police for clearance are not spelled out.
	Proportionate	<ul style="list-style-type: none"> While the registration procedures are uniform for all applicants, the ease of registration disavows the need to address the proportionality issue. There are some concerns, however, that small NPOs may not be able to register with the SEC considering geographical distances between area/s of operation and SEC's extension offices.
	Enabling	<ul style="list-style-type: none"> The registration requirements enable NPOs to perform their intended purposes. The existence of NPOs working outside the regulatory framework cannot be discounted, but without any additional information to establish the risks and vulnerabilities of these non-registered NPOs to misuse and abuse, no conclusive findings could be reached as to whether the SEC's registration procedures are restricting NPO work. SEC registration is the first step in the establishment of NPOs and a requirement by other secondary registration authorities before licensing or accrediting NPOs for specific activities. In addition, the SEC registration is also required for performing legal acts, such as entering into contracts, being accredited for domestic and international donations and grants, fund raising activities and conducting financial transactions. These are sufficient incentives for NPOs to register with SEC.
	Context	<ul style="list-style-type: none"> The registration procedures comply with domestic laws. As to compliance with international objectives and best practices, the SEC's registration procedures are within the context of the needs of the Philippine society and has been said to be at par if not better than others.
	Feasible and realistic	<ul style="list-style-type: none"> The process of registration is widely publicized and made known to all concerned. The number of applications received and acted upon by SEC can only prove that the processes are enforceable and realistic and that applicants have the resources to comply. The fees are reasonable, and have been imposed on a targeted approach with respect to foundations.
	Efficient	<ul style="list-style-type: none"> There is no duplication of work. At best, SEC procedures have been streamlined to accommodate the requirements of other government agencies, like the BIR, the DSWD, the HLURB, and other secondary regulatory agencies.

In response²², SEC noted that registrations by mail are discouraged due to resource and time constraints in processing the applications, and on line registration is not yet available but is one of the systems that will eventually be put in place by the SEC. Also, the agency noted that the basis for referrals is the Corporation Code; but several LAC members noted that the grounds for referral of applications made by the SEC to other agencies for clearance and the appeal process for any negative findings/ recommendations are not that clear.

II.B. Regulatory Objective No. 2: Identification of NPOs

The minimum standards set by the Tool for this regulatory objective are as follows:

- Names and contact details of existing NPOs are held on a list which is publicly available.
- The names of the officials ultimately responsible for the administration of the NPO are available.
- NPO contact details on the publicly available list are accurate and up-to-date.

All documents submitted to the SEC are available to the public:

1. Upon request from the Public Relations Unit (PRU) for photocopies or certification for minimal fees to cover costs.
2. Through the SEC-I-View which can be accessed via the SEC website. The SEC I-View is one of the components of the agency's web facility (which includes the SEC-I-Register) and was funded from the E-Government Fund. Through this facility, one can view the actual submissions of NPOs, including their articles of incorporation and by-laws, the general information sheet and audited financial statements. Access to this facility can be made through the purchase of electronic credits from the SEC head office only, as currently no provisions has been made to allow purchase of credits from the extension offices. The system can only be accessed at specific hours on Mondays to Fridays, at 8 a. m. to 8 p. m.²³.

All data included in the Articles of Incorporation²⁴ is encoded in the SEC-I-View (<https://ireport.sec.gov.ph/iview/login.jsp>).

²² The response of the SEC was made by Atty. Ferdinand Sales, Assistant Director, Corporate and Partnerships Registration Division, Securities and Exchange Commission, during the March 28 national validation workshop.

²³ It has been noted that as of June, the system can be viewed even on weekends and outside of office hours.

²⁴ The contents of **Articles of Incorporation** include the following:

1. The name of the corporation;
2. The specific purpose or purposes for which the corporation is being incorporated. Where a corporation has more than one stated purpose, the articles of incorporation shall state which is the primary purpose and which is/are the secondary purpose or purposes: Provided, That a non-stock corporation may not include a purpose which would change or contradict its nature as such;
3. The place where the principal office of the corporation is to be located, which must be within the Philippines;
4. The term for which the corporation is to exist;
5. The names, nationalities and residences of the incorporators;
6. The number of directors or trustees, which shall not be less than five (5) nor more than fifteen (15);
7. The names, nationalities and residences of persons who shall act as directors or trustees until the first regular directors or trustees are duly elected and qualified in accordance with this Code;
8. If it be a stock corporation, the amount of its authorized capital stock in lawful money of the Philippines, the number of shares into which it is divided, and in case the shares are par value shares, the par value of each, the names, nationalities and residences of the original subscribers, and the amount subscribed and paid by each on his subscription, and if some or all of the shares are without par value, such fact must be stated;

The SEC I-View is one of the components of the agency's web facility (which includes the SEC-I-Register) and was funded from the E-Government Fund. Through this facility, one can view the actual submissions of NPOs, including their articles of incorporation and by-laws, the general information sheet and audited financial statements

Although the Corporation Code states that the corporation shall adopt its By-Laws²⁵ within 1 month after receipt of official notice of the issuance of its certificate of incorporation, the Corporation Code allows its adoption and filing prior to incorporation, together with the other registration documents.

The SEC, upon coordination with the BIR, is able to provide the applicant NPOs with the requisite corporate tax identification number (TIN) No. issued by the SEC-I-Register system. This TIN is unique to the NPO and provides a very reliable source of identification.

The information in the General Information Sheets provide: specific present address of the NPO, telephone and contact numbers, names of officers, trustees and members, their addresses and contributions and number of staff. The General Information Sheet is submitted annually within 30 days from date of the annual meeting of the NPO as stated in the corporate by-laws.

NPOs are also required to submit audited financial statements of its assets and liabilities, certified by any independent certified public accountant in appropriate cases, covering the preceding fiscal year and such other requirements as the Securities and Exchange Commission may require. The audited financial statements are required to be submitted within 120 days after the end of the fiscal year as specified in the By-laws. SEC further requires that the same are signed by a certified public accountant with a Board of Accountancy number.

Based on the random sampling (885 NPOs registered with SEC) done by the Project Team, there is still a number of NPOs that are not up-to-date in their submissions of General Information Sheets and Audited Financial Statements. (See Table 15 for the extent of the lack of submissions).

9. If it be a non-stock corporation, the amount of its capital, the names, nationalities and residences of the contributors and the amount contributed by each; and

10. Such other matters as are not inconsistent with law and which the incorporators may deem necessary and convenient.

The Securities and Exchange Commission shall not accept the articles of incorporation of any stock corporation unless accompanied by a sworn statement of the Treasurer elected by the subscribers showing that at least twenty-five (25%) percent of the authorized capital stock of the corporation has been subscribed, and at least twenty-five (25%) of the total subscription has been fully paid to him in actual cash and/or in property the fair valuation of which is equal to at least twenty-five (25%) percent of the said subscription, such paid-up capital being not less than five thousand (P5,000.00) pesos

²⁵ The contents of the By-laws include the following:

1. The time, place and manner of calling and conducting regular or special meetings of the directors or trustees;
2. The time and manner of calling and conducting regular or special meetings of the stockholders or members;
3. The required quorum in meetings of stockholders or members and the manner of voting therein;
4. The form for proxies of stockholders and members and the manner of voting them;
5. The qualifications, duties and compensation of directors or trustees, officers and employees;
6. The time for holding the annual election of directors or trustees and the mode or manner of giving notice thereof;
7. The manner of election or appointment and the term of office of all officers other than directors or trustees;
8. The penalties for violation of the by-laws;
9. In the case of stock corporations, the manner of issuing stock certificates; and
10. Such other matters as may be necessary for the proper or convenient transaction of its corporate business and affairs.

The SEC has been actively cleaning up its register of corporations based on Sections 22 and 141 of the Corporation Code and Section 5 of the Securities Regulation Code amending Presidential Decree (PD) 902-A. Section 22 of the Corporation Code states that *“if a corporation has commenced the transaction of its business but subsequently becomes continuously inoperative for a period of at least five (5) years, the same shall be a ground for the suspension or revocation of its corporate franchise or certificate of incorporation.”*

Non-compliance by any corporation of the requirement to submit GIS or Audited Financial Statements continuously for 5 consecutive years is tantamount to non-operation and provides just cause for the SEC to revoke certificates of registration of these corporations.

Regulatory Objectives	Indicators	Assessment
Identifying NPOs	Well Communicated	<ul style="list-style-type: none"> Copies of all documents submitted to SEC are made available to the public upon request upon payment of fees for photocopying or certification. The time period for online access of the SEC website is very limited and one needs to purchase electronic credits only from the SEC main office. The process of obtaining information on NPOs for purposes of identifying them or determining their registration is generally well-known and well-communicated to the general public.
	Fair	<ul style="list-style-type: none"> The requirements for accessing NPO data is seen to be fair and applied uniformly.
	Proportionate	<ul style="list-style-type: none"> The reporting requirements are uniform for all NPOs. Efforts have to be made so that these requirements become more proportionate.
	Enabling	<ul style="list-style-type: none"> The reporting requirements and the documents submitted pursuant thereto as well as the system of access by the public to these documents and the information contained therein all provide an enabling environment that would allow NPOs to perform their work. This is especially true for the sourcing of funds from donors who may wish to vet the NPOs thru the SEC.
	Context	<ul style="list-style-type: none"> The reporting requirements and the policies on access to information and data on NPOs are within the context of the needs of the Philippine society and the legislative intent of our lawmakers.
	Feasible and realistic	<ul style="list-style-type: none"> The process is enforceable. All the documents required to be submitted to the SEC are listed at the back of the Certificate of Registration, for easy reference of NPOs.
	Efficient	<ul style="list-style-type: none"> There is no duplication of work. SEC has been proactive in ensuring that the public can gain access to SEC data on NPOs and all other corporations without undue delay. The SEC's Memorandum of Agreement with the BIR on the provision of the requisite TIN to the NPO upon application is a very reliable source of identification of NPOs, since the TIN is a unique ID number for each taxpayer. Based on the random sampling conducted, less than 10 percent of non-profits submit the required reportorial requirements – the General Information Sheets and the Audited Financial Statements – on time. However, SEC has been proactively revoking the certificates of registration of NPOs which have not been complying with the reportorial requirements for five years. The list of NPOs with revoked licenses can be found at SEC's website.

II.C. Regulatory Objective No. 3: Identification of Concerns

This regulatory objective is related to Regulatory Objective No. 2 on Identifying NPOs and the minimum standards are similar. All corporations are mandated to submit the General Information Sheet and Audited Financial Statements to the SEC and these together with the Articles of Incorporation and By Laws are available to the public.

For corporations with total assets of P 500,000.00 or more or with gross receipts of P100,000.00 or more for the fiscal year, these must be duly audited and certified by an independent Certified Public Accountant. In other cases, the financial statements, may instead be attested and sworn to by the corporation's treasurer. Public disclosure of the non-stock, non-profit records are important, while coordination with the Bureau of Internal Revenue, Philippine National Police and anti-graft agencies is important.

The SEC has tightened its monitoring of non-stock, non-profit corporations; more recently, it has issued Memorandum Circular No. 8, Series of 2006, which provides for additional reportorial requirements for foundations. In addition, in 2006, they also required organizations to state specifically if they conduct microfinance operations under the Social Reform and Poverty Alleviation Act. SEC has revoked the certificates of registration of corporations which have not submitted the required reportorial requirements, trimming down the number of registered NPOs from a peak of approximately 152,000 in 2002 to less than 77,000 in March, 2008.

The SEC's mandate as a corporate registration agency allows it to monitor compliance with the reportorial requirements and other pertinent provisions of the Corporation Code, especially with respect to "*ultra vires*" acts, which include fraudulent and illegal activities as well as those not within its purposes. In other words, SEC can examine with thoroughness the reports and data submitted by NGOs but it reported that it does not have the human resources to review the volume of reports and data submitted.

SEC MC No. 6, series of 2008, (<http://www.sec.gov.ph/circulars/cy,2008/sec-memo-05,s2008.pdf>) was recently issued and provides Guidelines on On-Site Verification of Financial Records Relative to Certain Applications Filed with the Commission, for the purpose of ensuring accuracy and completeness of the information submitted to the Commission

In addition to the reportorial requirements, foundations are required to submit a Statement of Funds under oath by the President within 120 days after the end of the fiscal year as specified in the By-laws, setting forth in detail the sources and amounts of funds established and the names of the beneficiaries and the corresponding amounts of funds granted or endowed thereto by the foundation.

While the SEC does not analyze data on NPOs, the agency requires that the financial statements (FS) be audited by certified public accountants before submission to the agency. The agency does not allow audits by fly-by-night accounting firms and accountants need to have board of accountancy numbers and statements of representation in the files of the SEC. They also require a statement of management responsibility, and the general information sheet (GIS) have to be signed by the corporation president or the corporate secretary.

<i>Regulatory Objectives</i>	<i>Indicators</i>	<i>Assessment</i>
Identifying Concerns	Well Communicated	<ul style="list-style-type: none"> Concerns of misuse or abuse relative to activities committed by or to NPOs are identified by the SEC from complaints received from the public. Non-compliance with reportorial requirements is acted upon by the SEC in a proactive manner.
	Fair	<ul style="list-style-type: none"> All procedures relative to complaints and concerns received from the public are subject to administrative due process.
	Proportionate	<ul style="list-style-type: none"> The rules and procedures are uniform for all and are not based on proportionality, with the exception of foundations.
	Enabling	<ul style="list-style-type: none"> The administrative processes allow a venue for the public to air their complaints and concerns. The SEC does not analyze the data/ information it collects to come up with updated analyses of the NPO sector to identify trends, concerns and risks.
	Context	<ul style="list-style-type: none"> The approach used to identify concerns through the public is generally the most strategic one that can be availed of given the limited resources of SEC. The processes are well integrated into administrative procedures of the SEC.
	Feasible and realistic	<ul style="list-style-type: none"> The public is well aware of the complaints system of the SEC which is documented in internal rules and procedures which are conducted according to due process.
	Efficient	<ul style="list-style-type: none"> The system is efficient as evidenced by the prompt handling and disposition of cases by the SEC, which would not have been the case if the concerns and issues were not fully identified. Where information on the NPO is lacking or not available, the SEC has powers to subpoena the necessary documents and information and to call upon the responsible persons in control of the NPO to provide this required information.

II.D. Regulatory Objective No. 4: Investigation of Concerns

The minimum standards under the Tool for this regulatory objective are:

- There are competent authorities with the responsibility to investigate.
- The authorities are able to identify the cases that they need to investigate.
- The authorities have the capability and resources to investigate.
- The authorities are able to identify serious issues.

The SEC has inherent powers under its charter to investigate complaints of wrongdoings by its registered NPOs for violations of the Corporation Code and other related laws, rules and regulations. SEC has powers to subpoena documents from these organizations and can require witnesses to attend hearings.

At present there are 43 staff, including 13 investigators, in the SEC's Compliance and Enforcement Department (CED). These staff are qualified to act on complaints received from the public, which may or may not be given due course depending on the facts and causes of action cited, as may be

determined by the Investigating Officer/s. The CED informant stated that there are very few complaints filed or investigations undertaken against NPOs.

SEC's website provides guidance to the public on how complaints may be filed:

- Use a downloadable form and send electronically , by e-mailing the completed form to ced@sec.gov.ph, or
- Print and fill out a form or write us a letter, mail or deliver to the Compliance and Enforcement Department, 5th floor, SEC Building Ortigas, Mandaluyong City.
- Critical information that need to be included in the complaint:
 - Complainant's name, mail and email addresses, and telephone numbers.
 - Name, mail and email addresses, telephone numbers, and website address of any individual or company mentioned in the complaint.
 - Specific details of the circumstances surrounding the complaint

The Complaints and Investigation Division of the CED evaluate the complaint. It is the general policy of the SEC to conduct its investigations on a confidential basis to preserve the integrity of its investigative process as well as to protect persons against whom unfounded charges may be made or where the SEC determines that enforcement action is not necessary or appropriate.

Subject to the provisions of the Article III, section 7, of the 1987 Constitution, the SEC cannot disclose the existence or non-existence of an investigation and any information gathered unless made a matter of public record in proceedings brought before the SEC or in the courts. Information about public enforcement actions are published at SEC's website.

The investigations are undertaken with a "project management approach," i.e., meeting set targets according to an agreed-upon timetable and reassessing the plan of investigation at regular intervals.

It is noteworthy to reiterate that SEC's mandate covers both the capital market regulation and the registration of corporation and partnerships and as such, the CED handles investigations of violations not only of the Corporation Code, but also the Securities and Regulation Code as well as all other securities related laws.

SEC acts on and investigates complaints against NPOs on the basis of complaints received from the public. Where the initial investigation finds that the facts and causes of action may cause serious damage to the public, full investigation is conducted in accordance with its internal administrative procedures until a final disposition of the case is reached.

<i>Regulatory Objectives</i>	<i>Indicators</i>	<i>Assessment</i>
Investigating Concerns	Well Communicated	<ul style="list-style-type: none"> • SEC acts on and investigates complaints from the public about illegal activities of NPOs which actions have resulted in revocation of registration of and imposition of administrative fines against these entities. • The SEC has adopted Internal Rules in the conduct of its investigations.
	Fair	<ul style="list-style-type: none"> • All investigative procedures relative to complaints and concerns received from the public are subject to administrative due process. • SEC abides by a confidentiality policy for all complaints and the information contained therein unless these have been made a matter of public record in proceedings before the SEC or in the courts.
	Proportionate	<ul style="list-style-type: none"> • The rules and procedures of investigation are uniform for all NPOs and are not based on proportionality, differing only in factual circumstances and legal requirements from where deviations in final dispositions of cases may result.
	Enabling	<ul style="list-style-type: none"> • The fact that SEC acts on and investigates complaints from the public about illegal activities of NPOs provides an enabling environment for the general populace, who are assured that there is a venue where they may seek legal remedies.
	Context	<ul style="list-style-type: none"> • The investigation rules and procedures are all within the context of domestic laws and in accordance with administrative due process.
	Feasible and realistic	<ul style="list-style-type: none"> • The investigative rules and procedures are conducted according to due process.
	Efficient	<ul style="list-style-type: none"> • The system is efficient as evidenced by the prompt handling and disposition of cases by the SEC. Enforcement actions are published at SEC's website. • SEC's capacity to investigate is limited due to the small number of investigative staff.

II.E. Regulatory Objective No. 5: Protecting NPOs

Abuse of an NPO can be defined as any circumstance in which its resources are diverted for any purpose other than that for which they were intended. Resources include money, property, tools, vehicles and intangible resources such as staff time, name and reputation. Abuse may be input abuse (e.g. bogus fundraising or diversion of legitimate funds raised), administrative abuse (e.g. fraud by the NPO or an official) and output abuse (funds not spent on the objects).

The minimum standards set by the Tool are as follows:

- That there are competent authorities who have the responsibility for taking protective action in any case where there is a serious risk of ongoing abuse.
- The responsible authorities have the legal authority to take protective action when necessary.
- The responsible authorities have the legal authority to punish those responsible for abuse of an NPO.

SEC's powers to protect NPOs and their beneficiaries from the risk of misuse and abuse are basically intertwined with its power to investigate concerns (Regulatory Objective No.5). The power of SEC to act on and investigate complaints received from the public against NPOs or their officers, trustees and members is corollary to its power to protect the same NPOs, their members and beneficiaries. This is separate and independent from any action that can be taken by secondary regulators of subject NPOs, where applicable.

While the SEC has the authority to issue cease and desist orders (CDOs), insofar as NPOs are concerned, these CDOs can be availed of only if the SEC finds probable cause that the NPOs have committed a violation of the Securities Regulation Code (SRC) or any rules promulgated thereunder. In other words, if the NPO and its officers, directors and staff are found to have committed fraud relative to mismanagement of NPO funds (which is not related to securities matters as defined under the SRC), the remedy of the members and/or beneficiaries is to file an application before the regular courts for a preliminary attachment and/or injunction over the NPO's assets and funds.

The SEC, on its part, can impose administrative fines and penalties against the NPO, suspension or revocation of its certificate of registration, without prejudice to the filing of criminal cases before the regular court against the responsible officers, trustees and/or members.

There were two cases involving misrepresentation of the objectives of the NPOs where the SEC promptly revoked their certificates of registration. As previously mentioned, the certificates of registration of thousands of non-stock corporations have already been revoked by the SEC for non-submission of reportorial requirements, as part of the ongoing clean-up by the SEC of its corporate and partnership registry list.

The list of corporations with revoked certificates of registration is published at SEC's website.

<i>Regulatory Objectives</i>	<i>Indicators</i>	<i>Assessment</i>
Protecting NPOs	Well Communicated	<ul style="list-style-type: none"> • SEC's power to protect NPOs is linked to its power to investigate complaints and concerns received from the public. • SEC's charter and legal mandate allow a venue for the public to air their complaints and concerns through complaints which are filed either electronically, by mail or personal delivery to SEC's offices.
	Fair	<ul style="list-style-type: none"> • All procedures relative to complaints and concerns received from the public are subject to administrative due process, where every person is given his "day in court", so to speak.
	Proportionate	<ul style="list-style-type: none"> • The SEC has the legal authority to punish those responsible for abuse of an NPO. Sanctions include suspension or revocation of certificates of registration, administrative fines and penalties, without prejudice to the filing of criminal cases before the regular court against the responsible officers, trustees and/or members. The sanctions are imposed on the basis of gravity of the violation and the injury to the complainant/s and the public
	Enabling	<ul style="list-style-type: none"> • SEC has the legal authority to take protective action when necessary. • The public is given feedback on enforcement actions taken by the SEC which are published in SEC's website.
	Context	<ul style="list-style-type: none"> • Despite the laws, rules, policies and processes for investigation of NPOs and the feedback provided thereon, which have been put in place for the protection of both NPOs and the general public, there is still a general perception among the non-government members of the Assessment Team that it is not clear to them that such processes and policies are for the protection of the NPOs. This will be further discussed in the Consolidated Assessment of the regulatory sector.
	Feasible and realistic	<ul style="list-style-type: none"> • The laws and rules to protect NPOs are in place and are being enforced according to due process.
	Efficient	<ul style="list-style-type: none"> • The system is efficient as evidenced by the prompt handling and disposition of cases by the SEC.

II.F. Regulatory Objective No. 6: Mitigating Risks

The Tool provides the following minimum standards for this regulatory objective:

- Legal obligations are clearly explained.
- Advice and guidance is provided on compliance with regulations.
- Steps are taken to raise awareness of legal obligations and sources of guidance amongst NPOs.
- There are routine consultations with NPOs on all major changes to regulatory laws and policies.
- NPO best practices are defined, promoted and efforts are made to educate the sector on them.
- Information on the sector as a whole is regularly gathered and analyzed.
- There a regular review to identify and adapt to new and developing risks within the sector.

As previously mentioned, insofar as NPOs are concerned, SEC's mandate is focused on registration and ensuring compliance with reportorial requirements. It has provided a Help Desk to assist NPOs in complying with its legal obligations. Procedures for compliance and for filing of grievances and complaints are provided in SEC's website.

The SEC is also currently undertaking a dialogue with several NPOs to fine-tune policies on corporate governance for this sector.

The following standards do not fall within SEC's mandate:

- Dissemination of NPOs' best practices. The NPO networks have proactively undertaken this responsibility.
- Analysis of Information gathered which includes the number, size, nature and activities of the NPOs. SEC functions as a registering agency and monitors compliance with reportorial requirements and provisions of the Corporation Code. It gathers the required information in accordance with its charter but does not analyze them.

However, SEC has the legal authority pursuant to its rule making powers to issue circulars that address evolving issues within the sector. Two examples are:

- SEC MC No. 2, series of 2006 which requires NPOs engaging in or will engage in microfinance activities to report the same as one of the NPO's purposes in its Articles of Incorporation. Existing NPOs engaging in microfinance activities are required to amend their Articles of Incorporation to comply with this directive.
- SEC MC No. 3, Series of 2006, directing all corporations and partnerships to state in their applications for registration and in their subsequent filings of General Information Sheets the following information:
 - i. specific address of their principle office which shall include the street number, street name, barangay, city or municipality and,
 - ii. the specific residence address of each the incorporators, stockholder, trustee or partner.
- SEC MC No, 8, Series of 2006 which imposes additional reportorial requirements on foundations and is SEC's contribution towards addressing the issue of the risk of NPOs being used for money laundering and terrorist financing. These additional reports are: Statement of Funds under oath by the President, setting forth in detail the sources and amounts of funds established and the names of the beneficiaries and the corresponding amounts of funds granted or endowed thereto by the foundation.

In addition, the SEC has initiated efforts to partner with other regulatory agencies to understand and enhance the NPO sector. For example, the SEC is set to enter into a Memorandum of Agreement with DSWD with respect to coordination between the two agencies relative to social welfare agencies whose secondary registration, licensing and accreditation have been revoked. There are also moves to enhance existing MOAs between the agency and the Department of Health and the Professional Regulation Commission.

<i>Regulatory Objectives</i>	<i>Indicators</i>	<i>Assessment</i>
Mitigating Risks	Well Communicated	<ul style="list-style-type: none"> • SEC has rule making powers which it has used to issue Memorandum Circulars which address evolving issues affecting the NPO sector, thereby enhancing the kind of information gathered from the NPOs. These MCs are well publicized in SEC's website. • SEC has provided a Help Desk to assist NPOs in complying with its legal obligations. Procedures for compliance and for filing of grievances and complaints are provided in SEC's website.
	Fair	<ul style="list-style-type: none"> • The rules are fair and are applied uniformly on the same class of NPOs.
	Proportionate	<ul style="list-style-type: none"> • The rules that SEC has issued are proportionate to the evolving issues affecting the sector.
	Enabling	<ul style="list-style-type: none"> • The SEC regulatory regime does not unduly restrict NPOs in their activities.
	Context	<ul style="list-style-type: none"> • The rules are well within the context of SEC's rule making powers and are compliant with the needs of the sector and the public.
	Feasible and realistic	<ul style="list-style-type: none"> • The rules are enforceable and do not present any undue burden upon NPOs with regards to compliance.
	Efficient	<ul style="list-style-type: none"> • The information gathered by SEC is accessible by the public, in particular by the NPOs themselves, grant makers and donors, law enforcement agencies, government agencies. • SEC's mandate is focused on registration and ensuring compliance with reportorial requirements. Despite this, it has made efforts to partner with other regulatory agencies and with NPOs to understand and enhance the NPO sector.

III. COOPERATIVE DEVELOPMENT AUTHORITY (<http://www.cda.gov.ph/>)

The national hero of the Philippines, Dr. Jose P. Rizal put up the first cooperative in the Philippines. After his side trip to Sandakan, Borneo in 1892, he requested Governor Despuol that he and some relatives and friends be permitted to move to that place and found a colony under the cooperative plan of Robert Owen. Instead, he was arrested for treason and banished to Dapitan, Zamboanga del Norte. In Dapitan, Rizal had his ideas in cooperation partially fulfilled. He put up a school for the poor community on a purely cooperative basis. He also established a cooperative store with the help of his pupils. One noteworthy group organized by Rizal was the *La Sociedad de los Abacaleros* (Society of Abaca Producers). This functioned for only one year. Rizal returned the members share capital without any loss.

Gov. Teodoro Sandiko, earned the title of *Father of Cooperation* in 1908 after the bill he prepared to protect and develop the agricultural interest in the country became Act 2508.

Thereafter, many laws were passed dealing with cooperatives. Formerly, the cooperatives were registered with various offices; sugar cooperatives were registered with the Sugar Regulatory Administration (SRA), transport cooperatives with the Office of Transport Cooperatives (OTC) and electric cooperatives with the National Electrification Administration (NEA) and so on.

To help the government address the confusing and conflicting rules and regulations, which governed the registration of cooperatives, a Bill was passed and signed as law through RA 6938 by then President Corazon C. Aquino on March 10, 1990. A companion law was also passed creating the Cooperative Development Authority under the Office of the President through Republic Act 6939 to unify government efforts in the promotion of growth and development of cooperatives and rationalize rules and policies on cooperative registration into one agency. It absorbed the functions of the Bureau of Agricultural Cooperatives Development (BACOD-DA) and the Regional Cooperatives Development Assistance Offices (Regions IX and XII) and transferred to it the registration and supervision of cooperatives registered under PD Nos. 175, 775 and 269 as amended by PD 1645 including EO 269.

The Cooperative Development Authority (CDA) is a government agency created by virtue of Republic Act No. 6939 in compliance with the provisions of Section 15, Article XII of the Philippine Constitution of 1987 which mandates Congress to create an agency to promote the viability and growth of cooperatives as instruments for equity, social justice and economic development. Republic Act (RA) 6939 was signed into law on March 10, 1990.

The CDA is governed by a Board of Administrators consisting of a Chairman and six members appointed by the President and are chosen from among the nominees of the cooperative sector with two representatives each from Luzon, Visayas, and Mindanao. They serve for a term of six years without reappointment.

Section 3 of RA 6939 enumerates the powers, functions and responsibilities of the CDA:

1. Formulate, adopt and implement integrated and comprehensive plans and programs on cooperative development consistent with the national policy on cooperatives and the overall socio-economic development plans of the Government;
2. Develop and conduct management and training programs upon request of cooperatives that will provide members of cooperatives with the entrepreneurial capabilities, managerial

expertise, and technical skills required for the efficient operation of their cooperatives and inculcate in them the true spirit of cooperativism and provide, when necessary, technical and professional assistance to ensure the viability and growth of cooperatives with special concern for agrarian reform, fishery and economically depressed sectors;

3. Support the voluntary organization and consensual development of activities that promote cooperative movements and provide assistance towards upgrading managerial and technical expertise upon request of the cooperatives concerned;
4. Coordinate the efforts of the local government units and the private sector in the promotion, organization and development of cooperatives;
5. Register all cooperatives, their federations and unions, including their divisions, consolidations, dissolutions or liquidation. It shall also register the transfer of all or substantially all of their assets and liabilities and such other matters as may be required by the authority;
6. Require all cooperatives, their federations and unions to submit their annual financial statements, duly audited by certified public accountants, and general information sheets;
7. Order the cancellation after due notice and hearing of the cooperatives certificate of registration for non-compliance with administrative requirements and in case of voluntary dissolution;
8. Assist cooperatives in arranging for financial and other forms of assistance under such terms and conditions as are calculated to strengthen their viability and autonomy;
9. Establish extension offices as may be necessary and financially viable to implement this Act. Initially, their shall be extension offices in the Cities of Dagupan, Manila, Naga, Iloilo, Cebu, Cagayan de Oro and Davao;
10. Impose and collect reasonable fees and charges in connection with registration of cooperatives;
11. Administer all grants and donations coursed through the Government for cooperative development, without prejudice to the right of cooperatives to directly receive and administer such grants and donations upon agreement with the grantors and donor thereof;
12. Formulate and adopt continuing policy initiatives consultations with the cooperative sector through public hearing;
13. Adopt rules and regulations for the conduct of its internal operations;
14. Submit an annual report to the President and Congress on the state of the cooperative movement; and
15. Exercise such other functions as may be necessary to implement the provisions of cooperative laws and, in the performance thereof, the Authority may summarily punish for direct contempt any person guilty of misconduct in the presence of the Authority which seriously interrupts any hearing or inquiry with a fine of not more than Five hundred pesos

or imprisonment of not more than ten days, or both. Acts consisting indirect contempt as defined under Rule 71 of the Rules of Court shall be punished in accordance with the said rule.

The central office of the agency is located in Quezon City, while extension offices are located in each of the regions of the country.

The next sections discuss the summary results of the evaluation of the CDA according to the regulatory objectives.

III.A. Regulatory Objective No. 1: Establishing Cooperatives

The minimum standards under the Tool for Regulatory Objective No. 1 are as follows:

- Citizens are free to establish Cooperatives except in limited and exceptional circumstances.
- Laws and regulations for establishing Cooperatives cover all those Cooperatives that need to be covered, whilst excluding those that do not

The Philippine Constitution enshrines freedom of association as a basic fundamental right. Any group of persons may form an association as long as its purposes are not contrary to law.

Article 3 of the RA 6938 or the Cooperative Code empowers the CDA with the exclusive mandate to register all kinds of cooperatives.

A cooperative is defined under Republic Act 6939 or the Cooperative Code of the Philippines as “a duly registered association of persons, with a common bond of interest, who have voluntarily joined together to achieve a lawful common social or economic end, making equitable contributions to the capital required and accepting a fair share of the risks and benefits of the undertaking in accordance with universally accepted cooperative principles.”

Preliminary statistics as of February 2008 obtained from the CDA shows that there are 76,042 cooperatives in the Philippines, 21,068 of which are operating cooperatives and 21,473 are non-operating cooperatives. See Table 19 for exact figures.

Cooperative Principles

Every Cooperative shall conduct its affairs in accordance with Filipino culture and experience and the universally accepted principles of cooperation such as:

- Open and Voluntary membership;
- Democratic Control;
- Limited Interest Capital, or share capital should receive a limited rate of interest;
- Division of Net Surplus, or net surplus shall be equitably distributed to its members;
- Cooperative Education, or all cooperatives shall make provision for education of their members;
- Cooperative among Cooperatives, or active cooperation with each other.

Cooperative Practices and Operational Guidelines

Cooperatives follow certain operational guidelines. Some are adopted from standard international practices, others are local innovations. But all these are aimed at perfecting cooperative operations. These are the activities that cooperatives are allowed to engage in:

- Capital Formation – through membership fees, withholding a portion of net earnings profits or by assessment based on units of products sold or purchased.
- Cash Trading - This is business done on a cash and carry basis.
- Selling of goods and services at market price.
- Avoidance of destructive competition by fostering constructive competition and forging cooperation to get a better deal from manufacturers and suppliers. Credit unions are formed to counter the power of large scale financial institutions.
- Constant expansion through recruitment of new members.
- Production of Quality standardized goods.
- Cooperative wholesale business or interlending (cooperative bank).
- Maximizing the benefits from the wholesale business.
- Minimizing expenditures.

Types of Cooperatives

- **Credit Cooperative:** promotes thrift and savings among its members and creates funds in order to grant loans for productive and provident purposes.
- **Consumer Cooperative:** The primary purpose is to procure and distribute commodities to members and non-members.
- **Producers Cooperative:** undertakes joint production whether agricultural or industrial.
- **Marketing Cooperative:** engages in the supply of production inputs to members, and markets their products.
- **Service Cooperative:** engages in medical and dental care, hospitalization, transportation, insurance, and housing, labor, electric light and power communication and other services.
- **Multi- Purpose Cooperative:** combines two or more of the business activities of these different types of cooperatives.

Categories of Cooperatives

Cooperative shall be categorized according to membership and territorial consideration. In terms of membership, cooperatives shall be categorized into:

- **Primary** - The members of which are natural persons of legal age.
- **Secondary** - The members of which are primaries.
- **Tertiary** - the members of which are secondaries upward to one (1) or more apex organizations.

Thus, those with cooperative memberships are considered federations or unions as the case may be. In terms of territory, cooperatives shall be categorized according to areas of operation which may or may not coincide with the political subdivisions of the country but, those organized by minors shall be considered a laboratory cooperative and must be affiliated with a registered cooperative. It is governed by special guidelines promulgated by the CDA.

Benefits and Privileges

Cooperative registered under R.A. 6938 shall, notwithstanding the provisions of any law to the contrary, be also accorded the following privileges:

- Depositing their sealed cash boxes or containers, documents or any valuable papers in the safes of the municipal or city treasurers and other government offices free of charge, and the custodian of such articles shall issue a receipt acknowledging the articles received duly witnessed by another person;
- Free use by government employees' cooperatives of any available space in their agency;
- Cooperatives rendering special types of services and facilities such as cold storage, ice plant, electricity, transportation, and similar services and facilities shall secure a franchise therefor, and such cooperatives shall open their membership to all persons qualified in their areas of operation;
- Preferential right to supply government institutions and agencies rice, corn and other grains, fish and other marine products meat, eggs, milk, vegetables, tobacco and other agricultural commodities produced by their members;
- Preferential treatment in the allocation of fertilizers and in rice distribution;
- Preferential and equitable treatment in the allocation or control of bottomries of commercial shipping vessels in connection with the shipment of goods and products of cooperatives;
- Preferential rights in management of public markets and/or lease of public market facilities, stall or spaces;
- Credit cooperatives and/or federations shall be entitled to loans, credit lines, rediscounting of their loan notes, and other eligible papers with the Development Bank of the Philippines, the Philippine National Bank, the Land Bank of the Philippines and other financial institutions except the Central Bank of the Philippines;
- Exemption from pre-qualification bidding requirements, when transacting with government agencies; and
- Privilege of being represented by the provincial or city fiscal or the Office of the Solicitor General, free of charge, except when the adverse party is the Republic of the Philippines.

A cooperative formed or organized under RA 6938 or the Cooperative Code of the Philippines (Cooperative Code) acquires juridical personality from the date the CDA issues a Certificate of Registration under its official seal. xxx”.

The Cooperative Code has devised very clear-cut steps for the cooperative organizer and members to register their cooperative. Registration requires the submission of the following documents:

- Four copies each of the Economic Survey, Articles of Cooperation and By-Laws duly notarized;
- Bonds of accountable officer(s) (any directors, officers and employees) handling funds, securities, of properties in behalf of the cooperative;
- Sworn statement of the treasurer duly notarized showing that at least 25% of the authorized share capital has been subscribed, and at least 25% of the total subscription has been paid. The paid-up capital must not be less than Php 2,000.00;
- It must be noted that no member may own more than 20% of the subscribed share capital and each share must not be less than Php 1.00.

All applications for registration shall be finally disposed of by the CDA within a period of thirty (30) days from the filing thereof, otherwise the application is deemed approved, unless the cause of

the delay is attributable to the applicant. In case of a denial of the application for registration, an appeal shall lie with the Office of the President within ninety days from receipt of notice of such denial. Failure of the Office of the President to act on the appeal within ninety (90) days from the filing thereof shall mean approval of said application.

There is a 30-day waiting period for registration process. According to the CDA Executive Director, there is pressure for the CDA to set up an on-line process, but this may be difficult to because the CDA has to examine many factors, including the impact of the cooperative on the community, before it can issue the certificate of registration.

To facilitate the flow of its services, extension offices have been set up. These are located in (a) Dagupan City; (b) Tuguegarao, Cagayan; (c) Baguio City; (d) San Fernando, Pampanga; (e) NCR-Quezon City; (f) Calamba, Laguna; (g) Naga City; (h) Iloilo City; (I) Cebu City (k) Kidapawan; (l) Tacloban City; (m) Davao City; (n) Zamboanga City; and (o) Butuan City.

CDA Memorandum Circular No. 02-03, Series of 2002, was issued thereby amending Memorandum Circular No. 92-004, Series of 1992 provides the schedule of fees in their website as follows:

Type of Cooperative	Paid-up Capital	Fees
Laboratory Cooperatives		No Registration Fees
Primary Cooperatives	P2,000.00 – P500,000.00	P500.00
	P500,001.00- up	P500.00 plus 1/10 of 1% of the paid-up share capital
Secondary Cooperatives	P2,000.00 – P 500,000.00	P 1,000.00
	P500,001.00- up	P1,000.00 plus 1/10 of 1% of the paid-up share capital
Tertiary Cooperatives		P3,000.00

However, more recently, CDA Memorandum Circular No. 2004-05, Series of 2004 thereby amending MC No. 02-03, Series of 2002 provides the schedule of fees shall be 1/10 of 1% of the authorized share capital or the basic fee below whichever is higher.

The CDA is empowered to administer all grants and donations coursed through the Government for cooperative development, without prejudice to the right of cooperatives to directly receive and administer such grants and donations upon agreement with the grantors and donor thereof. This is an incentive for cooperatives to register themselves considering that they would not be qualified to receive such grants and donations without the requisite CDA certificate of registration.

<i>Regulatory Objectives</i>	<i>Indicators</i>	<i>Assessment</i>
Establishing Cooperatives	Well Communicated	<ul style="list-style-type: none"> Rules are straightforward, sample forms are available, and generally known to those who would like to form a cooperative. There are some concerns, however, that small cooperatives may not be able to register with the CDA since the incidental costs of registering are quite high due to geographical limitations.
	Fair	<ul style="list-style-type: none"> The registration process does not restrict establishment of cooperatives and is applied fairly and consistently. There is no undue denial of registration as long as all legal requirements are complied with.
	Proportionate	<ul style="list-style-type: none"> Registration procedures are uniform for all applicants of the same class of cooperatives.
	Enabling	<ul style="list-style-type: none"> The registration requirements vest the cooperatives with juridical personality which enables them to pursue their objectives and intended purposes. There are incentives for cooperatives to register themselves, especially considering that the CDA is empowered to administer all grants and donations coursed through the Government for cooperative development, which can be directly be given to cooperatives upon agreement with the grantors and donors.
	Context	<ul style="list-style-type: none"> The registration procedures are well integrated into the legal system, are clear and easily followed by applicants.
	Feasible and realistic	<ul style="list-style-type: none"> The registration process of registration is enforceable and the CDA has established extension offices in all regions of the country thus allowing cooperatives easy access to CDA's registration process.
	Efficient	<ul style="list-style-type: none"> The CDA has exclusive authority to register all cooperatives and the registration system is able to achieve the intent to acquire jurisdiction over all cooperatives. There are concerns, however, that there are some cooperatives which may be outside the regulatory framework of CDA, especially those in far-flung areas of the country, due to the attendant costs of travelling to the CDA extension offices for registration, which costs may be quite high compared to the income and assets of the cooperative.

III.B. Regulatory Objective No. 2: Identifying Cooperatives

The minimum standards set by the Tool for this regulatory objective are as follows:

- Names and contact details of existing cooperatives are held on a list which is publicly available.
- The names of the officials ultimately responsible for the administration of the cooperative are available.
- Cooperative contact details on the publicly available list are accurate and up-to-date.

Information on cooperatives is generally available from the CDA upon request although the data is not available in their website as data retrieval is done manually.

The CDA requires the submission of the following documents and information:

- Cooperative Profiles/Officers,
- Audited Financial Statements,
- Articles of Incorporation and Bylaws,
- Bond of Accountable Statements,
- Audited Financial Statement,
- General Information Sheet.

The following are subject to cooperative monitoring and are requirements that the cooperatives are prescribe, maintain and adopt:

- Policies and Guidelines, which cooperatives are required to prescribe, maintain and adopt;
- Special Operating Procedures
- Sources of Funds and Allocations
- Sharebooks
- Membership Profiles/Officers, which are internal cooperative requirements.

Article 11 of the Cooperative Code requires every group of individuals or cooperatives intending to form a cooperative shall submit to the CDA a general statement describing the structure, purposes and economic feasibility of the proposed cooperative, indicating the area of operation, the size of membership and other pertinent data.

The CDA also publishes reports on the status of cooperatives that register with them. The CDA also issues a Certificate of Operation and Certificate of Good Standing to inform the public and other stakeholders of the current status of the cooperative.

The CDA will be implementing a cooperative identification number system to better monitor its list of cooperatives and to clean up the CDA registry. Each cooperative will electronically be given a unique number and this will be utilized for on-line transmittal of encoded data from the regional offices to the central office with regards to the registration of coops and collected annual reports and audited financial statements.

<i>Regulatory Objectives</i>	<i>Indicators</i>	<i>Assessment</i>
Identifying Cooperatives	Well Communicated	<ul style="list-style-type: none"> Information about cooperatives is available to the public upon request and the procedures are generally known and well communicated.
	Fair	<ul style="list-style-type: none"> The system of obtaining information on cooperatives is transparent, fair and not unduly burdensome.
	Proportionate	<ul style="list-style-type: none"> System of access to information on cooperatives is uniform regardless of the type of cooperative and was instituted according to the unique nature of cooperatives.
	Enabling	<ul style="list-style-type: none"> The reporting requirements and the documents submitted pursuant thereto as well as the system of access by the public to these documents and the information contain therein all provide an enabling environment that allow cooperatives to perform their work and provide the concerned public with the necessary information on the activities of cooperatives. CDA also issues a Certificate of Operation and Certificate of Good Standing to inform the public and other stakeholders of the current status of the cooperative.
	Context	<ul style="list-style-type: none"> The information access system is a basic service provided under the right to information of citizens vested by the Philippine Constitution and is well within the standards under Philippine setting.
	Feasible and realistic	<ul style="list-style-type: none"> The rules and procedures for accessing information on cooperatives are well known to the public. The establishment of extension offices provides a feasible and realistic manner of access to information on cooperatives.
	Efficient	<ul style="list-style-type: none"> There is no duplication of work because the CDA is the only agency with jurisdiction over cooperatives. There is no undue delay in accessing information on cooperatives. The CDA will be implementing a cooperative identification number system to better monitor its list of cooperatives and to clean up the CDA registry; each cooperative will electronically be given a unique number better identification of cooperatives. CDA could provide on-line services for accessing information on cooperatives, much like the SEC-I-View, when its resources will allow it to do so.

III.C. Regulatory Objective No. 3: Identifying Concerns

This regulatory objective is related to Regulatory Objective No. 2 on Identifying Cooperatives and the minimum standards are similar.

Until 2006, CDA personnel were required to undertaken annual visits to each cooperative. However, not all cooperatives were visited, according to the regional CDA informants.

There have been recent efforts to improve the monitoring system of cooperatives through the redesign of the Cooperative Annual Performance Report (or CAPR) which assesses the organizational and financial performance of cooperatives.

Ratings are also done through the COOP-PESOS system, a tool used by CDA which establishes performance standards of cooperatives with credit services with respect to financial performance and compliance with administrative requirements. COOP-PESOS is an acronym²⁶ on specific indicators on compliance to administrative and management requirements and the financial performance of credit cooperatives. Credit cooperatives are also required to adopt the Standard Chart of Accounts for Credit Cooperatives.

With regards to financial statements, cooperatives are required to adopt the Statements of Financial Accounting Standards (SFAS). However, in cases where there are differences between the CDA regulations and SFAS, the option to limit prescribed by CDA shall be adopted by cooperatives.

Concerns of misuse or abuse relative to activities committed by or to cooperatives, officers, members or the general public are generally identified from complaints received or from reports by CDA officers after conducting a visit. At present, CDA does not conduct a proactive identification of concerns. Based on its records of complaints received, the nature of the misuse and abuse are mostly related to mismanagement of funds, disputes in the elections of the cooperative officers and directors, and violation of the provision/s of by-laws and/or the Cooperative Code.

The issuances of new rules that are being undertaken to improve supervision and inspection of cooperatives utilizing a risk-based approach. The Manual of Operating Rules and Regulations for savings and credit cooperatives is a first step towards improving the regulatory system for cooperatives. It is expected that similar types of rules would be developed for other types of cooperatives. There is also a move towards accreditation of cooperative federations and unions who will then examine their member coops, i.e., regulation mechanism for the sector. The CDA is also working with local government units to assist in identifying issues/ concerns of cooperatives.

²⁶ (C-Compliance with legal and administrative requirement, O –Organizational Structure & Linkages, O – Operation & Management, P-Plans & Programs, P-Portfolio Quality, E- Efficiency, S- Stability, O- Operations, S- Structure of Assets)

<i>Regulatory Objectives</i>	<i>Indicators</i>	<i>Assessment</i>
Identifying Concerns	Well Communicated	<ul style="list-style-type: none"> Concerns of misuse or abuse relative to activities committed by or to cooperatives are identified from complaints received from the public. At present, CDA does not conduct proactive identification of concerns of misuse and abuses. Based on its records of complaints received, the nature of the misuse and abuse are mostly related to mismanagement of funds, disputes in the elections, and violation of the provision/s of by-laws and/or the Cooperative Code. The CDA is also working with local government units to assist in identifying issues/ concerns of cooperatives.
	Fair	<ul style="list-style-type: none"> All procedures relative to complaints and concerns received from the public are subject to administrative due process
	Proportionate	<ul style="list-style-type: none"> The rules and procedures are uniform for all and are not based on proportionality, with the exception of foundations. New rules are being issued specific to each kind of cooperative to improve supervision and inspection utilizing a risk-based approach. The Manual of Operating Rules and Regulations for savings and credit cooperatives is a first step towards improving the regulatory system for cooperatives.
	Enabling	<ul style="list-style-type: none"> The administrative processes allow a venue for the public to air their complaints and concerns.
	Context	<ul style="list-style-type: none"> Given the limited resources of CDA, an issue which is endemic for government agencies, the existing system of identifying concerns appears to be the most strategic one that can be availed of.
	Feasible and realistic	<ul style="list-style-type: none"> The public is well aware of the complaints system of the CDA.
	Efficient	<ul style="list-style-type: none"> The system is efficient as evidenced by the prompt handling and disposition of cases by the CDA, despite its limited manpower resources, especially lawyers tasked to handle complaints. There is also a move towards accreditation of federations who will then examine their member coops, i.e., regulation mechanism for the sector.

III.D. Regulatory Objective No. 4: Investigating Concerns

The minimum standards under the Tool for this regulatory objective are:

- There are competent authorities with the responsibility to investigate.
- The authorities are able to identify the cases that they need to investigate.
- The authorities have the capability and resources to investigate.
- The authorities are able to identify serious issues.

The CDA has issued administrative rules in investigating complaints received from the public. The CDA also recently formulated alternative dispute resolution mechanisms to resolve cases and/or address complaints.

However, the CDA has very limited human resources for investigation purposes. The legal officers of the CDA in many of its regional extension offices, tasked with investigating complaints are either law school students or law graduates that are under bar. The low public sector salary for lawyers hinders the agency from hiring lawyers who have passed the bar exams.

The complaint must include the following information:

- a. Full name and address of the aggrieved party or any interested person;
- b. Full name and address of the person or persons or organizations, whether foreign or domestic complained of;
- c. A narration of the relevant and material facts which shows the acts or omissions allegedly violated by such person or persons or organizations, whether foreign or domestic complained of; and,
- d. Subscribed by the aggrieved party or any interested person, as the case may be.

The complaint is handled by an investigating officer drafts an investigation plan to ascertain the following matters:

- a. Nature of the violation;
- b. Relevant laws, rules, regulations and orders;
- c. Elements under which the existence of a violation is proven;
- d. Procedure for conducting the investigation; and,
- e. The time frame for the conduct of the investigation.

Unlike the SEC which has subpoena powers, the CDA investigating office only has the authority to request for information and documents and receive information through voluntary compliance. In furtherance of the investigation and in the interest of the service, he may also request the assistance of law enforcement agencies.

The investigation procedures are clearly described in MC 2006-07²⁷ and the case may result in either the filing of a criminal complaint or dismissal thereof for lack of merit.

The CDA has also issued rules providing for alternative dispute resolution²⁸ thru:

- Mediation - helping the conflicting parties develop or come out with an acceptable solution to their dispute or assist the parties reach an amicable solution to the dispute/s.
- Conciliation – shall refer to a process whereby a conciliator designated by the Authority calls together the parties involved in a dispute, encourages them to discuss their differences, and assists them in developing their own proposed solutions to their disputes.

The Mediator/Conciliator refers to an employee of the Authority designated to act as such in relation to such requests for mediation and conciliation. As a rule, the Legal Officer of Extension Offices shall act as mediator/conciliator. The Extension Director shall have the authority to appoint

²⁷ Board of Administrators Resolution No. 129, Series of 2006

²⁸ Revised Procedures for Mediation and Conciliation of Cooperative Disputes in the Cooperative Development Authority, Board of Administrators Resolution No. 214, S-2004 dated 10 June 2004.

other CDA Regional employees qualified to act as mediator/conciliator in the absence of such Legal Officer.

The issuance of a Certificate of Non-Resolution by the CDA is a pre-condition for the filing of any action before the proper courts and shall be the basis therefor.

The CDA is empowered to punish cooperatives, its officers, directors, members for violations of the Cooperative Code and Section 124 thereof provides the applicable penal sanctions, imprisonment and fines. Administrative sanctions include suspension or revocation of certificates of registration.

The CDA has powers to cite for contempt any person who fails or refuses to comply with a decision of the CDA without justifiable cause, pursuant to the Rules of Court. For direct contempt, a person guilty of misbehavior is punished by a fine of not more than Five Hundred Pesos (P500.00).

Appeals from the Resolution of the Executive Director may be availed of by filing an appeal before the Board of Administrators within 15 days from receipt thereof. Appeals from the decision of the Board of Administrators are filed before the Office of the President within a like period.

<i>Regulatory Objectives</i>	<i>Indicators</i>	<i>Assessment</i>
Investigating Concerns	Well Communicated	<ul style="list-style-type: none"> • CDA acts on and investigates sworn complaints from the public or from referrals of other government agencies about illegal activities of Cooperatives, some of which have resulted in revocation of registration. • The CDA has adopted and published Internal Rules in the conduct of its investigations and mediation and conciliation proceedings.
	Fair	<ul style="list-style-type: none"> • All investigative procedures relative to complaints and referrals received from the public and government agencies are subject to administrative due process. • CDA abides by a confidentiality policy for all complaints and the information contained therein unless these have been made a matter of public record in proceedings before the CDA or in the courts.
	Proportionate	<ul style="list-style-type: none"> • The rules and procedures of investigation are uniform for all cooperatives.
	Enabling	<ul style="list-style-type: none"> • The fact that CDA acts on and investigates complaints from the public about illegal activities of Cooperatives provides an enabling environment for the general populace, who are assured that there is a venue where they may seek legal remedies.
	Context	<ul style="list-style-type: none"> • The investigation rules and procedures are all within the context of domestic laws and in accordance with administrative due process.
	Feasible and realistic	<ul style="list-style-type: none"> • The investigative rules and procedures are conducted according to due process and the Supreme Court's Revised Rules of Court on Civil Procedure are made to apply in a supplementary manner.
	Efficient	<ul style="list-style-type: none"> • The system is efficient as evidenced by the prompt handling and disposition of cases by the CDA. • However, according to agency informants, investigation can be bogged down due to lack of manpower, especially lawyers, considering the low income scales of lawyers at CDA.

III.E. Regulatory Objective No. 5: Protecting Cooperatives

Abuse of an NPO can be defined as any circumstance in which its resources are diverted for any purpose other than that for which they were intended. Resources include money, property, tools, vehicles and intangible resources such as staff time, name and reputation. Abuse may be input abuse (e.g. bogus fundraising or diversion of legitimate funds raised), administrative abuse (e.g. fraud by the NPO or an official) and output abuse (funds not spent on the objects).

The minimum standards set by the Tool are as follows:

- That there are competent authorities which have the responsibility for taking protective action in any case where there is a serious risk of ongoing abuse.
- The responsible authorities have the legal authority to take protective action when necessary.
- The responsible authorities have the legal authority to punish those responsible for abuse of an NPO.

This regulatory objective, for all interviewed agencies, is linked to the regulatory objective on investigating concerns. There is a move towards accreditation of cooperative federations and unions who will then examine their member coops, i.e., regulation mechanism for the sector. The CDA is also working with local government units to assist in identifying issues/ concerns of cooperatives.

The CDA has the power to suspend or revoke certificates of registration of cooperatives. In addition, the Cooperative Code has provisions on when a cooperative may be dissolved, either voluntary or involuntary or upon order of the CDA.

The dissolution²⁹ by Order of the CDA happens when, after due notice and hearing, the cooperative is found guilty of:

- Having obtained its registration by fraud;
- Existing for an illegal purpose;
- Willful violation, despite notice by the Authority, of the provisions of this Code or its by-laws;
- Willful failure to operate on a cooperative basis; and
- Failure to meet the required minimum number of members in the cooperative.

If a cooperative has not commenced business and operation within two years after the date shown on its certificate of registration or has not carried on business for two consecutive years, CDA shall send formal inquiry to the said cooperative as to the status of its operation. Failure of the cooperative to promptly provide justifiable cause for its failure to operate shall warrant the Authority to strike off its name from the register and, for all intents and purposes, the cooperative shall be deemed dissolved. This is similar to the provisions of the Corporation Code.

The CDA does not, as yet, publish the names of cooperatives with revoked certificates of registration in its website.

²⁹ Section 68, Cooperative Code.

<i>Regulatory Objectives</i>	<i>Indicators</i>	<i>Assessment</i>
Protecting Cooperatives	Well Communicated	<ul style="list-style-type: none"> • CDA's power to protect NPOs is linked to its power to investigate complaints and referrals received. • There is a clear policy on closure of cooperatives requiring the creation of the Board of Liquidators to protect the interests of creditors and its members. • However, the list of cooperatives with revoked certificates of registration is not well-publicized and can be availed of only upon request.
	Fair	<ul style="list-style-type: none"> • All procedures relative to complaints and concerns received from the public are subject to administrative due process. Appeal by aggrieved parties is provided under the CDA Rules.
	Proportionate	<ul style="list-style-type: none"> • The CDA has the legal authority to punish cooperatives. Sanctions include suspension or revocation of certificates of registration, and the filing of criminal complaints for violations of Section 124 of the Cooperative Code.
	Enabling	<ul style="list-style-type: none"> • The CDA has the legal authority to take protective action when necessary. • There is a move towards accreditation of federations who will then examine their member coops is expected also to assist the interests of members of small cooperatives.
	Context	<ul style="list-style-type: none"> • This is a common perception among NPOs about the concept of "protection" provided by government. Despite the laws, rules, policies and processes for investigation of NPOs, which have been put in place for the protection of both NPOs and the general public, the perception is that it is not clear to them that such processes and policies are for the protection of the NPOs. This will be further discussed in the Consolidated Assessment of the regulatory sector.
	Feasible and realistic	<ul style="list-style-type: none"> • The laws and rules to protect cooperatives are in place and are being enforced according to due process.
	Efficient	<ul style="list-style-type: none"> • The system is efficient as evidenced by the prompt handling and disposition of cases by the SEC. • However, according to agency informants can be bogged down due to lack of manpower, especially legal, resources, considering the low income scales of lawyers at CDA.

III.F. Regulatory Objective No. 6: Mitigating Risks

The Tool provides the following minimum standards for this regulatory objective:

- Legal obligations are clearly explained.
- Advice and guidance is provided on compliance with regulations.
- Steps are taken to raise awareness of legal obligations and sources of guidance amongst NPOs.
- There are routine consultations with NPOs on all major changes to regulatory laws and policies.
- NPO best practices are defined, promoted and efforts are made to educate the sector on them.

- Information on the sector as a whole is regularly gathered and analyzed.
- There a regular review to identify and adapt to new and developing risks within the sector.

The CDA provides regular seminars and forums on concerns of cooperatives, although some cooperative informants note that the seminars could be more technical in nature, i.e., emphasize more on cooperative management and risk reduction, rather than on promoting the establishment of cooperatives. The CDA also coordinates at the local level through the regional, provincial and city/municipal-wide cooperative development councils, where the issues of cooperatives are discussed and coordination activities planned. The CDA is also coordinating with local government units and cooperative unions and federations in the identification of future risks that are associated with the sector. In its monitoring system, the CDA promotes the use of the COOP-PESOS system.

Under the Cooperative Code, the CDA is empowered to seek the assistance of other government agencies in the conduct of its investigations and in dealing with complaints and referrals received.

<i>Regulatory Objectives</i>	<i>Indicators</i>	<i>Assessment</i>
Mitigating Risks	Well Communicated	<ul style="list-style-type: none"> • The COOP-PESOS system is a good tool in monitoring the activities of cooperatives, but these standards are only applicable to cooperatives with credit services. The CDA could further expand the tool to cover other types of cooperatives. • There are efforts to mitigate risks through the empowerment of the cooperative federations as well as the sector itself through consultation forums.
	Fair	<ul style="list-style-type: none"> • The rules are fair and are applied uniformly on the same class of NPOs. As already mentioned, some standards are applicable only to a particular type of cooperative.
	Proportionate	<ul style="list-style-type: none"> • There is proportionality in addressing issues and risks as can be gleaned from the prioritization of issuance of rules covering the credit cooperatives and the savings and loan cooperatives, which involve financial accountability and transparency.
	Enabling	<ul style="list-style-type: none"> • The CDA regulatory framework does not unduly restrict the activities of cooperatives. • The CDA regulatory framework allows cooperatives to avail of the special benefits and privileges.
	Context	<ul style="list-style-type: none"> • The rules are well within the context of CDA's mandate and are compliant with the needs of the cooperative sector and the public.
	Feasible and realistic	<ul style="list-style-type: none"> • The rules are enforceable and do not present any undue burden upon cooperatives with regards to compliance.
	Efficient	<ul style="list-style-type: none"> • The regulatory framework is seen to be efficient and achieves regulatory objectives. • The work of CDA is commendable given the lack of resources, especially manpower, in the pursuit and performance of its mandate to register, regulate and supervise cooperatives.

IV. HOUSING AND LAND USE REGULATORY BOARD (<http://www.hlurb.gov.ph/>)

The Housing and Land Use Regulatory Board (HLURB) is a national government agency tasked as the planning, regulatory and quasi-judicial body for land use development and real estate and housing regulation. These roles are done via a triad of strategies namely, policy development, planning and regulation.

It was organized in 1973 and named the Task Force on Human Settlements under Executive Order No. 419, and renamed the Human Settlements Commission in 1976 and Human Settlements Regulatory Commission in 1978.

In 1981, it was granted additional powers to supervise the sale of residential subdivisions and condominiums, and in 1986, it was renamed the Housing and Land Use Regulatory Board and was designated the regulatory body for housing and land development under the Housing and Urban Development Coordinating Committee.

Pursuant to Executive Order No. 648, series of 1981, as amended, in relation to Republic Act No. 8763, Executive Order No. 535 series of 1979, and Presidential Decree No. 902-A, the Housing and Land Use Regulatory Board (HLURB) is now charged with the registration, regulation and supervision of the activities and operations of homeowners associations.

The central office of the HLURB is in Quezon City while satellite offices are located in each of the regions of the country.

IV.A. Regulatory Objective No. 1: Establishing NPOs

The minimum standards under the Tool for Regulatory Objective No. 1 are as follows:

- Citizens are free to establish NPOs except in limited and exceptional circumstances.
- Laws and regulations for establishing NPOs cover all those NPOs that need to be covered, whilst excluding those that do not

In 2004, the HLURB Board of Commissioners issued Board Resolution No. R-771, or the Rules on the Registration and Supervision of Homeowners Associations.

“Homeowners Association”³⁰ shall refer to an association or organization that is registered with the HLURB, the HIGC, or the SEC in accordance with law and is composed primarily of:

- i. Homeowners and lot buyers/owners in subdivision projects within the purview of Presidential Decree No. 957 and other related laws;
- ii. Awardees, lessees, and occupants in private or government housing or relocation projects and other urban estates;
- iii. Informal settlers intending to be future beneficiaries or awardees of ownership rights over the land they lease or occupy;

An applicant shall, after payment of the required filing fees³¹, submit the following documents to the Regional Office (Forms for these documents are downloadable from the HLURB website.)

³⁰ Section 1.d. the Rules On The Registration And Supervision Of Homeowners Associations.

- a) Articles of incorporation³², duly notarized and signed on each and every page thereof by all the incorporators consisting of not less than five (5) nor more than fifteen (15) natural persons.
- b) Written undertaking by the homeowners association to:
 - i. Change the name of the homeowners association in the event that another person, firm or entity has acquired a prior right to the use of said name or one similar thereto;
 - ii. Comply with the rules and regulations issued by the HLURB;
- c) Information Sheet;
- d) List of the members of the homeowners association;
- e) Certification as to the existence or absence of any other homeowners association(s) in the subdivision or territorial jurisdiction of the homeowners association; and the name and address of the nearest existing homeowners association, if any; and
- f) Authorization by the incorporators for the representative of the homeowners association to transact/follow-up its registration application with the Regional Office.

The By-Laws³³ are required to be filed within one month from receipt of notice of approval of registration. However, in general, the By-Laws are filed together with the registration requirements.

³¹ From HLURB website as of May 2008: evaluation and filing of Articles of Incorporation and Bylaws are charged P660.00 each, plus a University of the Philippines Law Center (UPLC) Research Fee of P10.00.

³² Part II, Rule II, Section 2. Rules: The articles of incorporation of a homeowners association shall contain substantially the following matters:

- a. The name of the homeowners association;
- b. The specific purpose or purposes for which the homeowners association is being incorporated. Where a corporation has more than one stated purpose, the articles of incorporation shall state which is the primary purpose and which is/are the secondary purpose or purposes;
- c. The place where the principal office of the homeowners association is located;
- d. The term for which the homeowners association is to exist;
- e. The names, nationalities and residences of the incorporators;
- f. The number of directors or trustees, which shall not be less than five (5) nor more than fifteen (15);
- g. The names, nationalities and residences of persons who shall act as directors or trustees until the first regular directors or trustees are duly elected and qualified;
- h. The amount of its capital, the names, nationalities and residences of the contributors and the amount contributed by each; and
- i. Such other matters as are not inconsistent with law and which the incorporators may deem necessary and convenient.

³³ Part II, Rule II, Section 2. Rules: Contents of Bylaws:

- a. The time, place and manner of calling and conducting regular or special meetings of the directors or trustees;
- b. The time and manner of calling and conducting regular or special meetings of the members;
- c. The required quorum in meetings of members and the manner of voting therein;
- d. Required quorum in meeting of board of directors or trustees;
- e. The form for proxies of members and the manner of voting them;
- f. Extent and actions for limiting, broadening or denying the right to vote, including rights to vote by proxy;
- g. Designation of conditions and time when voting rights may be exercised;
- h. Designation of the presiding officer at meetings of the directors or trustees, as well as the members;
- i. The qualifications, duties and compensation of directors or trustees, officers and employees;
- j. The time for holding the annual election of directors or trustees and the mode or manner of giving notice thereof;
- k. Manner of election and term of office of directors or trustees;
- l. The manner of election or appointment and the term of office of all officers other than directors or trustees;
- m. The penalties for violation of the by-laws;
- n. Transfer and termination of membership in the homeowners association;
- o. Creation of election, grievance and audit committee, and such other committees that the homeowners association may deem necessary;
- p. Dues and fees to be imposed on a regular basis and the necessity and manner that the same are imposed or increased;

If the application is complete and in accordance with law and these rules, the Regional Office shall issue a certificate of incorporation to the applicant. Upon issuance of a certificate of incorporation, the applicant shall become a body corporate with a personality separate and distinct from those of its individual members.

If an application is incomplete, defective, or not in accordance with law or these rules, the Regional Office shall send a written notice to the applicant describing in concise terms the incomplete or defective submissions.

The application shall be denied or refused if the applicant fails to comply with the requirements stated in the notice of deficiency within thirty (30) days from receipt thereof. A similar action shall be taken if the applicant fails to comply with the other requirements established under these rules or provisions of pertinent laws, rules and regulations.

Pending the issuance by the landowner of the letter of intent or any deed stated above to the association, the Regional Office may issue a certification stating that the homeowners association has filed an application for registration.

The Rules also provide for procedures for the following:

- The merger, consolidation and federations of homeowners' associations.
- Disaffiliation from federation
- Segregation from association

The HLURB is mandated to keep within its offices the registration documents submitted by the HOA, as well as a Registry Book³⁴ which contains the following information:

- a. Homeowners association docket number;
- b. Name of the homeowners association;
- c. Location of the project/area and its office address;
- d. Date of issuance/registration of certificate of incorporation and certificate of filing of the by-laws;
- e. Serial number of the certificates;
- f. Dates of release of the certificate of incorporation and certificate of filing the bylaws; and
- g. The name of the person to whom the certificates were released.

Within one (1) year after the Rules take effect, a HOA that holds a certificate of incorporation/registration issued by the HIGC or the SEC and has no record in the registry book of the Regional Office shall, upon payment of required filing fees, enroll its certificate of incorporation/registration with the Regional Office, together with its articles of incorporation and by-laws, as certified by the HIGC/SEC.

Upon receipt of the application and payment of the required filing fees, the Regional Office shall enter in its registry book the name of the HOA and issue a certification to that effect. Upon issuance by the Regional Office of the Certificate of Enrollment, the HOA shall henceforth be

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- q. Special assessments; and
 - r. Such other matters as may be necessary for the proper or convenient transaction of its corporate business and affairs.

³⁴ Rule X, Section 1, Rules.

under the supervision of HLURB and shall comply with policies and guidelines on homeowners association enunciated under the rules.

A HOA that fails to enroll shall have no legal standing to sue before the HLURB, and to avail of the support services of the Board. It may nevertheless be sued before the HLURB by its members or other interested parties for non-compliance with existing laws and regulations. The same failure shall be a ground for the suspension or revocation of its certificate of incorporation/ registration. The officers of the HOAs who are not enrolled may be held personally liable for the obligations and liabilities incurred by the de facto association.

Within 30 days after the issuance of the HLURB Certificates, the HOA is required to submit the following:

- a. Tax Identification Number.
- b. BIR Certification/Official BIR Stamps or Receipts.
- c. Membership Books required for stamping.
- d. Minutes Book.
- e. Ledgers and Journals.

As of date, there are still some HOAs which have not transferred registration from the SEC to the HLURB, per list of NPOs submitted by the SEC to the LAC despite the Rules having taken effect in 2004. Nonetheless, for the protection of the members and the public, said HOAs are deemed to be De Facto corporations under the Corporation Code and the HLURB Rules.

Regulatory Objectives	Indicators	Assessment
Establishing NPOs	Well Communicated	<ul style="list-style-type: none"> Registration of NPOs is generally effective, efficient and well communicated. The rules for application are known, as these are posted in the HLURB website. There are standard forms that are available in hard copy (for photocopying) in their office and in electronic form in the HLURB website. However, there are still a number of SEC registered HOAs which have not yet enrolled with HLURB, but these are considered as de facto corporations for the protection of the members and the public.
	Fair	<ul style="list-style-type: none"> The registration process does not restrict establishment of HOA and fairly applies in a transparent manner to all applicants. There is no undue denial of registration as long as all legal requirements are complied with.
	Proportionate	<ul style="list-style-type: none"> The registration procedures are uniform for all HOA applicants. The ease of registration disavows the need to address the proportionality issue.
	Enabling	<ul style="list-style-type: none"> The registration requirements enable HOAs to perform their intended purposes. HLURB registration or enrolment is the first step in the establishment of HOAs and allow them to perform legal acts, such as entering into contracts, , fund raising activities and conducting financial transactions.
	Context	<ul style="list-style-type: none"> The registration procedures comply with domestic laws and constitutional mandates.
	Feasible and realistic	<ul style="list-style-type: none"> The process of registration is widely publicized and made known to all concerned.
	Efficient	<ul style="list-style-type: none"> There is no duplication of work. The Rules address issues of duplication of registration of HOAs with SEC. The registration system provides a more focused attention on HOAs which comprise a specific class of NPOs and is thus, deemed to provide a more efficient manner of registration.

The HLURB has acknowledged³⁵ that some confusion still exists in as several HOAs are still apparently registered with SEC, but not with HLURB, which inherited the function of registration of subdivision from the former agency in 2002.

IV.B. Regulatory Objective No. 2: Identifying NPOs

The minimum standards set by the Tool for this regulatory objective are as follows:

- Names and contact details of existing HOAs are held on a publicly available list

³⁵ This was admitted by Atty. Joselito F. Melchor, Head, NCR Homeowners Association (HOA) Unit, HLURB, during the March 28, 2008 national validation workshop.

- The names of the officials ultimately responsible for the administration of the NPO are available.
- NPO contact details on the publicly available list are accurate and up-to-date.

Information on HOAs is generally available to the public upon request for minimal fees³⁶.

However, while the list of homeowners associations for Metro Manila and the Cordillera Administrative Region are available in the agency website and are available from the central office, there is no centralized database or list of homeowners associations. This is due to the fact that information is aggregated by politico-administrative region and that HOA related concerns are local in nature and thus, the central office does not keep a database of associations.

Annual reportorial requirements for HOAs to be filed within forty-five (45) days from the close of the accounting/election period are the following:

- Annual Report³⁷;
- Most recent audited financial statement; and,
- Certified true copy of the membership book, the minutes book as certified by the association secretary.

³⁶ HOA Certifications:	P 160.00
HOA Certification of Officers:	P 360.00
HOA Certified True Copies:	
first five (5) pages:	P 40.00
each succeeding page:	P 3.00

³⁷ Information in Annual Report: General information sheet (notarized); Most recent audited financial statement; Masterlist of members / qualified beneficiaries as certified by the assisting government agency ; Minutes of Elections; Attendance sheet signed by the members and attested by the secretary; Notarized report of the committee of the Homeowners' Association which supervised the election; Proof of notice of election to the members; Election returns duly certified by the Association's Committee on Election; Masterlist of qualified voters; Minutes of Meeting for the Election of Officers.

Regulatory Objectives	Indicators	Assessment
Identifying HOAs	Well Communicated	<ul style="list-style-type: none"> Information about HOAs is available to the public upon request and the procedures are generally known and well communicated.
	Fair	<ul style="list-style-type: none"> The system of obtaining information on HOAs is transparent and fair. The data is, however, not centralized at the Main Office.
	Proportionate	<ul style="list-style-type: none"> System of access to information on HOAs is uniform regardless of the type of HOA.
	Enabling	<ul style="list-style-type: none"> The reporting requirements and the HOA documents as well as the system of access by the public to these documents and the information contain therein all provide an enabling environment that allow HOAs to perform their work and provide the concerned public with the necessary information on the activities of HOAs.
	Context	<ul style="list-style-type: none"> The information access system is a basic service provided under the right to information of citizens vested by the Philippine Constitution and is well within the standards under Philippine setting.
	Feasible and realistic	<ul style="list-style-type: none"> The rules and procedures for accessing information on HOAs are well known to the public. The establishment of extension offices provides a feasible and realistic manner of access to information on HOAs.
	Efficient	<ul style="list-style-type: none"> There is no duplication of work because the HLURB is the only agency with jurisdiction over HOAs. There is no undue delay in accessing information on HOAs. HLURB could provide on-line services for accessing information on HOAs, much like the SEC-I-View, when its resources will allow it to do so.

IV.C. Regulatory Objective No. 3: Identifying Concerns

This regulatory objective is related to Regulatory Objective No. 2 on Identifying HOAs and the minimum standards are similar.

For purposes of the following discussions, HLURB shall be construed to mean the Regional Office.

The HLURB may, *motu proprio* or upon report or request of an interested party, inspect and examine documents, books and records and investigate transactions and activities of a homeowners association for the purpose of ascertaining and enforcing its compliance with laws, rules and regulations being implemented by HLURB, and in proper cases, impose appropriate sanctions.³⁸

The HLURB examines and evaluates the annual reports submitted by HOAs. It after evaluation and examination, it is found that the documents submitted are incomplete or inconsistent with generally accepted accounting principles, the HLURB shall issue a notice to submit pertinent book and records of the HOA concerned, including but not limited to its audited balance sheet or income statement, cash book, ledger and journal, or cash flow statement. For this purpose the HLURB may

³⁸ Part IV, Rule XVII, Rules.

also conduct its examination and evaluation of the required reports of the association in its designated administrative office *motu proprio* upon prior notice to the concerned HOA when circumstances warrant.

If upon evaluation the HLURB finds ambiguity or inconsistency in the documents submitted, it may require the board of directors of the HOA to engage, at its own expense, the services of an independent auditor who shall conduct and review the said financial records. Thereafter, the HOA shall submit the report of the independent auditor.

The HLURB is required to monitor the holding of elections, and may require the calling of a special election for officers of the association and set the rules that shall govern conduct of these elections. The HLURB regional office may require inspection and examination of documents, books and records, and investigate transactions and activities of homeowners associations. It may also require submission of pertinent books and records, and engage, at the expense of the association, an independent audit of finances.

Issues or concerns of HOAs are identified only when cases are filed, and many of these issues primarily involve internal association problems, i.e., misuse of funds, HOA dues, misfeasance by or malfeasance of officers or members.

The 2004 Rules of Procedure³⁹ of the HLURB cover the following cases:

2. any complaint filed
3. election contests
4. derivative suits (complaint by members against officers based on alleged dissipation of HOA funds, fraudulent dissipation of HOA assets or performance of ultra vires acts)
5. inspection of books and records of HOA
6. application to create a management committee (allegations of mismanagement of HOA funds)
7. conciliation and conference and resolution
8. applications for cease and desist orders and temporary restraining orders
9. appeals process and ancillary remedies pending appeal

There are legal fees imposed for adjudication of cases, except for pauper litigants, in which case, any judgment rendered in favor of said pauper litigant shall be a lien on the legal fees, unless the Board provides otherwise.

³⁹ HLURB Board of Commissioners Resolution No 765, series of 2004.

<i>Regulatory Objectives</i>	<i>Indicators</i>	<i>Assessment</i>
Identifying Concerns	Well Communicated	<ul style="list-style-type: none"> Concerns of misuse or abuse relative to activities committed by or to HOAs are identified from complaints received from the HOA members. Although, HLURB can act <i>motu proprio</i>. At present, HLURB does not conduct proactive identification of concerns of misuse and abuses. Based on its records of complaints received, the nature of the misuse and abuse are mostly related to internal association problems.
	Fair	<ul style="list-style-type: none"> All procedures relative to complaints and concerns received from the public are subject to administrative due process.
	Proportionate	<ul style="list-style-type: none"> The rules and procedures are uniform for all HOAs.
	Enabling	<ul style="list-style-type: none"> The administrative processes allow a venue for the public to air their complaints and concerns.
	Context	<ul style="list-style-type: none"> Given the limited resources of HLURB, an issue which is endemic for government agencies, the existing system of identifying concerns appear to be the most strategic one that can be availed of.
	Feasible and realistic	<ul style="list-style-type: none"> The HOAs are well aware of the complaints system of the HLURB.
	Efficient	<ul style="list-style-type: none"> The system is efficient as evidenced by the prompt handling and disposition of cases by the HLURB, despite its limited manpower resources, especially lawyers tasked to handle complaints.

IV.D. Regulatory Objective No. 4: Investigating Concerns

The minimum standards under the Tool for this regulatory objective are:

- There are competent authorities with the responsibility to investigate.
- The authorities are able to identify the cases that they need to investigate.
- The authorities have the capability and resources to investigate.
- The authorities are able to identify serious issues.

The Rules on Supervision and Monitoring of HOAs also provide the procedures for investigating concerns. As mentioned, the HLURB acts on complaints received or *motu proprio*.

If after initial investigation of a complaint or upon evaluation of the HOA reports, it appears that a violation of existing laws, rules and regulations of HLURB has been committed by the HOA, HLURB shall require the HOA, its directors or trustees and officers to submit a sworn statement explaining why no sanctions should be imposed upon it for the reported violation within ten (10) days from receipt thereof. The

Upon receipt of the homeowners association's sworn statement, if the HLURB determines that no violation was committed, the case will be closed. However, if the HOA fails or refuses to submit its sworn statement, the HLURB may make a determination on the basis of the records at hand. A clarificatory conference may be conducted to clarify matters or issues as may be necessary for the judicious evaluation or resolution of the report or complaint.

Should the matters raised in the letter-complaint or report prove to be contentious, adversarial or will involve the determination of the respective rights and obligations of the parties, the latter shall be advised to file a verified complaint in accordance with the HLURB Rules of Procedure for the adjudication of cases.

Administrative sanctions may be imposed on a homeowners association upon any ground provided by law, rules and regulations, including, but not limited to, the following:

- a. Fraud or misrepresentation in procuring its certificate of registration;
- b. Serious misrepresentation as to what the homeowners association can do or is doing;
- c. Refusal to comply with or defiance of any lawful order of the HLURB or the Regional Office;
- d. Misuse of a right, privilege, or franchise conferred upon it by law, or when the homeowners association has exercised a right, privilege, or franchise in contravention of law;
- e. Commission or omission of an act which amounts to a surrender of its corporate rights, privileges or franchises;
- f. Commission of an offense against the rules and regulations of the HLURB or of the Corporation Code of the Philippines;
- g. Non-operation or inactivity for a period of at least five years; and
- h. Repeated or habitual failure or delay in filing reports as required by these rules or by the Regional Office.

Fines and/or other administrative sanctions shall be imposed if the HOA fails to comply with a show cause order or if found to have violated HLURB rules and regulations. The erring and/or guilty board members or officers shall be liable for all the sanctions imposed. The sanctions that may be imposed, as well as the factors and circumstances to be considered in the imposition thereof, shall be in accordance with the schedule of fines and guidelines prescribed by the HLURB.

Appeals from any decision of the Regional Officers may be filed directly before the HLURB Board of Commissioners. The appeal shall proceed in accordance with the HLURB 2004 Rules of Procedure.

The HLURB has sufficient quasi-judicial powers; all cases involving HOAs are handled by HLURB which has legal officers to attend to cases. However, the agency has limited human and financial resources to investigate and resolve concerns. In one regional office, the legal officer/arbiter has been utilizing personal resources to investigate and resolve concerns.

Regulatory Objectives	Indicators	Assessment
Investigating Concerns	Well Communicated	<ul style="list-style-type: none"> • HLURB acts on and investigates HOAs <i>motu proprio</i> or based on sworn complaints from the public. • The HLURB has adopted and published Internal Rules in the conduct of its investigations, hearing of cases and appeals from decisions of its Regional Officers.
	Fair	<ul style="list-style-type: none"> • All investigative procedures relative to complaints and referrals received from the public and government agencies are subject to administrative due process.
	Proportionate	<ul style="list-style-type: none"> • The rules and procedures of investigation are uniform for all HOAs. • Sanctions are based on facts and circumstances attendant to the case.
	Enabling	<ul style="list-style-type: none"> • The fact that HLURB acts on and investigates complaints provides an enabling environment for the members and the public, who are assured that there is a venue where they may seek legal remedies.
	Context	<ul style="list-style-type: none"> • The investigation rules and procedures are all within the context of domestic laws and in accordance with administrative due process.
	Feasible and realistic	<ul style="list-style-type: none"> • The investigative rules and procedures are conducted according to due process.
	Efficient	<ul style="list-style-type: none"> • However, according to agency informants, investigation can be bogged down due to lack of financial resources in the agency. The agency has also been hindered by quick turn-over of its legal staff, given the low pay of government workers. • In one regional office, the legal officer/ arbiter has been utilizing personal resources to investigate and resolve concerns.

IV.E. Regulatory Objective No. 5: Protecting HOAs

Abuse of an NPO can be defined as any circumstance in which its resources are diverted for any purpose other than that for which they were intended. Resources include money, property, tools, vehicles and intangible resources such as staff time, name and reputation. Abuse may be input abuse (e.g. bogus fundraising or diversion of legitimate funds raised), administrative abuse (e.g. fraud by the NPO or an official) and output abuse (funds not spent on the objects).

The minimum standards set by the Tool are as follows:

- That there are competent authorities which have the responsibility for taking protective action in any case where there is a serious risk of ongoing abuse.
- The responsible authorities have the legal authority to take protective action when necessary.
- The responsible authorities have the legal authority to punish those responsible for abuse of an NPO.

This regulatory objective, for all interviewed agencies, is linked to the regulatory objective on investigating concerns.

The HLURB has the power to suspend or revoke certificates of registration/enrolment of HOAs. In addition, Rule XVI of the HLURB Rules provides procedures for the dissolution of HOAs, which may either be voluntary or involuntary. Under involuntary dissolution, a HOA may be dissolved by the Regional Office upon the filing of a verified complaint and after proper notice and hearing on the grounds provided by existing laws, rules and regulations.

Section 3, Rule XI, of the Rules also provides that failure of an SEC registered HOA to enroll with the HLURB shall be a ground for the suspension or revocation of its certificate of incorporation/registration. However, it is not clear whether the revocation or suspension applies to the HOA's SEC certificate of registration since the SEC-registered HOA is not yet registered/enrolled with HLURB. The HLURB does not publish the names of HOAs with revoked certificates of registration in its website. Orientation sessions are undertaken for existing or potential HOAs by HLURB staff.

<i>Regulatory Objectives</i>	<i>Indicators</i>	<i>Assessment</i>
Protecting HOAs	Well Communicated	<ul style="list-style-type: none"> HLURB's power to protect NPOs is linked to its power to investigate complaints and referrals received. There is a clear policy on closure of HOAs requiring the creation of the Board of Liquidators to protect the interests of creditors and its members. However, the list of HOAs with revoked certificates of registration is not well-publicized and can be availed of only upon request.
	Fair	<ul style="list-style-type: none"> All procedures relative to complaints and concerns received from the public are subject to administrative due process. Appeal by aggrieved parties is provided under the HLURB Rules.
	Proportionate	<ul style="list-style-type: none"> The HLURB has the legal authority to punish HOAs. Sanctions include suspension or revocation of certificates of registration, and the filing of criminal complaints for violations of Section 124 of the Cooperative Code.
	Enabling	<ul style="list-style-type: none"> The HLURB has the legal authority to take protective action when necessary. There is a move towards accreditation of federations who will then examine their member coops is expected also to assist the interests of members of small HOAs.
	Context	<ul style="list-style-type: none"> This is a common perception among NPOs about the concept of "protection" provided by government. Despite the laws, rules, policies and processes for investigation of NPOs, which have been put in place for the protection of both NPOs and the general public, the perception is that it is not clear to them that such processes and policies are for the protection of the NPOs. This will be further discussed in the Consolidated Assessment of the regulatory sector.
	Feasible and realistic	<ul style="list-style-type: none"> The laws and rules to protect HOAs are in place and are being enforced according to due process.
	Efficient	<ul style="list-style-type: none"> The system is efficient as evidenced by the prompt handling and disposition of cases by the SEC. However, according to agency informants can be bogged down due to lack of manpower, especially legal, resources, considering the low income scales of lawyers at HLURB.

IV.F. Regulatory Objective No. 6: Mitigating Risks

The Tool provides the following minimum standards for this regulatory objective:

- Legal obligations are clearly explained.
- Advice and guidance is provided on compliance with regulations.
- Steps are taken to raise awareness of legal obligations and sources of guidance amongst NPOs.
- There are routine consultations with NPOs on all major changes to regulatory laws and policies.
- NPO best practices are defined, promoted and efforts are made to educate the sector on them.
- Information on the sector as a whole is regularly gathered and analyzed.
- There a regular review to identify and adapt to new and developing risks within the sector.

Before registering their associations, the HLURB conducts orientation sessions for HOA officers; these also provide them with a proper perspective on the roles of HOAs and the HOA management.

The HLURB conducted a nationwide consultation with HOAs and concerned stakeholders before issuing the Framework for Governance of HOAs. The Framework:

- highlights the basic roles, powers and responsibilities of a homeowners association and its officers and members under existing laws and regulations;
- promotes and operationalizes the best practices and norms of good governance in the management of a homeowners association;
- encourages the active and enlightened management of the affairs of a homeowners association which will enhance the delivery of basic services to and promote the general welfare of its members.

It is a requirement under the 2004 Rules that a HOA that intends to register as such under the HULRB “Rules on the Registration and Supervision of Homeowners Associations” shall submit by-laws that are consistent with the provisions of said Framework. A HOA that was previously registered with the HIGC and/or the SEC, upon enrollment is also required to commit itself to observe the basic rules, principles and best practices contained in the Framework.

HLURB officials are also invited to attend HOA activities. This helps build better relations and foster cooperation between and amongst the various organizations and the HLURB.

<i>Regulatory Objectives</i>	<i>Indicators</i>	<i>Assessment</i>
Mitigating Risks	Well Communicated	<ul style="list-style-type: none"> • The HLURB applies a policy of consultation with the sector before it issues rules and regulations. • It has issued the Framework of Governance for HOAs after consulting with the HOA sector and concerned stakeholders nationwide.
	Fair	<ul style="list-style-type: none"> • The rules are fair and are applied uniformly for all HOAs. • The reports filed by HOAs are examined and evaluated by HLURB.
	Proportionate	<ul style="list-style-type: none"> • There is proportionality in the imposition of fines and penalties. Such administrative sanction is based on attendant facts and circumstances surrounding the complaint and violation.
	Enabling	<ul style="list-style-type: none"> • The HLURB regulatory framework does not unduly restrict the activities of HOAs. • The consultation policy of HLURB also provides an enabling environment for HOAs.
	Context	<ul style="list-style-type: none"> • The rules are well within the context of HLURB's mandate and are compliant with the needs of the HOAs and the public.
	Feasible and Realistic	<ul style="list-style-type: none"> • The rules are enforceable and do not present any undue burden upon HOAs with regards to compliance.
	Efficient	<ul style="list-style-type: none"> • The regulatory framework is seen to be efficient and achieves regulatory objectives. • The work of the HLURB is commendable given the lack of resources, both financial and human resources.

V. BUREAU OF LABOR RELATIONS (www.dole.gov.ph)

Under the Labor Code of the Philippines (Presidential Decree 442), the associations of workers/employees are defined as follows, all of which require registration with the Bureau of Labor Relations (BLR) of the Department of Labor and Employment (DOLE):

"Labor Organization" means any union or association of employees which exists in whole or in part for the purpose of collective bargaining or for dealing with employers concerning terms and conditions of employment.

"Workers' Association" means any association of workers organized for the mutual aid and protection of its members or for any legitimate purpose other than collective bargaining.

"Independent Union" means any labor organization operating at the enterprise level whose legal personality is derived through an independent action for registration. An independent union may be affiliated with a federation, national or industry union, in which case it may also be referred to as an affiliate.

"Local Union/Chapter" means any labor organization operating at the enterprise level whose legal personality is derived through the issuance of a charter by a duly registered federation or national union.

"National Union/Federation" means any labor organization with at least ten (10) locals/chapters or affiliates each of which must be a duly certified or recognized collective bargaining agent.

"Industry Union" means any group of legitimate labor organizations operating within an identified industry, organized for collective bargaining or for dealing with employers concerning terms and conditions of employment within an industry, or for participating in the formulation of social and employment policies, standards and programs in such industry.

"Trade Union Center" means any group of registered national unions or federations organized for the mutual aid and protection of its members, for assisting such members in collective bargaining, or for participating in the formulation of social and employment policies, standards and programs.

The Bureau of Labor Relations (BLR) and the Labor Relations Divisions in the regional offices of the Department of Labor and Employment (DOLE), have the exclusive authority to register and keep a registry of labor organizations, trade unions and workers' organizations, and to act upon all inter-union and intra-union conflicts, and all disputes, grievances or problems arising from or affecting labor-management relations in all workplaces, in both agriculture and non-agriculture settings, except those arising from the implementation or interpretation of collective bargaining agreements which is subject of grievance procedure and/or voluntary arbitration handled by labor arbiters.

For purposes of the following discussion, "labor organizations" shall be used to encompass all of the above organizations, unless alluded to according to its specific classification.

There are a total of 17,021 existing labor organizations in the Philippines with a total membership of 1.9 million by the end of 2007. However, the growth of labor organizations has been declining, with only 260 newly registered unions in 2007, down 29.9 percent from previous year figures. Of the total number of labor organizations, 16,893 are enterprise-based unions with a total membership of 1.6 million. See Table below for the number and growth rate of existing unions.

Table 31. Number of Existing Unions and Annual Registration, 1991- 2007

Year	Existing Unions				Annual Registration			
	Number	Growth Rate	Members (000)	Growth Rate	Number	Percent Change	Members	Percent Change
1991	5,236	12.9	3,113	1.9	583	-7.2	61,417	-17.5
1992	5,710	9.1	3,142	0.9	484	-17.0	45,511	-25.9
1993	6,340	11.0	3,197	1.8	648	33.9	58,385	28.3
1994	7,274	14.7	3,511	9.8	551	-15.0	69,862	19.7
1995	7,882	8.4	3,587	2.2	632	14.7	77,348	10.7
1996	8,248	4.6	3,611	0.7	410	-35.1	33,738	-56.4
1997	8,822	7.0	3,635	0.7	342	-16.6	28,671	-15.0
1998	9,374	6.3	3,687	1.4	330	-3.5	34,919	21.8
1999	9,850	5.1	3,731	1.2	335	1.5	29,403	-15.8
2000	10,296	4.5	3,788	1.5	339	1.2	30,676	4.3
2001	10,294	0.0	3,850	1.6	489	44.2	55,533	81.0
2002	15,444	50.0	1,470	-61.8	910	86.1	89,187	60.6
2003	16,091	4.2	1,517	3.2	647	-28.9	44,794	-49.8
2004	16,724	3.9	1,572	3.6	777	20.1	53,857	20.2
2005	17,132	2.4	1,910	21.5	492	-36.7	45,032	-16.4
2006	16,778	-2.1	1,855	-2.9	371	-24.6	31,777	-29.4
2007	17,021	1.4	1,918	3.4	260	-29.9	24,079	-24.2

Source: Bureau of Labor Relations (2008).

V.A. Regulatory Objective No. 1: Establishing Workers' Organizations

The minimum standards under the Tool for Regulatory Objective No. 1 are as follows:

- Citizens are free to establish workers' organizations except in limited and exceptional circumstances.
- Laws and regulations for establishing working organizations cover all those working organizations that need to be covered, whilst excluding those that do not.

The legal mandate of the BLR and the rules and regulations it has issued set and adopt the policy of the State to promote the free and responsible exercise of the right to self-organization through the establishment of a simplified mechanism for the speedy registration of labor organizations, determination of representation status, and resolution of intra-union and inter-union disputes. Only legitimate or registered labor organizations shall have the right to represent their members for collective bargaining and other purposes.

The following persons may join Labor Organizations for purposes of collective bargaining:

- persons employed in commercial, industrial and agricultural enterprises;
- employees of government-owned or controlled corporations without original charters established under the Corporation Code;
- employees of religious, charitable, medical or educational institutions whether operating for profit or not;
- alien employees with valid working permits issued by the Department may exercise the right to self-organization and join or assist labor organizations for purposes of collective bargaining if they are nationals of a country which grants the same or similar rights to Filipino workers, as certified by the Department of Foreign Affairs;
- supervisory employees separate from rank and file; and,
- any employee, whether employed for a definite period or not, shall, beginning on the first day of his service, be eligible for membership in any labor organization.

The following persons may join workers' organizations for mutual aid and protection and for other legitimate purposes:

- all other workers;
- ambulant, intermittent and other workers,
- the self-employed;
- rural workers; and,
- those without any definite employers may form workers associations.

There are different documentary registration requirements under Department Order No. 9, series of 1997 for the registration of labor organizations, workers organizations, federations and national unions and for industry or trade union centers, although there are requirements common to both labor and workers organizations like the attestation by the Secretary or Treasurer and the President. Application forms are downloadable at the BLR's website <http://www.blr.dole.gov.ph/RegistrationForms.htm>.

In general, applications are filed with BLR, except for workers' organizations whose place of operation is confined to one regional jurisdiction in which case the applications shall be filed directly and acted upon by the Regional Office where said worker organization operates.

Under the new law (Republic Act 9481) trade union federations are allowed to register their chapters in different workplaces. This decentralizes the registration of trade unions and reduces the workload of the BLR and the DOLE regional offices in processing the papers of these organizations.

A labor organization shall be issued a certificate of registration upon completion of all application documentation and the payment of the prescribed registration fee.

The Regional Office or the BLR, as the case may be, shall act on all applications for registration within thirty (30) days from filing thereof, either by approving the application and issuing the certificate of registration, or denying the application for failure of the applicant to comply with the requirements for registration.

Where the documents supporting the application are not complete or do not contain the requisite attestation requirements, the Regional Office or the BLR shall, within five (5) days from receipt of the application, notify the applicant in writing of the requirements needed to complete the

application. Where the applicant fails to complete the requirements within thirty days from receipt of notice, the application shall be denied without prejudice.

The decision may be appealed to the BLR if the denial is by the Regional Director or to the Secretary if the denial is by the BLR, within ten days from receipt of notice thereof, on the ground of grave abuse of discretion or violation of BLR Rules.

The labor organization shall be deemed registered and vested with legal personality on the date of issuance of its certificate of registration. Such legal personality cannot thereafter be subject to collateral attack, but may be questioned only in an independent petition for cancellation.

From discussions with labor union informants, the registration procedures are very clear, especially those who are working at the trade union federation or center level.

<i>Regulatory Objectives</i>	<i>Indicators</i>	<i>Assessment</i>
Establishing Labor Organizations	Well Communicated	<ul style="list-style-type: none"> • The Labor Code, its implementing rules and Republic Act 9481 govern rules on establishing and registering labor organizations. • Under the new law (Republic Act 9481) trade union federations are allowed to register their chapters in their respective workplaces. • Registration procedures are generally effective, efficient and well communicated. • The rules for registration are known, as these are posted in the BLR website. • There are standard forms that are available in hard copy form (for photocopying) in their office and in electronic form in the BLR website.
	Fair	<ul style="list-style-type: none"> • The registration process does not restrict establishment of labor organizations and fairly applies in a transparent manner to all applicants. There is no undue denial of registration as long as all legal requirements are complied with.
	Proportionate	<ul style="list-style-type: none"> • The registration procedures are different according to the type of registrant: labor organizations, workers organizations, or federations, industry and trade union centers.
	Enabling	<ul style="list-style-type: none"> • Only legitimate or registered labor organizations (where applicable) shall have the right to represent their members for collective bargaining and other purposes.
	Context	<ul style="list-style-type: none"> • The registration procedures comply with domestic laws and constitutional mandates on workers' right to self-organization.
	Feasible and realistic	<ul style="list-style-type: none"> • The process of registration is feasible and realistic for the particular classes of labor organizations.
	Efficient	<ul style="list-style-type: none"> • There is no duplication of work. • The registration system is unique to labor organizations, thus providing more efficiency in servicing the registration needs of the sector.

V.B. Regulatory Objective No. 2: Identifying Labor Organizations

The minimum standards set by the Tool for this regulatory objective are as follows:

- Names and contact details of existing NPOs are held on a publicly available list.
- The names of the officials ultimately responsible for the administration of the NPO are available.
- NPO contact details on the publicly available list are accurate and up-to-date.

The list of names of registered labor organizations is available at BLR's website.

Labor organizations are required to submit annually the following documents:

- (a) Annual financial reports within thirty calendar days after the close of each fiscal year;
- (b) Updated list of newly-elected officers, together with the appointive officers or agents who are entrusted with the handling of funds, within thirty calendar days after each regular or special election of officers, or from the occurrence of any change in the officers or agents of the labor organization or workers' association; and,
- (c) Updated list of individual members, locals/chapters, affiliates or branches, as the case may be, within thirty (30) calendar days after the close of each fiscal year.

Information on trade unions is accurate and generally accessible for the stakeholders and the general public. Department Order No. 9 requires the BLR to have a central registry of all registered labor organizations, including those registered with the Regional Offices.

The BLR was able to procure a listing of all workers organizations and trade unions even if the time lag until the data was provided was quite long (almost two months). However, according to a trade union informant, the timeliness and availability of the information is "relation-dependent" which pertains to the relationship between the parties concerned. This means that there is a perception that there are certain difficulties that maybe encountered depending on whether the person requesting the data is known or close to the person keeping the records and information.

<i>Regulatory Objectives</i>	<i>Indicators</i>	<i>Assessment</i>
Identifying Labor organizations	Well Communicated	<ul style="list-style-type: none"> Information about labor organizations is generally accessible by stakeholders and the public upon request and the procedures are generally known and well communicated. Information is accurate as the BLR was able to procure a listing of all workers organizations and trade unions even if the time lag until the data was provided was quite long. There are, however, perceptions of certain difficulties and obstacles in accessing information.
	Fair	<ul style="list-style-type: none"> The system of obtaining information is transparent and fair, but at times is 'relation-dependent'; there is a perception outside of the BLR that the person accessing data should have close personal ties to the one keeping information.
	Proportionate	<ul style="list-style-type: none"> System of access to information is uniform regardless of the type of organization.
	Enabling	<ul style="list-style-type: none"> Compliance with the reporting requirements provide an enabling environment that allow the organizations to engage in legitimate collective bargaining and provides stakeholders with accurate information on their organizations.
	Context	<ul style="list-style-type: none"> The information access system is a basic service provided under the right to information of citizens vested by the Philippine Constitution and is well within Philippine standards.
	Feasible and realistic	<ul style="list-style-type: none"> The rules and procedures for accessing information are well known to the public and are enforceable and realistic within the context of the unique nature of labor organizations. The establishment of extension offices provides a feasible and realistic manner of allowing access to information on labor organizations.
	Efficient	<ul style="list-style-type: none"> There is no duplication of work because the BLR is the only agency with jurisdiction over labor organizations.

V.C. Regulatory Objective No. 3: Identifying Concerns

This regulatory objective is related to Regulatory Objective No. 2 on Identifying Labor organizations and the minimum standards are similar.

The BLR informants reported that potential abuse can only be detected when information is provided to them. The cases handled by BLR include the following:

- Registration cases - grant or denial of applications for registration of labor organization, workers associations, etc.
- Inter-union - any conflict between and among legitimate labor organizations involving questions of representation for purposes of collective bargaining. It also includes all other conflicts which legitimate labor organizations may have against each other based on any violations of their rights as labor organizations.

- Intra-union disputes - disputes involving violations of the rights and conditions of union membership under Art. 241 of the Labor Code and of the union constitution and by-laws.
- Cancellation cases - proceedings for cancellation of the union's certification registration pursuant to Article 239 of the Labor Code originally decided by the Regional Director and all cases involving public sector unions.
- Account examination cases - inquiry into the financial activities of legitimate labor organizations pursuant to Art. 274 of the Labor Code
- Certification election cases - proceedings for determining the sole and exclusive bargaining representative of the employees in an appropriate bargaining unit, for purposes of collective bargaining

The usual complaints received involve election issues, impeachment of officers and financial mismanagement. There is no pro-active investigation of trade unions and workers organizations.

Appeals from any decision of the Regional Office can be made to the BLR. Appeals from BLR decisions can be filed before the Office of the President in certification election cases and to the Supreme Court on a petition for certiorari in all other cases. However, to discourage frivolous or dilatory appeals, the Secretary, Commission or the Labor Arbiter shall impose reasonable penalties, including fines or censures upon erring parties.

<i>Regulatory Objectives</i>	<i>Indicators</i>	<i>Assessment</i>
Identifying Concerns	Well Communicated	<ul style="list-style-type: none"> • BLR does not conduct proactive identification of concerns of misuse and abuses. • Based on its records of complaints received, the nature of the misuse and abuse are mostly related to election issues, Impeachment of officers and financial mismanagement.
	Fair	<ul style="list-style-type: none"> • All procedures relative to complaints and concerns received from the public are subject to administrative due process
	Proportionate	<ul style="list-style-type: none"> • The rules and procedures are uniform for all types of labor organizations.
	Enabling	<ul style="list-style-type: none"> • The administrative processes allow a venue for the stakeholders and the public to air their complaints and concerns.
	Context	<ul style="list-style-type: none"> • Given the limited resources of BLR, an issue which is endemic for government agencies, the existing system of identifying concerns appear to be the most strategic one that can be availed of.
	Feasible and realistic	<ul style="list-style-type: none"> • The complaints system is feasible, enforceable and realistic, given the unique nature of labor organizations.
	Efficient	<ul style="list-style-type: none"> • The system is efficient as evidenced by the prompt handling and disposition of cases by the BLR and grants the aggrieved party the right of appeal.

V.D. Regulatory Objective No. 4: Investigating Concerns

The minimum standards under the Tool for this regulatory objective are:

- There are competent authorities with the responsibility to investigate.
- The authorities are able to identify the cases that they need to investigate.
- The authorities have the capability and resources to investigate.
- The authorities are able to identify serious issues.

The BLR informants reported that the agency is reactive to data provided to them rather than proactive in investigating problems of unions. There is a mediation process undertaken to resolve conflicts which mediation-arbiters usually undertakes.

The functions of Med-Arbiters:

- Conducts hearings and drafts decisions in inter and intra union cases in the public sector;
- Reviews appeals from orders or decisions of Med-Arbiters in the Regional Offices on inter and intra union cases; orders/decisions of the Regional Director on denial of registration, cancellation of certificate of union registration and account examination cases; and prepares draft decisions for examination cases; and prepares draft decisions for the Director of the Bureau of Labor Relations;
- Assists in the exercise of technical supervision over the Med-Arbiters in the Regional Offices in the area of disposition of Med-Arbitration Cases and capability building;
- Initiates and coordinates the formulation of policies, programs, standards, procedures and guidelines relating to settlement of inter and intra union disputes; and
- Provides technical assistance to other divisions in the Bureau.

The decision of the Med-Arbiters may be appealed to the Secretary of DOLE, whose decision on the appeal shall be final and executory.

Department Order No. 09, series of 1997, also provides the procedures for cancellation of registration of labor organizations, which may be based on any of the following grounds:

- (a) Failure to comply with any of the requirements prescribed under Articles 234, 237 and 238 of the Labor Code;
- (b) Violation of any of the provisions of Article 239 of the Labor Code;
- (c) Commission of any of the acts enumerated under Article 241 of the Labor Code; provided, that no petition for cancellation based on this ground may be granted unless supported by at least thirty percent (30%) of all the members of the respondent labor organization or workers' association.

The decision of the Regional or Bureau Director for cancellation of registration may be appealed to the Bureau or the Secretary, as the case may be, within ten days from receipt thereof by the aggrieved party on the ground of grave abuse of discretion or any violation of these Rules. The Bureau or the Secretary shall have fifteen days from receipt of the records of the case within which to decide the appeal. The decision of the Bureau or the Secretary shall be final and executory.

The Regional or the Bureau Director has visitatorial powers under Article 274 of the Labor Code and may inquire into the financial activities of any legitimate labor organization and examine their

books of accounts and other records to determine compliance with the law and the organization's constitution and by-laws.

Such examination shall be made upon filing of a complaint under oath, duly supported by the written consent of at least twenty percent (20%) of the total membership of the labor organization concerned, accompanied by proof that the remedies provided for in the immediately preceding section or in the union's constitution and by-laws have been exhausted or otherwise unavailing. Any complaint which does not meet the foregoing requirements shall be dismissed outright.

Where the results of the financial examination so warrants, the Bureau or Regional Director may order the accountable officers to make restitution in favor of the union.

The Labor Code also prescribes the institution of a grievance machinery and availment of voluntary arbitration. Procedures for handling grievances and arbitration are provided under Department Order No.9.

Penalties are also provided under Department Order No. 9 as follows:

- Violations of the any of the provisions of Article 264 of the Code shall be punished by a fine of not less than one thousand (P1,000.00) pesos nor more than ten thousand (P10,000.00) pesos and/or imprisonment for not less than three (3) months nor more than three (3) years, or both such fine and imprisonment, at the discretion of the court. Prosecution under this provision shall preclude prosecution for the same act under the Revised Penal Code and vice versa.
- Imposition of administrative fines which shall not be less than P500.00 nor more than P10,000.00 against the erring parties.
- Any person adjudged in direct contempt by a Labor Arbiter may appeal to the National Relations Commission and the execution of the judgment shall be suspended pending the resolution of the appeal upon the filing of a bond. A person adjudged in indirect contempt shall be dealt by the Rules of Court.

The Secretary and the Chairman of the Commission may designate special sheriffs and take any measure under existing laws to ensure compliance with their decisions, orders or awards and those of the Labor Arbiters and voluntary arbitrators.

To discourage frivolous or dilatory appeals, the Secretary, Commission or the Labor Arbiter shall impose reasonable penalties, including fines or censures upon erring parties.

<i>Regulatory Objectives</i>	<i>Indicators</i>	<i>Assessment</i>
Investigating Concerns	Well Communicated	<ul style="list-style-type: none">• BLR has quasi-judicial powers and acts on complaints received.• It has adopted a mediation/arbitration process in resolving disputes, conflicts and complaints.• The BLR has adopted and published Rules in the conduct of its investigations, hearing of cases and appeals from decisions of its Regional Officers through Department Orders.
	Fair	<ul style="list-style-type: none">• All investigative procedures relative to complaints and referrals received from the public and government agencies are subject to administrative due process.

	Proportionate	<ul style="list-style-type: none"> • The rules and procedures of investigation and hearing for all disputes and issues are established accordingly depending on the dispute and issues concerned. • Sanctions are imposed depending on the facts and attendant circumstances and an appeal process is in place.
	Enabling	<ul style="list-style-type: none"> • The quasi-judicial powers of BLR allow concerned stakeholders a venue for raising concerns and issues.
	Context	<ul style="list-style-type: none"> • The investigation rules and procedures are all within the context of domestic laws and in accordance with administrative due process.
	Feasible and realistic	<ul style="list-style-type: none"> • The investigative rules and procedures are enforceable, realistic and conducted according to due process.
	Efficient	<ul style="list-style-type: none"> • The rules that the BLR issued provide timeframes for the resolution of disputes considering the importance of BLR's mandate to promote unionism and prevent any undue prejudice to the rights of workers.

V.E. Regulatory Objective No. 5: Protecting Labor Organizations

Abuse of an NPO can be defined as any circumstance in which its resources are diverted for any purpose other than that for which they were intended. Resources include money, property, tools, vehicles and intangible resources such as staff time, name and reputation. Abuse may be input abuse (e.g. bogus fundraising or diversion of legitimate funds raised), administrative abuse (e.g. fraud by the NPO or an official) and output abuse (funds not spent on the objects).

The minimum standards set by the Tool are as follows:

- That there are competent authorities which have the responsibility for taking protective action in any case where there is a serious risk of ongoing abuse.
- The responsible authorities have the legal authority to take protective action when necessary.
- The responsible authorities have the legal authority to punish those responsible for abuse of an NPO.

This regulatory objective, for all interviewed agencies, is linked to the regulatory objective on investigating concerns.

Under RA 9481, labor unions are not allowed to divulge information, particularly names of the members until they are formally recognized. This is to protect them from possible union-busting activities. It was also added that the new law promotes decentralization of registration information to trade federations as it allows the federation to certify the existence of certain labor associations to complement the specific nature of the sector.

<i>Regulatory Objectives</i>	<i>Indicators</i>	<i>Assessment</i>
Protecting Labor Organizations	Well Communicated	<ul style="list-style-type: none"> • BLR's power to protect labor organizations is linked to its power to investigate complaints received. • The rules issued in relation thereto are well communicated and well-known to all stakeholders.
	Fair	<ul style="list-style-type: none"> • All procedures relative to complaints and concerns received from the public are subject to administrative due process. Appeal by aggrieved parties is provided under the BLR Rules and the Labor Code.
	Proportionate	<ul style="list-style-type: none"> • The BLR has the legal authority to punish erring labor organizations, their officers and members. • Sanctions include cancellation of registration, imposition of administrative fines, or revocation of certificates of registration, and the filing of criminal complaints for violations of the Labor Code.
	Enabling	<ul style="list-style-type: none"> • The BLR has the legal authority to take protective action when necessary.
	Context	<ul style="list-style-type: none"> • The rules are within the context of the policy of the State to promote the free and responsible exercise of the right to self-organization through the establishment of a simplified mechanism for the speedy registration of labor organizations and workers' associations, determination of representation status, and resolution of intra- and inter-union disputes.
	Feasible and realistic	<ul style="list-style-type: none"> • The laws and rules to protect labor organizations are in place and are being enforced according to due process.
	Efficient	<ul style="list-style-type: none"> • The system is efficient as evidenced by the prompt handling and disposition of cases.

V.F. Regulatory Objective No. 6: Mitigating Risks

The Tool provides the following minimum standards for this regulatory objective:

- Legal obligations are clearly explained.
- Advice and guidance is provided on compliance with regulations.
- Steps are taken to raise awareness of legal obligations and sources of guidance amongst NPOs.
- There are routine consultations with NPOs on all major changes to regulatory laws and policies.
- NPO best practices are defined, promoted and efforts are made to educate the sector on them.
- Information on the sector as a whole is regularly gathered and analyzed.
- There a regular review to identify and adapt to new and developing risks within the sector.

The BLR and DOLE are mandated to develop, promote and implement appropriate labor education and research programs on the rights and responsibilities of workers and employers.

In addition, every legitimate labor organization is required to implement a labor education program for its members on their rights and obligations as unionists and as employees. It is also mandatory

for every legitimate labor organization to conduct seminars and similar activities on existing labor laws, collective agreements, company rules and regulations, and other relevant matters. The union seminars and similar activities may be conducted independently of or in cooperation with the DOLE and other labor education institutions. As such, every legitimate labor organization shall, for the above purpose, maintain a special fund for labor education and research. Existing strike funds may be transformed into labor education and research funds in whole or in part. The union may also periodically assess and collect a reasonable amount from its members for such fund.

The BLR has an undertaking called Workers' Organization Development Program which provides training subsidies to federations to conduct seminars and other training activities. However, this fund is limited and can only provide support for national-level seminars. Thus, not all trade union federations can be supported in any given year and the assistance is rotated among these organizations.

The government has also implemented several workers' safety net programs, including a worker income augmentation program and a livelihood support and a scholarship fund, in order to assist trade union members that would be affected by lay-offs and retrenchments.

Labor-management councils are created by the DOLE in organized and unorganized establishments to enable the workers to participate in policy and decision-making processes in the establishment, insofar as said processes will directly affect their rights, benefits and welfare, except those which are covered by collective bargaining agreements or are traditional areas of bargaining.

Other labor-management cooperation schemes are likewise promoted by the DOLE, either upon its own initiative or upon the request, whereby assistance is provided in the formulation and development of programs and projects on productivity, occupational safety and health, improvement of quality of work life, product quality improvement, and other similar schemes.

In line with the foregoing mandates, the DOLE renders the following services:

- (1) Conduct awareness campaigns;
- (2) Assist the parties in setting up labor-management structures, functions and procedures;
- (3) Provide process facilitators upon request of the parties; and,
- (4) Monitor the activities of labor-management structures as may be necessary and conduct studies on best practices aimed at promoting harmonious labor-management relations.

<i>Regulatory Objectives</i>	<i>Indicators</i>	<i>Assessment</i>
Mitigating Risks	Well Communicated	<ul style="list-style-type: none"> • The BLR provides assistance to the labor organizations through the conduct of awareness campaigns, participation in labor-management councils, and other cooperation schemes.
	Fair	<ul style="list-style-type: none"> • The rules are fair and are applied uniformly for specific kinds of labor organizations, depending on their purposes.
	Proportionate	<ul style="list-style-type: none"> • There is proportionality in the imposition of fines and penalties. Such administrative sanction is based on attendant facts and circumstances surrounding the complaint and violation.
	Enabling	<ul style="list-style-type: none"> • The BLR regulatory framework does not unduly restrict the activities of labor organizations. • Studies on best practices are conducted which are aimed at promoting harmonious labor-management relations.
	Context	<ul style="list-style-type: none"> • The rules are well within the context of BLR's mandate and are compliant with the needs of the labor organizations and the stakeholders.
	Feasible and realistic	<ul style="list-style-type: none"> • The rules are enforceable and do not present any undue burden upon labor organizations with regards to compliance.
	Efficient	<ul style="list-style-type: none"> • The regulatory framework is seen to be efficient and achieves regulatory objectives. • The work of the BLR is commendable given the importance of its role in ensuring a healthy relationship between labor and management.

VI. DEPARTMENT OF SOCIAL WELFARE (www.dswd.gov.ph)

Formerly, social welfare was under the Department of Health until 1947 when President Manuel A. Roxas abolished the Bureau of Public Welfare and in its place created the Social Welfare Commission (SWC) under the Office of the President. In 1951, it became the Social Welfare Administration (SWA) which marked the beginning of an integrated public welfare program.

In 1968, Republic Act 5416 known as the Social Welfare Act of 1968 elevated the SWA into a Department, placing it under the executive branch of government in equal status with other social agencies like health and education.

In 1976 the SWA was renamed Department of Social Services and Development (DSSD) with the signing of Presidential Decree No. 994 by President Ferdinand E. Marcos. It gave the Department a more accurate institutional identity, in keeping with its productivity and developmental thrusts.

In 1978, the DSSD was renamed Ministry of Social Services and Development (MSSD) in line with the change in the form of government, from presidential to parliamentary.

In 1987, the MSSD was reorganized and renamed Department of Social Welfare and Development (DSWD) under Executive Order 123 signed by President Corazon C. Aquino. Executive Order No. 292, also known as the Revised Administration Code of 1987, established the name, organizational structure and functional areas of responsibility of DSWD and further defined its statutory authority.

In 1991, the passage of Republic Act 7160, otherwise known as the Local Government Code, effected the devolution of DSWD basic services to local government units.

In 1998, President Joseph Ejercito Estrada issued Executive Order No. 15 “Redirecting the Functions and Operations of the Department of Social Welfare and Development” to strengthen the DSWD’s repositioning efforts that began soon after the implementation of the Local Government Code of 1991.

In 2003, President Gloria Macapagal Arroyo issued Executive Order No. 221 amending Executive Order No. 15 which defined the mandate, roles, powers and functions of the DSWD.

On January 28, 2005, the Department of Budget and Management (DBM) approved the DSWD’s Rationalization and Streamlining Plan (RSP) for implementation over the next five years. The RSP emphasizes the Department’s shift in policy, functions and programs in line with its steering role.

According to Executive Order 221, series of 2003, as the lead agency in social welfare and development, the Department exercises the following functions:

- Sets standards, accredits and provides consultative services to public and private institutions, organizations and persons engaged in social welfare activities;
- Monitors performance and compliance to standards by institutions, organizations and persons engaged in social welfare activities, both public and private;
- Implements the following: residential care and center-based programs and services serving the whole region and more than two provinces or cities; pilot and demonstration social welfare projects; regular programs involving special social services and statutory programs; and, crisis intervention.

The DSWD is one of the agencies under the direct control and supervision of the Office of the President. It is headed by a Secretary, who sits at the pleasure of the appointing power, the President of the Philippines.

It has two attached agencies, as follows:

- **Council for the Welfare of Children (CWC):** is the primary agency for children's protection, welfare and development in the Philippines. <http://www.cwc.gov.ph>
- **Inter-Country Adoption Board (ICAB):** An agency that formulates and develops policies, rules and regulations, programs and services to ensure the protection of Filipino children adopted abroad. <http://www.icab.gov.ph>

The DSWD also has oversight functions over the following government agencies:

- **National Commission on the Role of Filipino Women** which is mandated to review, evaluate, and recommend measures, including priorities to ensure the full integration of women for economic, social and cultural development at national, regional and international levels, and to ensure further equality between women and men. <http://www.ncrfw.gov.ph>
- **National Youth Commission** which provides the youth with opportunities to be an active partner in nation-building through youth programs and projects that will develop and harness their potentials and enable them to be of great service to their country and community. <http://www.youth.net.ph>

Its main office is located in Quezon City. It has sixteen field offices in the country which include: DSWD-Field Offices I, II, III, IV-A & B, V, VI, VII, VIII, IX, X, XI, XII, NCR, CAR and CARAGA.

VI.A. Regulatory Objective No. 1: Establishing NPOs

The minimum standards under the Tool for Regulatory Objective No. 1 are as follows:

- Citizens are free to establish NPOs except in limited and exceptional circumstances.
- Laws and regulations for establishing NPOs cover all those NPOs that need to be covered, whilst excluding those that do not.

The Department of Social Welfare and Development, through its Standards Bureau and its regional offices, oversees the registration, licensing and accreditation of social work agencies (SWAs) and social welfare and development agencies (SWDAs).

Social welfare and development agencies are non-profit or profit entities, either individual or group, public or private, that primarily engages in the provision of social welfare programs and services, to one or more disadvantaged or vulnerable groups. These may include children, youth, women, persons with disabilities, older persons victims of disasters, disadvantaged families and communities, and individuals, families and communities in crisis. Likewise, social work agency is a type of SWDA that engages mainly or represent itself to engage in social welfare work, whether casework, group work or community work. The DSWD also develops quality assurance measures and regulates the implementation of SWD policies, rules and regulations.

These definitions are being reviewed by the Standards Bureau in light of a draft bill entitled “An Act Establishing a Comprehensive System for Registration, Licensing and Accreditation of Social Welfare and Development Agencies Appropriation thereof and for other purposes.”

Depending on the activities to be undertaken by NPOs under DSWD’s jurisdiction, there are three kinds of processes for establishing NPOs:

1. Registration – a process for social welfare and development agency that intends to engage or is currently engaged generally and mainly in social welfare activities may apply for registration after securing SEC Registration Certificate. Registration is the system of recording agencies in the Registry of Social Welfare and Development (SWD) agencies in recognition of their contribution or intent to contribute to SWD after having complied with the requirements for registration, as evidenced with a Certificate of Registration issued by the DSWD.
2. Licensing – the SWDAs are assessed for licensing within two years after being registered with DSWD to determine their capacity to operate as a social work agency. This is guided by Republic Act 4373, as amended by RA 5175 (Regulating the Practice of Social Work and the Operation of Social Work Agencies in the Philippines) and Presidential Decree 603 (The Child and Youth Welfare Code, as amended). A license to operate is issued to a social welfare and development agency (SWDA) that has complied with the licensing requirements.
3. Accreditation – the licensed SWAs are required to apply for accreditation within one year after issuance of a license to operate. It is the recognition that SWD programs and services implemented by a SWA have met nationally recognized standards. It is also a process of enabling SWA to achieve and demonstrate high quality service for their beneficiaries.

Guidelines for registration, licensing and accreditation of social welfare agencies and social welfare development agencies, as well as instructions for the filing of applications for these registration, licensing and accreditation processes can be found at the DSWD website.

According to agency informants, there are ongoing efforts to review to simplify DSWD's registration. Licensing and accreditation procedures being implemented are observed to have lessened documentary requirements and to have avoided duplication of work. The DSWD and Securities and Exchanges Commission (SEC) have a memorandum of agreement which states that no organization or foundation engaged in social welfare and development shall be registered by the SEC without favorable endorsement from DSWD. This is actually very important and critical to the SEC registration process because SEC does not have the mandate to verify data in the application forms, since its registration function is purely ministerial, but DSWD can check addresses and telephone numbers due to the nature of social welfare.

It is the finding of the LAC that licensing and accreditation could be merged or consolidated into one process considering that the only difference between a SWD and a SWA are additional requirements for the latter on physical facilities and human resources (employment of social workers) to implement specific programs. But the DSWD believes that this could not be done as licensing is assessing the organization’s capability to operate as social work agency while accreditation ensures that the social welfare and development programs and services of licensed social work agency are implemented in accordance with standards set by the DSWD. The DSWD

standards are intended (1) to protect and promote the best interest and welfare of the beneficiaries/clients and (2) to promote the efficiency, effectiveness and accountability in the management and implementation of social welfare and development programs and services.

<i>Regulatory Objectives</i>	<i>Indicators</i>	<i>Assessment</i>
Establishing NPOs	Well Communicated	<ul style="list-style-type: none"> • Registration of NPOs is generally effective, efficient and well communicated. • The rules for application are generally known, as these are posted at the DSWD website, and published materials are also available in the DSWD head office and in the regional offices. Downloadable forms are available to DSWD website and are user-friendly. • There is a need to streamline, however, the registration, licensing and accreditation functions of the agency.
	Fair	<ul style="list-style-type: none"> • The registration process does not restrict establishment of NPOs and fairly applies in a transparent manner to all applicants. There is no undue denial of registration as long as all legal requirements are complied with.
	Proportionate	<ul style="list-style-type: none"> • While the registration procedures apply uniformly to specific classes of NPOs according to purposes.
	Enabling	<ul style="list-style-type: none"> • DSWD registration, licensing or accreditation processes are enabling steps that allow NPOs to perform their intended social welfare and development purposes. • Licensing and accreditation clothes the SWDAs/SWAs with integrity and credibility when seeking assistance from both local and international grantors and donors.
	Context	<ul style="list-style-type: none"> • The registration procedures comply with domestic laws and are well within the context of the nature of social welfare.
	Feasible and realistic	<ul style="list-style-type: none"> • Considering the unique nature of social welfare agencies, the registration, licensing and accreditation rules are feasible and realistic.
	Efficient	<ul style="list-style-type: none"> • DSWD procedures have been adopted to accommodate the requirements of other government agencies, like the BIR, the SEC other concerned government agencies, such as DSWD's attached agencies and those over which it has oversight functions. Work is being done to further streamline the processes to reduce or lessen documentary requirements to avoid duplication of work.

VI.B. Regulatory Objective No. 2: Identification of NPOs

The minimum standards set by the Tool for this regulatory objective are as follows:

- Names and contact details of existing NPOs are held on a list which is publicly available.
- The names of the officials ultimately responsible for the administration of the NPO are available.
- NPO contact details on the publicly available list are accurate and up-to-date.

All documents submitted to the DSWD are available to the public upon request from any of its offices. DSWD publishes in its website a Master List of NPOs registered with them. This list provides the following information on registered, licensed and accredited NPOs: the name of the

NPO, name of contact person, address, contact numbers, registration number, license number, accreditation number, programs and services, service delivery modes, clientele, areas of operation. The list also classifies the registered NPOs according to particular sectors: Child and Youth, Women, Family and Community, Persons with Disabilities, Older Persons and Victims of natural/man-made calamities.

According to agency informants, the DSWD is also reviewing the term of validity of registration and licensing. At the moment, the registration and license are valid throughout the entire operations of the SWDA/SWA unless cancelled, suspended or revoked by the DSWD for cause. This may include failure to submit an annual report of its implementation of social welfare activities for two consecutive years. Accreditation is valid for three to five years from the date of issuance of accreditation certificate based on the rating that the SWA garnered in the accreditation process, unless the SWA's license is revoked or the implementation of its accreditation programs and services has ceased before its expiration. The proposal is to limit the validity of the certificates of registration and licensing similar to that of accreditation.

There is also a list of NPOs whose licenses have been revoked. Reasons for revocation include malversation of funds and abuse of clients by SWDA staff. DSWD submits the names of these NPOs to SEC for appropriate action. SEC, on the other hand, in compliance with due process, has its own revocation procedures. Generally, SEC revokes the registration of erring NPOs for failure to file the General Information Sheet and Audited Financial Statements for a period of five consecutive years.

Among the documents that SWAs and SWDs are required to submit to the DSWD on an annual basis are the following:

1. Annual Accomplishment Report;
2. Sources and Uses of Funds;
3. General Information Sheet;
4. Audited Financial Statements;
5. Area /Coverage and Nature of Operation;
6. Target Clientele, Networking and Alliances; and,
7. Audited Financial Report of the preceding year.

The DSWD has formulated SWD Forms 1 and 2, which the DILG circularized thru AO 27 dated Aug4, 2004 for LGUs who accredit NPOs. SWD Form No. 1 is the NPO's Annual Plan and SWD Form No. 2 is the NPO's Accomplishment Report.

<i>Regulatory Objectives</i>	<i>Indicators</i>	<i>Assessment</i>
Identifying NPOs	Well Communicated	<ul style="list-style-type: none"> • Copies of all documents submitted to DSWD are made available to the public upon request from any of its offices. • Information and data on NPOs can also be downloaded from the DSWD website. • The process of obtaining information on NPOs for purposes of identifying them is generally well-known and well-communicated to the stakeholders. • There are no restrictions in accessing information on DSWD-registered NPOs, even those whose licenses are revoked.
	Fair	<ul style="list-style-type: none"> • The requirements for accessing NPO data is seen to be fair and applied uniformly.
	Proportionate	<ul style="list-style-type: none"> • The reporting requirements are uniform for all NPOs.
	Enabling	<ul style="list-style-type: none"> • Licensing and accreditation clothes the SWDs/SWAs with integrity and credibility when seeking assistance from both local and international grantors and donors.
	Context	<ul style="list-style-type: none"> • The reporting requirements and the policies on access to information and data on NPOs are within the context of the social welfare needs of the Philippine society.
	Feasible and realistic	<ul style="list-style-type: none"> • The process is enforceable and very user friendly.
	Efficient	<ul style="list-style-type: none"> • The need to streamline the processes of registration, licensing, accreditation has been acknowledged and is being studied by DSWD, to lessen documentary requirements and avoid duplication of work.

VI.C. Regulatory Objective No. 3: Identification of Concerns

This regulatory objective is related to Regulatory Objective No. 2 on Identifying NPOs and the minimum standards are similar. All SWAs and SWDAs are mandated to submit the General Information Sheet, Annual Accomplishment Report and Audited Financial Report of the preceding year to the DSWD on an annual basis.

Monitoring of SWDAs/SWAs is conducted on a regular basis, every 6 months. Quarterly reports are filed by field officers for every monitoring finished within a six-month period. Monitoring report forms are available for the assessment of performance of SWAs and SWDAs.

The service delivery of SWAs and SWDAs is regulated by the DSWD through the Standards Bureau in five key work areas, including: administration and organization, program management, case management, helping strategies and physical structures and safety. The Standards Bureau implements policy standards based on the mode of service delivery applied by the NPO, e.g., center-based, community-based, residence-based and street-based. Concerns and issues on program implementation are discovered during the monitoring and assessment visits.

An aggrupation of SWAs and SWDAs, including Local Social Welfare and Development offices and registered/ accredited non-profit organizations, called the Area-Based Standards Network (ABSNET), exists in each regional office. The ABSNET maintains and updates a directory of SWAs and reviews and recommends amendments for standards, policies, rules and regulations

fitted for particular localities. ABSNET was created for consolidation of services which may also create a venue where administrative programs and technical issues on NPO operation are addressed not only by the DSWD but by the members of the network as well. The ABSNET members, being also members of SWAs and SWDAs, conduct peer review and evaluation, oversee their own ranks and report any suspicious activities of social welfare and development agencies to the DSWD. It participates in the review and hearing of cases of SWAs and SWDAs for suspension and revocation of licenses.

This partnership has led to a program of recognition for concerned SWDAs/SWAs at the national or field level during DSWD Anniversary celebrations, Social Welfare Week and DSWD Flag Ceremonies among others. In essence, this recognition provides an incentive for SWDAs/SWAs to perform better and encourages them to uplift their standards to a higher plane.

Per agency informants, the most common abuses to which SWDAs/SWAs are vulnerable are misuse of funds, non-compliance with labor standards (like non-payment of minimum wage) and abuse of clients (especially children and the elderly).

DSWD deems that SWDAs/SWAs, whose clientele are comprised of children and the elderly, are mostly high risk because of the nature of services provided and thus require and are subjected to more vigilant monitoring.

The monitoring system of DSWD and its partnership with NPOs appear to instill a spirit of cooperation between regulator and regulatees in identifying concerns. The Assessment Team believes, that given the kinds of services provided, which are mostly geared towards humanitarian concerns, this system of consultation and coordination works best for the social welfare sector.

<i>Regulatory Objectives</i>	<i>Indicators</i>	<i>Assessment</i>
Identifying Concerns	Well Communicated	<ul style="list-style-type: none"> Concerns of misuse or abuse relative to activities committed by or to NPOs are identified by through the monitoring of SWDs/SWAs conducted on a regular basis, every 6 months. Quarterly reports are filed by field officers for every monitoring finished within a six-month period. Concerns and issues on program implementation are also discovered during the monitoring and assessment visits. DSWD also acts on complaints received from the public. The monitoring process is well known and communicated to the SWAs and SWDs and is understood by them to be necessary given the nature of the services being performed.
	Fair	<ul style="list-style-type: none"> All procedures relative to complaints and concerns received from the public are subject to administrative due process.
	Proportionate	<ul style="list-style-type: none"> The rules and procedures for identifying concerns are generally uniform and may differ in treatment because of the specific functions being undertaken by the SWA or SWDA concerned
	Enabling	<ul style="list-style-type: none"> The administrative processes, which follow constitutional principles, allow a venue for the public to air their complaints and concerns.
	Context	<ul style="list-style-type: none"> The identification of concerns and the spirit of cooperation between DSWD and its regulatees appear to be the best system under the circumstances given the services, being humanitarian in nature.
	Feasible and realistic	<ul style="list-style-type: none"> The public is well aware of the complaints system of the DSWD which is documented in internal rules and procedures which are conducted according to due process.
	Efficient	<ul style="list-style-type: none"> The system is efficient as identified concerns are promptly handled and disposed of by DSWD.

VI.D. Regulatory Objective No. 4: Investigation of Concerns

The minimum standards under the Tool for this regulatory objective are:

- There are competent authorities with the responsibility to investigate.
- The authorities are able to identify the cases that they need to investigate.
- The authorities have the capability and resources to investigate.
- The authorities are able to identify serious issues.

DSWD Administrative Order No. 6, series of 2005, or the Omnibus Rules and Regulations on the Registration and Licensing of Social Welfare and Development Agencies and Accreditation of Social Welfare and Development Programs and Services, as amended, provides the procedure for investigating complaints in compliance with constitutional due process. Sanctions include only suspension or revocation. ABSNET is represented in hearings and deliberations of cases. While DSWD has the authority to file criminal charges against erring trustees or those persons responsible for the violation, as of date, a number of charges have been filed against SWDAs Executive Directors in coordination with the Department of Justice.

Investigation can result from findings of DSWD personnel who conducted the monitoring or assessment visits. Verbal or written information, even anonymous, from the public are also entertained. In a manner that may be described as proactive, DSWD also acts on information derived from media reports, including e-media.

A case involving a cult in Pampanga provides an example of misuse of a DSWD registered SWA. Its leaders were well-known personalities in Pampanga. DSWD has revoked its license. Another case is that of a philanthropist who, in the early 1980's took in abandoned children only to be found out later on to be selling them.

<i>Regulatory Objectives</i>	<i>Indicators</i>	<i>Assessment</i>
Investigating Concerns	Well Communicated	<ul style="list-style-type: none"> • DSWD acts on and investigates complaints from the public (even anonymous), findings or violations from its field officers and from ABSNET about illegal activities of SWAs and SWDs. These have resulted in either suspension or revocation of registration. • AO No. 6 provides the internal rules for investigating complaints, issues of non-compliance arising from findings of DSWD's monitoring system and ABSNET peer reviews.
	Fair	<ul style="list-style-type: none"> • All investigative procedures relative to complaints and concerns received from the public are subject to administrative due process.
	Proportionate	<ul style="list-style-type: none"> • The rules and procedures of investigation are uniform for all SWAs and SWDs and are not based on proportionality, differing only in factual circumstances, nature of violations and legal requirements from where deviations in final dispositions of cases may result.
	Enabling	<ul style="list-style-type: none"> • DSWD's system for investigating complaints and other relevant concerns provides an enabling environment for the general populace, who are assured that there is a venue where they may seek legal remedies.
	Context	<ul style="list-style-type: none"> • The investigation rules and procedures are all within the context of domestic laws and in accordance with administrative due process.
	Feasible and realistic	<ul style="list-style-type: none"> • The investigative rules and procedures are conducted according to due process.
	Efficient	<ul style="list-style-type: none"> • The system is efficient as evidenced by the prompt handling and disposition of cases by the DSWD. A list of SWAs and SWDs whose registration, license or accreditation have been revoked is available upon request at DSWD.

VI.E. Regulatory Objective No. 5: Protecting NPOs

Abuse of an NPO can be defined as any circumstance in which its resources are diverted for any purpose other than that for which they were intended. Resources include money, property, tools, vehicles and intangible resources such as staff time, name and reputation. Abuse may be input abuse (e.g. bogus fundraising or diversion of legitimate funds raised), administrative abuse (e.g. fraud by the NPO or an official) and output abuse (funds not spent on the objects).

The minimum standards set by the Tool are as follows:

- That there are competent authorities which have the responsibility for taking protective action in any case where there is a serious risk of ongoing abuse.
- The responsible authorities have the legal authority to take protective action when necessary.
- The responsible authorities have the legal authority to penalize those responsible for abuse of an NPO.

Although, DSWD does not provide any guidance or feedback to SWDs/SWAs on risks to which the latter may be vulnerable, there are forums, seminars and workshops conducted where concerns and related issues are discussed.

Sources of funds of SWDs/SWAs come from both local and foreign sources. Administrative Order No. 13, series of 2007, provides for guidelines on the Monitoring and Evaluation of Externally Funded Projects. Per agency informants, mostly the Christian dominated SWDs which are the ones receiving foreign donations, and the amounts of funds range from a hundred thousand to millions of pesos.

The financial reports required by DSWD include an item on sources of funds, as well as written pledges from donors and how these funds were used. Names of beneficiaries and clients are also required to be submitted and DSWD field officers interview these clients to verify that the funds had indeed reached them. A standard fund allocation should be 75% for programs and services and 25% for administrative concerns.

DSWD has also institutionalized the participation of NPOs in foreign trainings funded by international donor organizations. These are perks and benefits for NPOs which have good records and thus provide an incentive to do better in its delivery of services to its clients.

In addition, DSWD is also drafting a Compendium of Best Practices of NPOs. The DSWD provides the ABSNETs a mobilization fund and capability-building program.

The overall system, although not specifically focused or targeted on protecting NPOs, appear to be a good system for making NPOs aware of happenings within and outside (national and international) thereby providing a preventive tool for avoidance of risks for misuse and abuse.

To protect the public, as well as the NPOs themselves from any misuse or abuse of funds raised from public solicitations, Presidential Decree No. 1564 or the Solicitation Permit Law, was issued providing the Department of Social Welfare and Development exclusive authority to regulate the soliciting of donations or receiving of contributions for charitable or public welfare purposes. Department Order No. 40 series of 1994 was issued to govern conduct of solicitation and fund raising activities at the regional level. This was later amended by Administrative Order No. 79, series of 2003.

In 2007, DSWD issued Administrative Order No. 14, the Revised Rules and Regulations for Public Solicitations, amending Administrative Order No. 79, series of 2003 and incorporating Administrative Order No. 5, series of 2007.

On the other hand, R.A. 7160, otherwise known as the Local Government Code of 1991, empowers the city and municipal mayors authority to regulate the holding of activities for charitable and welfare purposes within their respective jurisdictions. Such activities may be in the form of benefit shows or dances, bingo socials for charity, raffle draws and similar activities.

Persons or organizations with legal authority to transact business in the country, desiring to solicit donations or receive contributions for charitable or public welfare purposes may apply for solicitation permit, except for the Sangguniang Barangay which is authorized under Section 391 of R.A. 7160 to conduct fund raising activities for barangay projects.

Applications for solicitation permit shall be filed (using the prescribed form) with the DSWD Field Office which has jurisdiction over the area where the solicitation activities shall be conducted. When the solicitation activities cover two or more regions, permits shall be secured from all the DSWD Field Offices concerned.

Applications for solicitation permit shall be filed (using the prescribed form) with the DSWD Field Office which has jurisdiction over the area where the solicitation activities shall be conducted. When the solicitation activities cover two or more regions, the concerned DSWD Field Offices shall endorse their recommendation and documents submitted by the applicant to the Standards Bureau for further review/evaluation and issuance of authority to conduct national fund campaign, if found eligible.

Upon application, the applicant shall pay a filing fee of P500.00 and P1,000.00 for local and national fund drives respectively. The DSWD Secretary or his/her authorized representative shall issue the authority to conduct national fund campaign while the Field Director or his/her authorized representative shall issue the permit for local fund drives. within five working days after receipt of complete documents. The permit shall not be transferable and shall only be valid during the specified period and within the area covered by the application.

The following rules apply to the applying NPOs after the issuance of the solicitation permit:

- Change of date of fund drive and/or extension of the period of the drive may be made only upon written request and approval by the Standards Bureau or the concerned DSWD Field office.
- Persons or offices in charge of the solicitation of donations and voluntary contributions shall have no share in the proceeds to be derived.
- Funds collected during the conduct of the solicitation activities shall be deposited with any authorized banking institutions or with the Municipal, City or Provincial Treasurer's Office and shall be accounted for in the name of the association, institution or organization to which the permit was issued.
- The permit shall be surrendered to the Field Office concerned within sixty days after the expiry date of the permit together with a report of the names and addresses of the persons assisted from the fund campaign and an itemized statement of collection and disbursements certified by an independent Certified Public Accountant.

Any person found violating the Solicitation Permit Law (PD 1564) and its Implementing Rules and Regulations stipulated in Administrative Order 14, series of 2007, shall, upon conviction, suffer the penalty of imprisonment of not more than one year, or a fine of not more than One Thousand Pesos (P1,000.00), or both, at the discretion of the Court. If the offender is a corporation, organization or other juridical person, the penalty shall be imposed on the guilty officials, employee or member. if the guilty person is an alien, he/she shall be deported after serving sentence, without further proceedings.

<i>Regulatory Objectives</i>	<i>Indicators</i>	<i>Assessment</i>
Protecting NPOs	Well Communicated	<ul style="list-style-type: none"> • The overall system is not specifically defined as having being put in place to protect SWAs or SWDs and this has resulted in a general perception among NPOs that is not clear if the systems and procedures in place actually protect NPOs. • DSWD has conducted forums, seminars and workshops conducted where concerns and related issues are discussed. • The Rules on Solicitation Permit has been disseminated.
	Fair	<ul style="list-style-type: none"> • All procedures relative to complaints and concerns received are subject to administrative due process. • ABSNET is represented in all hearings and deliberations of cases.
	Proportionate	<ul style="list-style-type: none"> • The DSWD has the legal authority to require stricter compliance with legal and regulatory requirements. Sanctions include suspension or revocation of registration, license or accreditation. • In cases of violations of the Rules on Public Solicitations, criminal sanctions are provided.
	Enabling	<ul style="list-style-type: none"> • DSWD has the legal authority to take protective action when necessary, which provide an enabling environment for SWA and SWDs to the assurance that there is a venue through which their concerns may be aired and heard.
	Context	<ul style="list-style-type: none"> • Despite the laws, rules, policies and processes for investigation of NPOs and the feedback provided thereon, which have been put in place for the protection of both NPOs and the general public, there is still a general perception among the non-government members of the Assessment Team that it is not clear to them that such processes and policies are for the protection of the NPOs. This will be further discussed in the Consolidated Assessment of the regulatory sector.
	Feasible and realistic	<ul style="list-style-type: none"> • The laws and rules to protect NPOs are in place and are enforceable
	Efficient	<ul style="list-style-type: none"> • The system is efficient as evidenced by the prompt handling and disposition of cases by the DSWD which has resulted in stricter monitoring, suspension or revocation of registration, license or accreditation of the concerned SWA or SWDA.

VI.F. Regulatory Objective No. 6: Mitigating Risks

The Tool provides the following minimum standards for this regulatory objective:

- Legal obligations are clearly explained.
- Advice and guidance is provided on compliance with regulations.
- Steps are taken to raise awareness of legal obligations and sources of guidance amongst NPOs.
- There are routine consultations with SWAs and SWDs on all major changes to regulatory laws and policies.
- NPO best practices are defined, promoted and efforts are made to educate the sector on them.
- Information on the sector as a whole is regularly gathered and analyzed.
- There a regular review to identify and adapt to new and developing risks within the sector.

According to agency informants, the forums, workshops and seminars that DSWD conduct provide the best venues by which SWDs/SWAs are made aware of risks for misuse and abuse and allow involvement in policy reforms and development to help mitigate or prevent these risks from arising.

SWAs and SWDAs are also provided opportunities for support in sourcing of funds with government's help, which process could help alleviate the burdensome vetting requirements of donors, thus lowering the risk factor for abuse and misuse, as well as facilitate monitoring by DSWD.

Through these forums, both government and SWAs and SWDAs are able to establish networks and linkages with one another and benefit from the exposure to the airing of ongoing concerns and issues which ordinarily would not be publicized outside of these venues. Through consultation and discussions with each other, they are able to come up with viable win-win solutions that will help ensure a healthy regulatory environment for the sector, which in the end, could very well mitigate risks to which the social welfare sector are generally susceptible.

As previously mentioned, DSWD is developing a Compendium of Best Practices of SWAs and SWDAs.

DSWD has also published in its website, RA 9160, as amended by RA 9194, otherwise known as the Anti-Money Laundering Act of 2001, for information of its stakeholders.

<i>Regulatory Objectives</i>	<i>Indicators</i>	<i>Assessment</i>
Mitigating Risks	Well Communicated	<ul style="list-style-type: none"> The forums, workshops and seminars provide the best venues by which SWDs/SWAs are made aware of risks for misuse and abuse and allow involvement in policy reforms and development to help mitigate or prevent these risks from arising. Rules for NPO fund raising permits are published at DSWD's website and aim to mitigate risks to which the fund-raising NPOs and the general public may be susceptible to. NPOs issued solicitation permit are posted on the DSWD website.
	Fair	<ul style="list-style-type: none"> The rules are fair and are applied uniformly on the same class of NPOs.
	Proportionate	<ul style="list-style-type: none"> The forums, workshops and seminars provide a proactive consultation system to address concerns and issues relative to specific SWAs and SWDs. The rules on solicitations apply to all classes of NPOs.
	Enabling	<ul style="list-style-type: none"> The DSWD regulatory regime does not appear to be unduly restricting SWAs and SWDs in their activities.
	Context	<ul style="list-style-type: none"> The consultation forums and discussions with the social welfare sector could fall within the context of protecting SWAs and SWDs
	Feasible and realistic	<ul style="list-style-type: none"> The rules are enforceable and do not present any undue burden upon NPOs with regards to compliance.
	Efficient	<ul style="list-style-type: none"> The conduct of consultations, forums and workshops provide an efficient way of airing concerns and problems of the sector. Commendation and awards for good performing NPOs are also being undertaken

VII. DEPARTMENT OF HEALTH (www.doh.gov.ph)

The origins of the Philippine Department of Health can be traced to the establishment of a Department of Public Works, Education and Hygiene, created as a Proclamation of Emilio Aguinaldo, the President of the first Philippine Republic in 1899. During the American occupation in 1901, a Board of Health was created for the city of Manila in 1901 and for the Philippines in 1903; it was reorganized as the Philippine Health Service in 1918 and then again as the Bureau of Health in 1933. The Department of Health was established in 1947 after Executive Order No. 94 was signed into law, and Executive Order No. 288, series of 1958, resulted in the decentralization of some of the powers of the Secretary of Health to regional offices.

According to the DOH website, the department's vision is to 'be the leader of health for all in the Philippines,' while its mission is to 'guarantee, sustainable and quality health for all Filipinos, especially the poor, and to lead the quest for excellence in health,' Currently, the Department is headed by a Cabinet-rank Secretary, and the agency has five policy and program clusters, one of which is the Health Regulation Cluster, headed by an Undersecretary, which monitors the registration of health facilities and equipment and the licensing of food and medical products.

This organizational review will pertain to the licensing of medical hospitals in the country, especially among non-profit organizations. There are also procedures for licensing of the following health facilities (these can be found at http://doh.gov.ph/hosp/list_of_hospitals.htm):

- Dialysis clinics;
- Ambulatory surgical clinics;
- Dental laboratories;
- Blood banks;
- HIV testing centers; and,
- Medical x-ray facilities.

There are also procedures for the accreditation of the following medical facilities:

- Kidney transplantation;
- Drug testing;
- Medical facilities for overseas Filipino workers;
- Laboratory for drinking water facilities;
- Drug abuse and treatment centers.

There are a total of around 1,838 hospitals in the Philippines as of 2005; around 1,136 are privately-owned. Thus, the delivery of tertiary health care in the Philippines is in the hands of private individuals and for-profit corporations. Except for a handful of public (government-owned) hospitals such as the Philippine General Hospital, health provision was mainly in the hands of religious societies and charitable groups until the 1950s. But by the late 1960s and early 1970s, many individuals found medical service provision a lucrative business.

According to the Securities and Exchange Commission, there are less than ten non-stock, non-profit hospitals. These are mainly hospitals affiliated to Catholic religious orders. Most hospitals are level 1 (primary hospitals providing basic care) and level 2 (secondary hospital that have a few specialist sections, i.e., obstetrics, pediatrics); only two are level 3 or level 4 (tertiary hospitals that have several specialist sections or provide complete medical coverage, including surgery, for a specific body organ, i.e., kidney). Hospital license levels also pertain to the number of beds in the facility.

VII.A. Regulatory Objective No. 1: Establishing NPOs

The minimum standards under the Tool for Regulatory Objective No. 1 are as follows:

- Citizens are free to establish NPOs except in limited and exceptional circumstances.
- Laws and regulations for establishing NPOs cover all those NPOs that need to be covered, whilst excluding those that do not

The current rules for hospital licensing are contained in Department of Health Administrative Order 2007-21. This order implements Republic Act 4226, or the Hospital Licensure Act of 1965. There are no distinctions between the licensing of public vs. private hospitals, or for-profit vs. non-profit hospitals.

Licenses to operate (LTO) for levels 1 and 2 hospitals are normally issued at the regional offices of the Department of Health (called the Centers for Health Development); the regional director issues the LTOs upon recommendation of the chief of the regional regulatory division. LTOs for levels 3 and 4 hospitals are issued at the Department of Health Central Office, until full decentralization of LTO issuance to the CHDs, which started in January 1, 2008.

Under the current harmonization processes of the DOH, only one single LTO shall cover the operation of the hospital and its ancillary services, including laboratory facilities, blood collection and analysis, pharmacy and x-ray units. Before, separate licenses to operate should be obtained for these ancillary services provided by the hospital. Licensing would be a joint operation of the Bureau of Health Facilities and Services or BHFS (in charge of standards for health facilities), Bureau of Health Devices and Technology or BHDT (in charge of standards for health instruments) and the Bureau of Food and Drugs or BFAD (in charge of standards for medicines and food products), at the national level, and the regulatory divisions of the Centers for Health Development (CHD) at the regional level.

A One-Stop Shop secretariat, comprised of personnel under the different regulatory bureaus (i.e., BHFS, BHDT, BFAD) of the DOH, had been created in the DOH Central Office under the guidelines to process requests for LTOs. In the regional CHDs, a One-Stop Shop Secretariat had been created and is supervised by the Division Chief for Regulatory Affairs.

At the national level, for the provision of initial licenses, the One-Stop Shop Secretariat is required to provide all applicants for LTOs an initial license within 30 days after receipt of complete application and compliance to other standards. The BHFS, BHDT and BFAD are then required to review the application and to provide personnel to a review team that will physically inspect the hospital that is applying for a license. Each bureau is then required to provide the One-Stop Shop Secretariat a Certificate of Compliance within ten days after the return of the inspection team. The One-Stop Shop Secretariat will then recommend to the Department Secretariat the issuance of an LTO to the health facility after each of the regulatory bureaus had issued their Certificates of Compliance.

At the regional level, after inspection, the regulatory division would complete a certificate of compliance and the regional DOH chief would sign the LTO. Initial LTOs should be provided to the applicants within a 30-day period after submission of complete requirements. CHDs are required to prioritize health facility inspections and a unified inspection team including a medical

doctor, nurse, engineer or architect, health physicist, medical technologist or pathologist, and pharmacist are required to undertake the inspection.

Permits for hospital construction are obtained from the Health Establishment Review Committee at the CHD level which is headed by chief of the regulatory division and several other technical personnel. Initial LTOs are valid only until the end of the calendar year when the application is made.

Any denied application for hospital construction permits, initial LTOs and renewal LTOs can be appealed to the CHD director. The DOH Secretary has the final say on these applications.

License fees are covered under Department of Health Administrative Order 2007-01, and are scaled according to hospital type, with the highest fees to be paid by Level 4 health facilities. In 2008, the fees range from P 3,300.00 to P 8,500.00. The fees also increase annually. Permits to construct fees range from P 1,500.00 to P 3,000.00. Government hospitals run by the DOH are exempt from payment of fees.

<i>Regulatory Objectives</i>	<i>Indicators</i>	<i>Assessment</i>
Establishing NPOs	Well Communicated	<ul style="list-style-type: none"> Registration of hospitals is generally effective, efficient and well communicated, and has been recently streamlined. Currently CHDs are handling the provision of licenses to hospitals. The rules for application are generally known, as these are posted in the DOH website, and published materials are also available in the DOH central office and in the CHDs.
	Fair	<ul style="list-style-type: none"> The registration process does not restrict establishment of hospitals and fairly applies in a transparent manner to all applicants.
	Proportionate	<ul style="list-style-type: none"> There are different requirements for licensing of hospitals, depending on their level, i.e., Levels 1, 2, 3 and 4, since the services provided (and thus the monitoring required) are different.
	Enabling	<ul style="list-style-type: none"> The licensing requirements are a useful guide in ensuring that the minimum levels of service are provided by the health facilities. DOH licensing is also required by the national health insurance agency and other private medical insurance groups.
	Context	<ul style="list-style-type: none"> The registration procedures comply with domestic laws, more specifically RA 4226.
	Feasible and realistic	<ul style="list-style-type: none"> The process of registration is widely publicized and made known to all concerned. The number of applications received and acted upon by BHFS and the CHDs can only prove that the processes are enforceable and realistic and that applicants have the resources to comply. The fees are reasonable.
	Efficient	<ul style="list-style-type: none"> The DOH has revised the licensing procedures several times to improve processing times. Currently, it expects that LTOs would be processed in less than a month's time. Applicants are not required to present other agency permits for initial and renewal of LTO processing.

VII.B. Regulatory Objective No. 2: Identification of NPOs

The minimum standards set by the Tool for this regulatory objective are as follows:

- Names and contact details of existing NPOs are held on a list which is publicly available.
- The names of the officials ultimately responsible for the administration of the NPO are available.
- NPO contact details on the publicly available list are accurate and up-to-date.

The DOH also has a system of hospitals that provides hospital-based care, including specialized or general care; some hospitals conduct research on clinical priorities and there are also training hospitals for medical specialization.

A list of hospitals and their administrative are available from the BHFS and the respective CHDs in the region based on request. There is a list available in the DOH website, but this only includes government-owned and controlled hospitals.

The CHDs are required to submit an annual report on the hospitals in their area of operation to the BHFS, including the following: Annual Report of Licensed Hospitals, Quarterly Status of Initial Applications, Quarterly Reports on Suspension, Revocation and Cease and Desist Orders, and an Annual Summary of Hospital Performance.

The BHFS is required to keep a database of all hospitals in the country.

<i>Regulatory Objectives</i>	<i>Indicators</i>	<i>Assessment</i>
Identifying NPOs	Well Communicated	<ul style="list-style-type: none">• The guidelines for access to information of hospitals are not available publicly but information can be made available on request.
	Fair	<ul style="list-style-type: none">• The requirements for public access is seen to be fair and applied uniformly.
	Proportionate	<ul style="list-style-type: none">• The reporting requirements are uniform for all hospitals, which is part of the requirements for renewal of license to operate.
	Enabling	<ul style="list-style-type: none">• The reporting requirements and the documents submitted pursuant thereto as well as the system of access by the public to these documents and the information contained therein all provide an enabling environment that would allow hospitals to perform their work.
	Context	<ul style="list-style-type: none">• The reporting requirements are compliant to existing laws.
	Feasible and realistic	<ul style="list-style-type: none">• The process is enforceable as the requirements for renewal are few.
	Efficient	<ul style="list-style-type: none">• There is no duplication of work. BHFS and the CHDs have specific rules in the rules developed by the DOH.

VII.C. Regulatory Objective No. 3: Identification of Concerns

This regulatory objective is related to Regulatory Objective No. 2 on Identifying NPOs and the minimum standards are similar.

LTOs are automatically renewed between October to November every year. The following are required to be submitted by the hospitals: a) Notarized Application Form for Renewal of License to Operate a Hospital; b) Sworn Statement that the hospital is compliant with DOH standards and technical requirements; and, c) Proof of Payment of corresponding fees. Renewal is undertaken not later than five days after submission of the requirements.

When there are changes in the circumstances of the hospital, then the application for renewal is subject to the process of issuance of initial LTO.

When the LTO is expired and not renewed for a period not less than one year after the expiration date, then the hospital is required to pay a surcharge. After more than a year, the LTO is considered lapsed and the hospital is required to submit a permit to construct, and general hospitals are required to submit a Certificate of Need (that a hospital is required in a specific area).

The CHDs and DOH central office are required to undertake unannounced inspection visits to assess compliance with hospital standards. Profit and nonprofits facilities may cause problems in identifying, investigating and addressing specific concerns and issues of non-profit institutions.

<i>Regulatory Objectives</i>	<i>Indicators</i>	<i>Assessment</i>
Identifying Concerns	Well Communicated	<ul style="list-style-type: none"> Concerns of misuse or abuse relative to activities committed by hospitals are identified by the BHFS and the CHDs from complaints received from the public. Non-compliance with reportorial requirements is acted upon by the DOH in a proactive manner.
	Fair	<ul style="list-style-type: none"> All procedures relative to complaints and concerns received from the public are subject to administrative due process
	Proportionate	<ul style="list-style-type: none"> The rules and procedures are uniform for all and are not based on proportionality.
	Enabling	<ul style="list-style-type: none"> The administrative processes allow a venue for the public to air their complaints and concerns. The DOH does not analyze the data/ information it collects to come up with updated analyses of the hospitals to identify trends, concerns and risks.
	Context	<ul style="list-style-type: none"> The regulatory standards are based on national laws and international norms.
	Feasible and realistic	<ul style="list-style-type: none"> The rules are feasible given the existing public and private hospital system in the country.
	Efficient	<ul style="list-style-type: none"> The system is efficient as evidenced by the prompt handling and disposition of cases by the DOH, which would not have been the case if the concerns and issues were not fully identified. Where information on the NPO is lacking or not available, the DOH has powers to subpoena the necessary documents and information and to call upon the responsible persons in control of the NPO to provide this required information.

VII.D. Regulatory Objective No. 4: Investigation of Concerns

The minimum standards under the Tool for this regulatory objective are:

- There are competent authorities with the responsibility to investigate.

- The authorities are able to identify the cases that they need to investigate.
- The authorities have the capability and resources to investigate.
- The authorities are able to identify serious issues.

Upon filing of charges or complaints by any individual or organization against any hospital, the DOH is required to investigate and verify whether the hospital, or any of its personnel, is guilty of charges and complaints. DOH may suspend or revoke a license already issued for any of the following grounds: (a) repeated violation by the licensee of any provision of the Hospital Licensure Act or existing laws; and, (b) repeated failure to make necessary correction or adjustments required by the DOH in the improvement of facilities and services.

The CHD director has the powers to investigate issues and abuses within their respective areas of concern; he/she can require assistance of the respective regulatory bureau (BHFS, BHDT and BFAD). If civil service personnel are involved, they shall be subject to Civil Service rules and regulations, or in the case of licensed professionals, they shall be subject to investigation by the professional regulatory boards under the Professional Regulatory Commission. Under DOH Administrative Order 2007- 24, a non-compliant DOH hospital is given 30 days to correct the deficiencies. After this, the hospital can be downgraded to the appropriate category.

There have been few cases of hospital closure or suspension of operations. There has been several cases of closure of specific hospital units. More recently, the neonatal department of the Ospital ng Makati had been ordered closed last June 7 after 45 babies had been diagnosed with blood infections. Two years ago, the same unit in the Rizal Medical Center was ordered closed after a similar incident.

<i>Regulatory Objectives</i>	<i>Indicators</i>	<i>Assessment</i>
Investigating Concerns	Well Communicated	<ul style="list-style-type: none"> • DOH acts on and investigates complaints from the public and local government units about hospitals which actions have resulted in revocation of licenses and imposition of administrative fines against these entities.
	Fair	<ul style="list-style-type: none"> • All investigative procedures relative to complaints and concerns received from the public are subject to administrative due process. • DOH abides by a confidentiality policy for all complaints and the information contained therein.
	Proportionate	<ul style="list-style-type: none"> • The rules and procedures of investigation are uniform for all hospitals, whether for-profit or non-profit.
	Enabling	<ul style="list-style-type: none"> • The fact that DOH acts on and investigates complaints from the public and local government units.
	Context	<ul style="list-style-type: none"> • The investigation rules and procedures are all within the context of domestic laws and in accordance with administrative due process.
	Feasible and realistic	<ul style="list-style-type: none"> • The investigative rules and procedures are conducted according to due process.
	Efficient	<ul style="list-style-type: none"> • There is relatively quick action against hospital units undertaken by the DOH for violation of specific laws by hospitals, based on their investigation.

VII.E. Regulatory Objective No. 5: Protecting NPOs

Abuse of an NPO can be defined as any circumstance in which its resources are diverted for any purpose other than that for which they were intended. Resources include money, property, tools, vehicles and intangible resources such as staff time, name and reputation. Abuse may be input abuse (e.g. bogus fundraising or diversion of legitimate funds raised), administrative abuse (e.g. fraud by the NPO or an official) and output abuse (funds not spent on the objects).

The minimum standards set by the Tool are as follows:

- That there are competent authorities which have the responsibility for taking protective action in any case where there is a serious risk of ongoing abuse.
- The responsible authorities have the legal authority to take protective action when necessary.
- The responsible authorities have the legal authority to punish those responsible for abuse of an NPO.

The CHDs and the BHFS have the power to suspend or terminate the license of any hospital. Any decision by the CHDs to suspend or revoke any LTO may be appealed to the DOH Secretary, whose recommendation shall be final and executory.

<i>Regulatory Objectives</i>	<i>Indicators</i>	<i>Assessment</i>
Protecting NPOs	Well Communicated	<ul style="list-style-type: none">• DOH's power to protect hospitals is linked to its power to investigate complaints and concerns received from the public.
	Fair	<ul style="list-style-type: none">• All procedures relative to complaints and concerns received from the public are subject to administrative due process, where every person is given his "day in court", so to speak. As a protective measure, the DOH orders the preventive suspension or closure of whole hospital or specific units if they are found in violation of specific rules.
	Proportionate	<ul style="list-style-type: none">• The DOH has the legal authority to punish those responsible for misconduct.
	Enabling	<ul style="list-style-type: none">• DOH has the legal authority to take protective action when necessary.• The public is given feedback on enforcement actions taken by the DOH.
	Context	<ul style="list-style-type: none">• The laws, rules, policies and processes for investigation of NPOs and the feedback provided thereon, which have been put in place for the protection of both NPOs and the general public.
	Feasible and realistic	<ul style="list-style-type: none">• The laws and rules to protect NPOs are in place and are being enforced according to due process.
	Efficient	<ul style="list-style-type: none">• The system is efficient as evidenced by the prompt handling and disposition of cases by the DOH.

VII.F. Regulatory Objective No. 6: Mitigating Risks

The Tool provides the following minimum standards for this regulatory objective:

- Legal obligations are clearly explained.
- Advice and guidance is provided on compliance with regulations.
- Steps are taken to raise awareness of legal obligations and sources of guidance amongst NPOs.
- There are routine consultations with NPOs on all major changes to regulatory laws and policies.
- NPO best practices are defined, promoted and efforts are made to educate the sector on them.
- Information on the Sector as a whole is regularly gathered and analyzed.
- There a regular review to identify and adapt to new and developing risks within the Sector.

There are structures within the DOH and advice and guidance is provided by the DOH on compliance with laws and regulation. Both for-profit and non-profit hospitals are being involved in the design, implementation of regulatory measures and policies. There are existing efforts to reduce bureaucratic procedures especially in the licensing process by establishing the One-Stop Shop Licensing System.

There are moves to update the hospital licensure system by giving the Department of Health additional ‘quasi-judicial powers’ including the promulgation of rules governing the conduct of administrative hearings, administration of oaths and affirmations, and issuance of subpoenas, exercise of contempt powers and imposition of appropriate penalties, and to cause prosecution of all cases involving violation of existing rules of hospital licensure. However, this is still being discussed by Congress. DOH informants feel that existing rules are sufficient to protect abuses.

<i>Regulatory Objectives</i>	<i>Indicators</i>	<i>Assessment</i>
Mitigating Risks	Well Communicated	<ul style="list-style-type: none"> • DOH has rule making powers which it has used to issue guidelines to involving hospital licensure memorandum circulars.
	Fair	<ul style="list-style-type: none"> • The rules are fair and are applied uniformly on the same class of hospitals, whether profit or non-profit.
	Proportionate	<ul style="list-style-type: none"> • The rules that DOH has issued are proportionate to the evolving issues affecting the Sector.
	Enabling	<ul style="list-style-type: none"> • The DOH regulatory regime does not unduly restrict the operation of hospitals in their activities. • DOH regularly consults with hospitals in the development of rules and regulations with respect to hospital licensing.
	Context	<ul style="list-style-type: none"> • The rules are well within the context of DOH’s rule making powers and are compliant with the needs of the Sector and the public.
	Feasible and realistic	<ul style="list-style-type: none"> • The rules are enforceable and do not present any undue burden upon hospitals with regards to compliance.
	Efficient	<ul style="list-style-type: none"> • The information gathered by DOH is accessible by the public, in particular by the hospitals.

VIII. INSURANCE COMMISSION (www.insurance.gov.ph)

The Insurance Commission was formerly referred to as the Office of the Insurance Commissioner. The law that created the Office of the Insurance Commissioner as an Independent office is Republic Act No. 275, which took effect upon the formal opening of the Central Bank of the Philippines on January 3, 1949. This law in effect superseded the provisions of Executive Order No. 54, dated April 21, 1947, and Section 169 of Act No. 2427, otherwise known as the Insurance Act.

Under Act No. 2427, which took effect on July 1, 1915, The Insular Treasurer, in addition to his official title, was designated Insurance Commissioner ex-officio. The government agency which supervised insurance business in this country was, until December 31, 1941, or for period of over 26 years only a division, called the Insurance Division of the Bureau of Treasury.

During the war, the Insurance Division was separated from the Bureau of Treasury and attached to the Bureau of Banking. After the war, the Division returned to the Bureau of Treasury. In 1947, it was detached once more from the latter and then re-merged with the Bureau of Banking.

In 1949, through Republic Act No. 275, the Office of the Insurance Commissioner came into being with the Insurance Division as its nucleus.

On November 20, 1972, Presidential Decree No. 63 was promulgated amending certain sections of the Insurance Act. Among other things, it provided that the Office of the Insurance Commissioner be known as the Insurance Commission. In December 18, 1974, the Insurance Code came into being upon the promulgation of Presidential Decree No. 274, which formalized the typology of insurance policies and organizations issuing insurance policies, and declared specific roles for the Insurance Commission in the implementation of these policies.

This assessment covers regulations covering mutual benefit associations, which is the only non-profit insurance entity. According to PD 274, a mutual benefit association is one that is “any society, association or corporation, without capital stock, formed or organized not for profit but mainly for the purpose of paying sick benefits to members, or of furnishing financial support to members while out of employment, or of paying to relatives of deceased members of fixed or any sum of money, irrespective of whether such aim or purpose is carried out by means of fixed dues or assessments collected regularly from the members, or of providing, by the issuance of certificates of insurance, payment of its members of accident or life insurance benefits out of such fixed and regular dues or assessments, but in no case shall include any society, association, or corporation with such mutual benefit features and which shall be carried out purely from voluntary contributions collected not regularly and or no fixed amount from whomsoever may contribute.” (Chapter 7, Title 1, Section 390, of Insurance Code)

In the 2006 annual report of the Insurance Commission, the following are the quantitative data on the MBAs:

- Twenty (20) MBAs submitted their Annual Statements for business year 2006. Three (3) of these were newly licensed namely, Alalay sa Kaunlaran MBA (ASKI, Rural Bank of Talisayan MBA, Inc. (RBT) and Tulay sa Pag-unlad, MBA (TSPI).
- Aggregate assets as of year-end amounted to P16.7 billion, a 12.08% increase over that of the previous year, with Other Loans comprising 29.94% of the amount. The sector has been dominated by five (5) bigger MBAs sharing 93.41% of the total reported assets.

- Total Member's Equity was posted at P6 billion, a 7.14% increase over the reported equity in 2005.
- Total cash receipts from different sources during the year amounted to P14.4 billion. However, corresponding disbursements exceeded the total cash receipts with the P14.7 billion expenses incurred during the year.

A new type of MBA came into being in 2006. Under Insurance Memorandum Circular 9-2006, any mutual benefit association wholly engaged in the business of providing microinsurance, or the insurance business activity of providing specific insurance products that meet the needs of the disadvantaged for risk protection and relief against distress or misfortune, for their members shall be referred to as a "Microinsurance MBA." Any existing and/or new MBA shall be considered wholly engaged in microinsurance if it only provides microinsurance policies to its members; and it has at least five thousand (5,000) member-clients.

The report below describes the LAC assessment of the IC, which contains very partial assessments of the agency, due to the fact that there were only two informants for this section, compared to three or more for the others.

VIII.A. Regulatory Objective No. 1: Establishing MBAs

The minimum standards under the Tool for Regulatory Objective No. 1 are as follows:

- Citizens are free to establish NPOs except in limited and exceptional circumstances.
- Laws and regulations for establishing NPOs cover all those NPOs that need to be covered, whilst excluding those that do not

Rules for registration and licensing of mutual benefit associations are covered by the Insurance Code (Sec. 391, PD 274). All mutual benefit association applying for license should file with the Insurance Commission together with true copies of the articles of incorporation or the constitution and by-laws of the association, all amendments, and whatever additional documents or testimonies that the Commissioner may require.

No license shall be granted to a mutual benefit association until the Commissioner shall have been satisfied by such examination as may make and such evidence as he may require that the association is qualified under existing laws to operate and transact business as such. The Commissioner may refuse to issue a license to any mutual benefit association if, in his judgment, such refusal will best promote the interest of the members of such association and of the people of this country. Any license issued shall expire on the last day of June of the year following its issuance and, upon proper application, may be renewed if the association is continuing to comply with existing laws, rules, regulations, orders, instructions, rulings and decisions of the Commissioner. Every association receiving such license shall be subject to the supervision of the Commissioner, however, no such license shall be granted to any such association if such association has no actuary.

A Guaranty Fund should be established first by depositing with the Commissioner an initial minimum amount of ten thousand pesos in cash, or in government securities, with a total value equal to such amount, before a license could be issued to operate a mutual benefit association. In addition, prior of after the licensing of the association, the Commissioner may require that such Guaranty Fund may be increased from the initial minimum amount required to an amount equal to

at least ten percent of its assets, if such asset exceed one hundred thousand pesos, but in no case shall such increase exceed the maximum amount of capital investment required of a domestic insurance company under section two hundred and three of the code (as amended by Presidential Decree No. 1455). The Guaranty Fund is placed with the Insurance Commission in escrow.

Under Insurance Commission Memorandum Circular 2- 2006, the amount of the Guaranty Fund must be the following:

- On or before December 31, 2006, all existing mutual benefit associations must have a fund of Twelve Million and Five Hundred Thousand Pesos (P12,500,000.00); and,
- effective July 1, 2006, any new mutual benefit association or one that is sought to be rehabilitated must have an initial Fund equivalent to not less than twenty five percent (25%) of the minimum paid-up capital required for new insurance companies or One Hundred Twenty Five Million Pesos (P 125,000,000.00).

The licensing and actuarial requirements as provided by the Insurance Commission are listed in the Annex. MBAs are required to register their application of a license at the Metro Manila central office of the Insurance Commission. Their branch offices in Cebu and Davao have no capability to process applications.

Regulatory Objectives	Indicators	Assessment
Establishing NPOs	Well Communicated	<ul style="list-style-type: none"> • Registration of MBAs is generally effective, efficient and well communicated. • The rules for application are known, as these are posted in the Insurance Commission website. • There are standard forms that are available in hard copy form (for photocopying) in their office and in electronic form in the Insurance Commission website.
	Fair	<ul style="list-style-type: none"> • The registration process does not restrict establishment of MBAs and fairly applies in a transparent manner to all applicants. There is no undue denial of registration as long as all legal requirements are complied with. • Because of the need to strengthen the fiduciary requirements of insurance entities, MBAs have to hurdle high Guaranty Fund levels, which are only feasible at high levels of membership.
	Proportionate	<ul style="list-style-type: none"> • The registration procedures are uniform for all MBA applicants.
	Enabling	<ul style="list-style-type: none"> • The registration requirements enable MBAs to perform their intended purposes for membership. • IC registration or enrolment is the first step in the operation of MBAs and allow them to perform legal acts, such as entering into contracts, fund raising activities and conducting financial transactions.
	Context	<ul style="list-style-type: none"> • The registration procedures comply with domestic laws and constitutional mandates.
	Feasible and realistic	<ul style="list-style-type: none"> • The process of registration is widely publicized and made known to all concerned. The only issue is that applications can only be processed in the central office of the Insurance Commission as their branch offices in Cebu and Davao can not undertake processing.
	Efficient	<ul style="list-style-type: none"> • The licensing system does not provide a more focused attention on MBAs which comprise a specific class of insurance, as the processes are similar to the more traditional insurance companies. • But according to informants, the application process is relatively quick. It would take two weeks to one month to process the application.

VIII.B. Regulatory Objective No. 2: Identifying MBAs

The minimum standards set by the Tool for this regulatory objective are as follows:

- Names and contact details of existing MBAs are held on a publicly available list
- The names of the officials ultimately responsible for the administration of the NPO are available.
- NPO contact details on the publicly available list are accurate and up-to-date.

There are around 20 MBAs existing and their names are available from the IC website. Information on MBAs can be provided by the Statistics Division of the IC upon request.

Mutual benefit associations are required to submit an annual statement to the Commissioner, in form and details as he would prescribe. It should be filed on or before the 30th of April each year. Such document should be sworn to by the officers of the association including the president, secretary, treasurer and actuary of the association, showing the exact condition of its affairs preceding the thirty first day of December. The regulatory division of the IC handles the monitoring of the different MBAs.

Regulatory Objectives	Indicators	Assessment
Identifying MBAs	Well Communicated	<ul style="list-style-type: none"> Generic information about MBAs is available to the public upon request; however, the procedures to access this information are not generally known and well communicated, but are available upon solicitation from the IC.
	Fair	<ul style="list-style-type: none"> The system of obtaining information on MBAs is transparent and fair.
	Proportionate	<ul style="list-style-type: none"> System of access to information on MBAs is uniform regardless of the type of MBA.
	Enabling	<ul style="list-style-type: none"> The reporting requirements and the documents all provide an enabling environment that allows MBAs to perform their work and provides the concerned public with the necessary information on the activities of MBAs.
	Context	<ul style="list-style-type: none"> The information access system is a basic service provided under the right to information of citizens vested by the Philippine Constitution and is well within the standards under Philippine setting.
	Feasible and realistic	<ul style="list-style-type: none"> Given the small number of MBAs, submissions by these entities can be easily undertaken.
	Efficient	<ul style="list-style-type: none"> There are very few MBAs given the number of insurance entities in the Philippines; thus, information on MBAs can easily be provided.

VIII.C. Regulatory Objective No. 3: Identifying Concerns

This regulatory objective is related to Regulatory Objective No. 2 on Identifying MBAs and the minimum standards are similar.

The Commissioner, or any of his or her duly designated representatives, has the power of visitation, audit and examination into the affairs, financial condition, and methods of doing business of all mutual benefit associations. Such examinations may be made at least once every two years or whenever it may be deemed necessary. Free access to all information shall be accorded to the Commissioner or his representatives including books, records and documents of the association such that true affairs, financial condition, and method of doing business may be readily verified and determined. Authority to administer oaths, take testimony or other evidence on any matter relating to the affairs of the association is also accorded to the Commissioner or his or her representatives during the course of such examinations.

All minutes of the proceedings of the board of directors or trustees of the association, and those of the regular or special meetings of the members, shall be taken, and a copy thereof, in English or in Pilipino, shall be submitted to the Commissioner's representatives or examiners in the course of such examination.

A copy of the findings of such examination, together with the recommendations of the Commissioner, shall be furnished the association for its information and compliance, and the same shall be taken up immediately in the meetings of the board of directors or trustees and of the members of the association.

The Insurance Commission informant reported that since insurance is part of the financial sector, MBAs are subject to very stringent requirements.

There are legal fees imposed for adjudication of cases, except for pauper litigants, in which case, any judgment rendered in favor of said pauper litigant shall be a lien on the legal fees, unless the Board provides otherwise.

<i>Regulatory Objectives</i>	<i>Indicators</i>	<i>Assessment</i>
Identifying Concerns	Well Communicated	<ul style="list-style-type: none"> Concerns of misuse or abuse relative to activities committed by or to MBAs are identified from complaints received from the MBA members. At present, IC does not conduct proactive identification of concerns of misuse and abuses. Based on its records of complaints received, the nature of the misuse and abuse are mostly related to internal association problems.
	Fair	<ul style="list-style-type: none"> All procedures relative to complaints and concerns received from the public are subject to administrative due process.
	Proportionate	<ul style="list-style-type: none"> The rules and procedures are uniform for all MBAs.
	Enabling	<ul style="list-style-type: none"> The administrative processes allow a venue for the public to air their complaints and concerns.
	Context	<ul style="list-style-type: none"> Given the small number of MBAs, the existing system of identifying concerns appears to be the most strategic one that can be availed of.
	Feasible and realistic	<ul style="list-style-type: none"> The MBAs are well aware of the complaints system of the IC.
	Efficient	<ul style="list-style-type: none"> The system is efficient as evidenced by the prompt handling and disposition of cases by the IC, despite its limited manpower resources, especially lawyers tasked to handle complaints.

VIII.D. Regulatory Objective No. 4: Investigating Concerns

The minimum standards under the Tool for this regulatory objective are:

- There are competent authorities with the responsibility to investigate.
- The authorities are able to identify the cases that they need to investigate.
- The authorities have the capability and resources to investigate.
- The authorities are able to identify serious issues.

If a mutual benefit association has failed to comply with existing regulations, including undertaking actions resulting in the impairment of its assets and cash reserves and the insolvency of the MBA, the Commissioner is authorized to suspend or revoke its certificate of authority to the MBA, and its officer and agents. The MBA can not undertake any operations until its business is restored by the

Commissioner, after receipt of a business plan showing the MBA's estimated receipts and disbursements, as well as their bases, for three years.

The IC's regulatory division is required to study all documents submitted to the agency, including the annual reports, and if there are investigations that need to be undertaken, these are referred to the legal division of the agency.

Regulatory Objectives	Indicators	Assessment
Investigating Concerns	Well Communicated	<ul style="list-style-type: none"> IC acts on and investigates MBAs <i>motu proprio</i> or based on sworn complaints from the public, or its investigations on the papers submitted to it by the MBAs.
	Fair	<ul style="list-style-type: none"> All investigative procedures relative to complaints and referrals received from the public and government agencies are subject to administrative due process.
	Proportionate	<ul style="list-style-type: none"> The rules and procedures of investigation are uniform for all MBAs. Sanctions, mainly the suspension of the license to operate, are based on facts and circumstances attendant to the case.
	Enabling	<ul style="list-style-type: none"> The fact that IC acts on and investigates complaints provides an enabling environment for the members and the public, who are assured that there is a venue where they may seek legal remedies.
	Context	<ul style="list-style-type: none"> The investigation rules and procedures are all within the context of domestic laws and in accordance with administrative due process.
	Feasible and realistic	<ul style="list-style-type: none"> The investigative rules and procedures are conducted according to due process.
	Efficient	<ul style="list-style-type: none"> Due to the small number of MBAs, the IC can undertake the investigations as quickly as possible in order to ensure that the operations of the MBAs are not disrupted.

VIII.E. Regulatory Objective No. 5: Protecting NPOs

Abuse of an NPO can be defined as any circumstance in which its resources are diverted for any purpose other than that for which they were intended. Resources include money, property, tools, vehicles and intangible resources such as staff time, name and reputation. Abuse may be input abuse (e.g. bogus fundraising or diversion of legitimate funds raised), administrative abuse (e.g. fraud by the NPO or an official) and output abuse (funds not spent on the objects).

The minimum standards set by the Tool are as follows:

- That there are competent authorities which have the responsibility for taking protective action in any case where there is a serious risk of ongoing abuse.
- The responsible authorities have the legal authority to take protective action when necessary.
- The responsible authorities have the legal authority to punish those responsible for abuse of an NPO.

During the suspension or revocation of certification of authority of the MBA as provided by law, the Insurance Commissioner finds that the MBA is finding it difficult to improve its level of solvency and liquidity necessary to protect the interest of its members, the Commissioner can

appoint a conservator that shall take charge of the assets, liabilities and managements of the MBA in order to preserve the assets of the association. The conservator can overrule or revoke actions of the previous management and the board of trustees of the MBA.

The conservator shall not be subject to any action, claim or demand by, or liability to, any person in respect of anything done or omitted to be done in good faith in the exercise, or in connection with the exercise, of the powers conferred on the conservator.

The conservator shall report and be responsible to the Commissioner until such time as the Commissioner is satisfied that the MBA can continue to operate on its own and the conservatorship shall likewise be terminated.

<i>Regulatory Objectives</i>	<i>Indicators</i>	<i>Assessment</i>
Protecting NPOs	Well Communicated	<ul style="list-style-type: none"> • IC's power to protect MBAs is linked to its power to investigate complaints and referrals received. • There is a clear policy on suspension or revocation of the license to operate of MBAs, and the appointment of a conservator to protect the assets of MBA. • The list of MBAs with revoked certificates of registration is well-publicized due to the small number of the sector.
	Fair	<ul style="list-style-type: none"> • All procedures relative to complaints and concerns received from the public are subject to administrative due process.
	Proportionate	<ul style="list-style-type: none"> • The IC has the legal authority to punish MBAs according to the rules established in the Insurance Code.
	Enabling	<ul style="list-style-type: none"> • The IC has the legal authority to take protective action when necessary.
	Context	<ul style="list-style-type: none"> • The actions undertaken by the IC are consistent with current laws and regulations, including the protection of assets of financial institutions.
	Feasible and realistic	<ul style="list-style-type: none"> • The laws and rules to protect MBAs are in place and are being enforced according to due process.
	Efficient	<ul style="list-style-type: none"> • The system is efficient as evidenced by the prompt handling and disposition of cases by the IC.

VIII.F. Regulatory Objective No. 6: Mitigating Risks

The Tool provides the following minimum standards for this regulatory objective:

- Legal obligations are clearly explained.
- Advice and guidance is provided on compliance with regulations.
- Steps are taken to raise awareness of legal obligations and sources of guidance amongst NPOs.
- There are routine consultations with NPOs on all major changes to regulatory laws and policies.
- NPO best practices are defined, promoted and efforts are made to educate the sector on them.
- Information on the sector as a whole is regularly gathered and analysed.
- There a regular review to identify and adapt to new and developing risks within the sector.

Before registering their associations, the IC conducts orientation sessions for MBA officers and staff; these also provide them with a proper perspective on the roles of MBAs and the MBA management. Meetings are also regularly conducted between the MBA officers and the Insurance Commission to ensure the proper operation of the MBA.

There are regular forums undertaken to discuss the proper role of the IC in MBA regulation. This is usually undertaken during the Insurance Month celebrations.

Most of the collaboration undertaken by the IC with respect to MBAs are with the microinsurance companies, which the IC sees as a 'growth sector'. There is growing interest in the development of microinsurance schemes given the preponderance of microfinance institutions in the country. During the 2007 Insurance Month, for example, the IC forum with MBAs were undertaken at the CARD Mutual Benefit Association in Laguna, and there were many microfinance corporations interested in establishing their own MBA. As of 2007, there were around eight MBAs (including CARD MBA) with a total of 800,000 members that are being established according to this scheme, according to a study made by the German Technical Cooperation Agency (2007), this includes:

- Rural Bank of Talisayan MBA;
- ASKI MBA;
- KASAGANA KA MBA;
- Ad Jesum;
- Center for Community Transformation;
- First Community Credit Cooperative;
- Sto. Rosario Development Credit Cooperative;
- People's Rural Bank of Isabela.

A regulatory framework is being developed by the IC for microinsurance in coordination with the stakeholders listed above. The IC supports the efforts of non-government organizations and donors to enhance the number of microinsurance entities nationwide.

<i>Regulatory Objectives</i>	<i>Indicators</i>	<i>Assessment</i>
Mitigating Risks	Well Communicated	<ul style="list-style-type: none"> The IC closely coordinates with MBA stakeholders, especially among NPOs and donors.
	Fair	<ul style="list-style-type: none"> The rules are fair and are applied uniformly for all MBAs.
	Proportionate	<ul style="list-style-type: none"> The IC supports MBAs generally without regard to the size of the MBA, although its experience shows that the membership scale of a typical MBA should be in the thousands to be commercially viable.
	Enabling	<ul style="list-style-type: none"> The IC regulatory framework does not unduly restrict the activities of MBAs. The consultation policy of IC also provides an enabling environment for MBAs.
	Context	<ul style="list-style-type: none"> The rules are well within the context of IC's mandate and are compliant with the needs of the MBAs and the public.
	Feasible and realistic	<ul style="list-style-type: none"> The rules are enforceable and do not present any undue burden upon MBAs with regards to compliance.
	Efficient	<ul style="list-style-type: none"> The regulatory framework is seen to be efficient and achieves regulatory objectives.

VIII. Philippine Council for NGO Certification (www.pcnc.com.ph)

To qualify for tax donee status, according to BIR Revenue Regulations No. 13- 1998, non-stock, non-profit organizations should submit to the accrediting entity the following requirements: articles of incorporation and by-laws; SEC registration; affidavit of 'modus operandi' listing the 'character of organization', the purpose for which it was organized, list of projects for two years, the source of income and utilization and other facts relating to their qualifications as donee institution; and duly audited financial statements for the past two years. The accrediting entity (which shall review the applicant institution in terms of their mission and goals, financial and human resources, programs and evaluation mechanisms and future plans. Upon approval of the application, the institution shall be given a five year donee status for existing non-stock, non-profit corporations and a three year donee status for newly-organized corporations (Article 2, BIR Regulation 13- 1998).

The accrediting agency is the Philippine Council for NGO Certification (or PCNC), according to a memorandum of agreement signed between the Department of Finance and the PCNC in January, 29, 1998. The PCNC was founded by several NPO networks including the Caucus of Development NGO Networks, the Philippine Business for Social Progress, the Association of Foundations, the Bishops-Businessmen's Conference on Human Development, the National Council for Social Development and the League of Corporate Foundations.

Newly organized entities may also apply and the Secretary of Finance, upon recommendation of the Board of Trustees of the PCNC, can waive the submission of duly audited financial statements; these shall be eligible to apply for a three year probationary status.

Donations, contributions or gifts given to accredited non-stock, non-profit corporations shall be allowed limited deductibility amounting to a limit of ten percent for an individual donor and five percent for a corporate donor. Donations, contributions or gifts shall be allowed full deductibility (100 percent tax deductibility) conditioned that these funds are utilized within the calendar year when the donation is made, the level of administrative expenses shall not exceed 30 percent, all the members of the non-stock, non-profit corporation do not receive any compensation for their services. All donations are exempt from donor's taxes. Deductibility will not apply to the following uses of funds: lending unless part of microfinance program; purchase or sales of securities; sale or lease of property to a member of the donee institution; illegal activities. (section 3, BIR Regulation 13- 1998)

The following is its established norms of procedures for accreditation by the PCNC (PCNC Brief Description of the Accreditation Process):

1. The organization inquires with PCNC for requirements.
2. PCNC sends the following forms to be filled-up by the applicant NPO:
 - Letter of Intent (1 copy)
 - Application for Accreditation for Donee Institution Status and also sends the checklist of requirements. (1 copy)
3. The applicant NPO submits the Letter of Intent and Application Form together with their latest Audited Financial Statement and the initial payment of Php 1,000.00.

4. PCNC sends applicant NPO a survey form to be accomplished in four (4) copies.
5. Applicant NPO submits survey form with complete attachments, and the balance of the application fee according to the socialized fee scheme based on Total Assets, as follows:
 - a. organizations with less than 5 million total assets = 10,000.00
 - b. organizations with 5 to 15 million total assets = 15,000.00
 - c. organizations with more than 15 million total assets = 20,000.00
6. The secretariat forms the evaluation team line-up.
7. The evaluators confirm their availability; PCNC secretariat makes arrangements for the visit.
8. The evaluation team conducts the evaluation visit.
9. The PCNC Board deliberates on the evaluation team's recommendation.
10. NPO is then notified on the PCNC Board's decision.
11. For certified NPO, the PCNC Secretariat submits certification results to the BIR.
12. The BIR issues Certificate of Donee Institution Status to NPO.

PCNC has a list of donee institutions; the list is available in their website, and the full database is available upon request.

Assessment of Regulatory Framework

Both the government and non-government representatives of the LAC were asked to provide an over-all assessment of the government performance in terms of the regulatory objectives, using the following color codes: green (highly effective), yellow (effective), orange (partially effective) and red (not effective).

- The green rating reflects that, in the evaluation of the LAC, the indicators are being demonstrated to the required standard, with no more than a few minor or insignificant exceptions, i.e. the objective is demonstrably being achieved.
- The yellow rating reflects the assessment that most of the indicators are being demonstrated to the required standard, i.e. there are some exceptions which have an impact on overall effectiveness, but these are not significant.
- The orange rating reflects the evaluation that only a few of the indicators are being demonstrated to the required standard, i.e. there are exceptions which are having a major impact on the effective achievement of the objectives.
- Lastly, the red rating reflects the assessment that there is little or no evidence of the required indicators and this is preventing the objective from being achieved.

The following were the results of the group work:

a) For government:

Regulatory Objective	Well-communicated	Fair	Proportional	Feasible/Realistic	Context	Efficient	Enabling
Establishing NGOs	Yellow	Green	Green	Yellow	Green	Yellow	Green
Identifying NGOs	Yellow	Yellow	Yellow	Yellow	Green	Yellow	Yellow
Identifying concerns	Yellow	Green	Yellow	Yellow	Yellow	Yellow	Yellow
Investigating concerns	Yellow	Green	Green	Yellow	Green	Yellow	Yellow
Protecting NGOs	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow
Mitigating risks	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow

b) For the non-government group:

Regulatory Objective	Well-communicated	Fair	Proportional	Feasible/Realistic	Context	Efficient	Enabling
Establishing NGOs	Green	Green	Green	Green	Green	Yellow	Green
Identifying NGOs	Orange	Orange	Yellow	Orange	Yellow	Yellow	Orange
Identifying concerns	Orange	Orange	Orange	Orange	Orange	Orange	Red
Investigating concerns	Orange	Yellow	Yellow	Orange	Yellow	Yellow	Orange
Protecting NGOs	Red	Orange	Red	Red	Red	Red	Red
Mitigating risks	Orange	Orange	Orange	Orange	Orange	Orange	Orange

The government representatives rated their agencies mostly greens and yellows, citing that policies and measures have been put in place to achieve the regulatory objectives under the tool, most especially those which aim to regulate and protect the NPO sector. They also added that the existing systems may not be perfect but there is always room for improvement. They also pointed out that while SEC does not have a clear mandate to protect NPOs, the secondary regulatory agencies should step up and take the responsibility, though this should take into consideration that also that there are nonprofits that do not require secondary licensing from other agencies.

The NPO representatives explained that the color ratings they gave- mostly green in terms of establishing NPOs, mostly reds on protecting NPOs and mostly oranges on the rest- was based on their experience and what they know of the existence and implementation of government measures and policies on protecting the NGOs, not that there is none.

The government representatives noted that the green marks on the registering NGO objective reflect improvements in monitoring of non-profits of the SEC with regards to eliminating the notification requirements for postponement of annual meetings, strengthened auditing requirements of financial statements, proposing the increase in monitoring personnel at the agency, and openness to public-private sector participation in corporate governance.

It was suggested that one major problem may be the issue of poor communication between the two sectors. The NPOs may not be informed of results of investigations or the information is not available to them. However, it is to be noted that the NPO group gave a relatively better mark than government group in the establishing NPO objective. One NPO representative noted that the NPO group was not zeroing on specific agencies and that the differences in the ratings (between the government and the NPO representatives), especially in the protecting NPO objective, may reflect the lack of trust among NPOs in the government in terms of NPO regulation.

One common trend that resulted from the exercise is that both sectors gave the highest ratings in the objectives on establishing NPOs and identifying concerns, and lowest ratings in the objectives on protecting NPOs and mitigating risks. And these commonalities can be the points for more dialogue between the sectors. The Charity Commission representative, who was present during the exercise, noted that the discrepancies are basically on the degree of efficiencies of the regulatory environment as perceived by the sectors.

Both government and NPO representatives agreed that the exercise is an ‘eye-opener’ for both. The government representatives appreciated the feedback made by the NPOs, and noted that while policies for supervising NPOs are in place, their implementation appears not being felt. On the other hand, they believed that NPO’s perceptions might be rooted in the absence of information about the policies and steps being taken by the government.

The government and NPO representatives noted that the discrepancies between the ratings actually reflect healthy, positive dynamics between the government and NPOs and that there is willingness of both sectors to continue to dialogue on the regulatory environment. Otherwise, if the ratings had been too similar, it would mean that the NPOs were not free to speak, or were just an “extension” of government. Both sectors expressed openness to a continuing consultation and dialogue to make regulatory policies more responsive.

The government representatives noted that there is a need to continually consult NPOs but in the end the government has to decide for the wider society. One example may be the CDA’s efforts in developing the manual of operations of rules and regulations for savings and credit cooperatives did not lead to the satisfaction of all cooperative groups.

Summary of Key Strategic Issues and Risks

I. Identification of Key Risks

The LAC reviewed the assessments of each of the government agencies and identified main risks that were present in the NPO regulatory sector. The following were the identified regulatory risk and issues:

1. ***Limited resources of government agencies regulating NPOs.*** Many regulatory agencies had problems hiring staff that would enable it to undertake its oversight role effectively and efficiently. For example, the legal officers of the Cooperatives Development Authority that would investigate cases of abuse among cooperatives are either law graduates under bar or working law students, as the pay for legal officers is not comparable to private law firms. And the HLURB legal officers in the region who were interviewed for this study told the LAC that their agency's maintenance and operating expenses budget was so low that they had to use personal finances to fund their trips in areas outside the city where their office is located.
2. ***Incidental costs of registration to small NPOs are large relative to their income and assets.*** NPOs have to register their organization personally or through a representative in the central or the extension office of the primary regulatory agency. For a small NPO, these costs may be large compared to their equity or even the income if the office is quite far from the area where the organization has its principal office.
3. ***Unevenness of information on NPOs, in terms of dissemination and availability.*** Not all agencies ensure that their central offices have adequate data on the organizations that they regulate. The HLURB central office, for example, only has information on homeowners associations in Metro Manila and in the Cordillera Administrative Region. The Department of Health does not keep a central registry of non-government organizations, and instead records are decentralized to the different bureaus and offices under the agency.
4. ***Lack of detailed data on non-profit organizations, e.g., regional location, income and assets, in some agency databases.*** The SEC, for example, requires the submission of general information sheets and audited financial statements from non-profit organizations. However, it does not process the data and report data that are provided in these forms. Not all agencies have provided detailed data that could assist in the development of a non-profit sectoral profile.
5. ***Lack of distinction between profit and non-profit organizations in some agency databases.*** The Departments of Education and Health does not distinguish among profit and non-profit organizations.

6. ***Profit institutions are registered as non-profits institutions for tax purposes or as conduit of funds of politicians.*** In some of the interviews undertaken by the LAC members, agency informants admitted that cooperatives and non-government organizations are sometimes organized for the purpose of being utilized as a conduit for funds by politicians and other individuals. They also reported that it is very difficult to detect these types of abuses and the investigation and prosecution of these types of cases are very rare. In some cases, non-profit institutions are forced to undertake for-profit activities in order to sustain their operations financially.
7. ***Certain NPO self regulatory initiatives had been and may still be subject to political influences.*** The initiative of NPO networks to create a self-regulatory body through the Philippine Council for NGO Certification for tax-donore purposes was hindered for several months by the issuance of an executive order that reverted back the powers to certify non-profits to the government.
8. ***NPOs' limited awareness about the regulatory measures and how they are implemented.*** NPOs have very little information about how the government assists the sector in terms of protecting themselves against the abuse of their leaders or by external institutions. This is reflected by the relatively low ratings that NPO representatives in the LAC gave to the government in terms of protecting non-profit organizations and reducing risks.
9. ***Differences in perception (between the government and the NPOs, and among NPOs) of 'protection' that has to be undertaken by government regulators.*** Some NPOs perceive that the government implements regulations to monitor more stringently the operations of non-profits; however, government believes that these regulations are in existence to guard against risks in the NPO sector.
10. ***Many non-profits are not adequately regulated and supervised.*** Many non-profits are supervised well by secondary regulatory agencies even if SEC does not monitor their performance. These secondary agencies include the Department of Social Welfare and Development (for social welfare agencies), Insurance Commission (for mutual benefit associations) and the Department of Science and Technology (for science foundations). However, there are several types of non-profits which are not supervised by regulatory agencies; these include alumni associations, religious organizations, and neighborhood associations.
11. ***Limited formal structures and mechanisms for coordination among agencies in dealing with NPO matters.*** Government agencies that regulate NPOs coordinate with each other only minimally even if there are issues of common concern that could be discussed and synchronized. These include the development of a common definition of registration, licensing and accreditation that would govern the rules for each.

II. Risk Matrix

The following is the perceived level of impact and probability of each of the risks listed above.

	Impact		
Probability	Low	Medium	High
High		<ul style="list-style-type: none"> - Lack of distinction between profits and nonprofits - Difference in perception between NPOs and the government on 'protection' 	Take Action: <ul style="list-style-type: none"> - Nonprofits not adequately regulated - Limited resources of government agencies - NPOs limited awareness of government rules in protecting the sector
Medium		<u>Monitor</u> <ul style="list-style-type: none"> - Limited formal structures and mechanism for coordination between the NPOs and government sectors 	<ul style="list-style-type: none"> - Profit institutions are registered as nonprofits - NPOs self-regulatory initiatives subject to political influence - Unevenness of dissemination of data and lack of disaggregated data
Low	<u>Monitor or Ignore</u>	<ul style="list-style-type: none"> - Limited registration of small NPOs 	

High probability and high impact risks include the lack of regulation over many types of non-profits (risk 10) and the limited resources of government agencies (risk 1). These are the issues that need immediate attention from government and thus the public sector should undertake action immediately on these issues.

The risks with a medium impact but high probability are the lack of distinction between for-profit and non-profit corporations (risk 5) and the difference between NPOs and government on the term 'protection' (risk 9). On the other hand, the risks with medium probability but are high impact include profit institutions are registered as non-profits (risk 6), NPO's self-regulatory initiatives subject to political influence (risk 7), NPOs have limited awareness of government rules in protecting the sector (risk 8), and there is unevenness in the dissemination of data and lack of disaggregation of data (risk 3). These are risks that government should monitor well or could also possibly take immediate action.

And lastly, risk that is low impact and medium probability is the limited formal structures and mechanism for coordination between the NPOs and government sectors (risk 11), while the risk that is low probability and medium impact is the limited registration of small NPOs (risk 2). These are risks that the government can continue to monitor or ignore while prioritizing the other risks.

III. Proposed Interventions to Risks

A. Risk 1 (Limited Resources of Regulatory Agencies) Interventions

How can this be acted upon or monitored?	What is the acceptable standard?	How can the standard be achieved?	Key indicators that the standard has been achieved?
<ul style="list-style-type: none"> Perennial resource problems constrain agencies to work within own limitations- ensure proportionality in regulation 	<ul style="list-style-type: none"> Existence of regulations that would depend on the size and type of non-profit organization 	<ul style="list-style-type: none"> Determine which NPOs are most vulnerable to abuse Establish risk parameters by income, sources of funds, activities, etc. Regulations are institutionalized through administrative order 	<ul style="list-style-type: none"> Administrative orders issued
<ul style="list-style-type: none"> Suggest ways of enhancing agency resources 	<ul style="list-style-type: none"> Increased capacity and mobilization of government resources Optimal use of agency resources 	<ul style="list-style-type: none"> Set proportional fees and partial/ automatic retention of fees Advocate donor support for capacity building of agencies 	<ul style="list-style-type: none"> Implementation of proportional fee schedules in all agencies Donors provide an amount for agency capacity building
<ul style="list-style-type: none"> Complementation of regulatory functions within and among government agencies and with other sectors 	<ul style="list-style-type: none"> Existence of inter-agency and government- private sector/ NPO partnerships in regulation 	<ul style="list-style-type: none"> Establish formal coordination structures within and among agencies and with the private/ NPO sector 	<ul style="list-style-type: none"> Fully operational structures

The LAC suggested three types of solutions to maximize resources that are available for the NPO sector:

- improve proportionality so that most of the resources of the government agencies are channeled towards monitoring the organizations that are the most at risk; the steps that should be undertaken are to identify the non-profit organizations that are most vulnerable to abuse and establish risk parameters, and finally, regulations for this type of monitoring are institutionalized through an administrative order;
- institutionalize proportional fees depending on the size and/or the risk of the organization being monitored, and partial retention of fees in the agency are important;
- establish formal structures within agencies (to coordinate NPO regulation across the different bureaus in a single government department) and among agencies (to coordinate rules across different offices) in order to synchronize and harmonize monitoring rules; this may reduce the resources being undertaken by different offices.

The analysis of the risk profile of the NPO sector can be undertaken through an actual overall survey of the NPO sector (probably through a questionnaire) which will have the following purposes:

- determine which types of NPOs are most vulnerable to risks for misuse and abuse;
- determine the nature of activities of these NPOs;
- establishment of risk parameters based on CC standards through the following:
 - a. targeting the 10% of the NPO population that generates the largest percentage of the income and asset size of the sector;
 - b. specifying sources of funds of NPOs – foreign grants, local donations, membership dues, fund raising activities, endowments, etc- which are most at risk;
 - c. specify beneficiaries of NPOs – including conflict areas, foreign beneficiaries, calamity victims, members, scientific research, cultural activities, medical needs, scholarships or educational purposes, etc- in which the risks are most prevalent; and,
 - d. determine which NPOs can be made subject to random sampling monitoring based on the survey and case precedents

B. Risk 2 (Cost Barriers in Registration of Small NPOs) Interventions

How can this be acted upon or monitored?	What is the acceptable standard?	How can the standard be achieved?	Key indicators that the standard has been achieved?
<ul style="list-style-type: none"> Enhance proportionality in regulation 	<ul style="list-style-type: none"> Develop different guidelines for small non-profit types 	<ul style="list-style-type: none"> Need for data-gathering: <ul style="list-style-type: none"> ➤ Small NPOs: Actual number, types, activities, risk levels ➤ Determine costs ➤ Determine regional offices Risk-based approach to determine level of regulatory requirements 	<ul style="list-style-type: none"> Data has been collected on the problems of registration and monitoring problems of small NPOs Guidelines have been developed for registration and monitoring of small NPOs
<ul style="list-style-type: none"> Allow postal/ online registrations for small NPOs 	<ul style="list-style-type: none"> Postal/ online registrations exist for small organizations 	<ul style="list-style-type: none"> Agency-level regulations to allow for postal/ online registration Allow verification by city/ municipal treasurers, including financial statements of small NPOs 	<ul style="list-style-type: none"> Regulations/ guidelines are issued/ released

For the high incidental costs of registration of small NPOs, the LAC suggested that the regulatory requirements for small NPOs should be reviewed so that the costs of coordinating with the government regulator would not be that great. Also, the body proposed that postal and online registrations be allowed, especially for small NPOs, to reduce the expenses for formalization of small organizations.

However, the participants of the March 28 validation workshop suggested that the number of NPOs being unable to register should be verified. The services of city/ municipal treasurers can also be tapped, including the verification of financial statements of small NPOs.

C. Risk 3 (Limited access and lack of standards for data quality of agency information) Interventions

How can this be acted upon or monitored?	What is the acceptable standard?	How can the standard be achieved?	Key indicators that the standard has been achieved?
<ul style="list-style-type: none"> Require regulatory agencies to disclose their rules on release of information 	<ul style="list-style-type: none"> At the minimum, all agencies should have guidelines on disclosure of information. But there should be a confidentiality clause. 	<ul style="list-style-type: none"> Agencies should publicly disclose the steps needed to request information. Undertake specific studies on information gathered and process for releasing info. 	<ul style="list-style-type: none"> Rules of access and release of information posted in agency website and bulletin boards. Review of implementation of access to information.
<ul style="list-style-type: none"> Access/ right to information bill advocacy 	<ul style="list-style-type: none"> Passage of access to information bill to ensure access to regulatory information. 	<ul style="list-style-type: none"> Lobbying Congress for passage of access to information bill 	<ul style="list-style-type: none"> Orientation seminars on access to information for NPOs Implementation of access to information
<ul style="list-style-type: none"> Formulation of minimum standards for data quality, e.g., disaggregation of agency data 	<ul style="list-style-type: none"> Regulatory agencies provide their stakeholders standards for data quality 	<ul style="list-style-type: none"> Standards have been finalized. Confidentiality of some of the data submitted by NPOs should be respected. 	<ul style="list-style-type: none"> Dialogue between NPOs, regulatory agencies and National Statistical Coordination Board on NPO data

In order to address unevenness of information across different regulatory agencies, the LAC suggested that all of these organizations release their guidelines on what types of information is accessible to the public and that minimum standards for data quality, including the disaggregation of NPO data (by region/ province, by size, and others) are developed. It would be useful that an access to information bill be legislated so that these could be made uniform across the bureaucracy.

D. Risk 4 (Lack of detailed data on non-profit organizations) Interventions

How can this be acted upon or monitored?	What is the acceptable risk?	How can the standard be achieved?	Key indicators that the standard has been achieved?
<ul style="list-style-type: none"> Formulation of minimum standards for data quality, e.g., disaggregation of agency data (similar to risk 3) 	<ul style="list-style-type: none"> Regulatory agencies provide their stakeholders standards for data quality 	<ul style="list-style-type: none"> Standards have been finalized. Regular collaboration between regulatory agencies, the LGUs and the NPOs themselves 	<ul style="list-style-type: none"> Dialogue between NPOs, regulatory agencies and National Statistical Coordination Board on NPO data. Dialogue should also be undertaken between regulatory agencies, LGUs and NPOs. Issuances would have been made on the data standards.

So that the issue of the lack of disaggregation would have been solved, the formulation of minimum standards for data quality, similar to the solution in risk 3, would need to be undertaken. The initial step is that a dialogue between NPOs, regulatory agencies and the National Statistical Coordination Board, the government agency mandated to review data standards. At the same time, regular dialogue should be undertaken among different regulatory agencies, the local government units and non-government organizations. Eventually, directive/s would be issued to standardize data across agencies.

E. Risk 5 (Little distinction between for profit and non-profit organizations in agency databases) Interventions

How can this be acted upon or monitored?	What is the acceptable standard?	How can the standard be achieved?	Key indicators that the standard has been achieved?
<ul style="list-style-type: none"> Ensure that there are separate non-profit and for profit sector databases 	<ul style="list-style-type: none"> Databases are valid, updated, accessible and readily available 	<ul style="list-style-type: none"> Separate the data of non-profit with for profit organizations. Use of ICTs should be maximized across agencies to distinguish non-profit and for-profit data. 	<ul style="list-style-type: none"> Directive from head of agency in support of database development and management. Each regulatory agency has a database of non-profit organizations distinct from for-profit groups.

For risk 5, the LAC suggested that it would be a good government practice to differentiate between for profits and non-profits among the private organization databases of government agencies. This would help in identifying the extent of the work of NPOs in the different sectors and to better pinpoint the unique problems and issues that need attention from government agencies. This can be undertaken through a directive from the head of agency in support of the development of a database on non-profit organizations and the actual existence and management of such a database.

F. Risk 6 (For-profit institutions becoming similar to non-profit institutions) Intervention

How can this be acted upon or monitored?	What is the acceptable risk?	How can the standard be achieved?	Key indicators that the standard has been achieved?
<ul style="list-style-type: none"> Strengthened regulation of non-profit/ non-government sector 	<ul style="list-style-type: none"> Regulatory standards for non-profit organizations are met 	<ul style="list-style-type: none"> Depends on the type of non-profit, i.e., required capital for cooperative, certification of projects of foundations 	<ul style="list-style-type: none"> Depends on the agency, but these regulations should be developed for each type of non-profit organization
<ul style="list-style-type: none"> Support initiatives of non-profit organizations to undertake financial sustainability activities 	<ul style="list-style-type: none"> There is still some distinction between for profit and non-profit organizations in terms of their aims. 	<ul style="list-style-type: none"> Support initiatives for financial sustainability of non-profit organizations 	<ul style="list-style-type: none"> Integration of sustainability initiatives in NPO operations. BIR rules support for-profit activities of non-profit organizations.

In order to address abuse of non-government organizations by politicians, then the strengthened regulation of non-profit organizations should be undertaken. However, the long-term solution for this would be to isolate the bureaucracy from politicians to reduce possible misuse of these types of organizations.

A similar issue is the implementation of for-profit activities by non-profit organizations. Many non-profit organizations are undertaking activities which provide them with earned fees or income. The attendees at the validation workshop suggested that financial sustainability initiatives be integrated in NPO operations and that the rules and regulations of Bureau of Internal Revenue should allow this.

G. Risk 7 (NPO self-regulatory initiatives are subject to political influences) Interventions

How can this be acted upon or monitored?	What is the acceptable standard?	How can the standard be achieved?	Key indicators that the standard has been achieved?
<ul style="list-style-type: none"> Institutionalize self-regulatory initiatives through executive issuance and/or legislation 	<ul style="list-style-type: none"> NPO self-regulation issuance/ law is enacted 	<ul style="list-style-type: none"> Passage of a law/ executive order on self-regulatory initiatives 	<ul style="list-style-type: none"> Filing of bill in consultation with wide range of non-profit organizations Advocacy activities in Congress Development of a law that will preserve self-regulation/ integrity of non-profits In the absence of a law, a code of conduct between government and NPOs could be undertaken. <p>* This is related to solution of risk 10</p>

Self-regulation is an objective which most NPOs could aspire to. Thus, the legislation of a bill that would institutionalize self-regulatory initiatives of these sectors should be advocated. In the absence of a law, the government could pass an executive order that would establish this.

H. Risk 8 (NPOs limited awareness of regulatory measures) Interventions

How can this be acted upon or monitored?	What is the acceptable standard?	How can the standard be achieved?	Key indicators that the standard has been achieved?
<ul style="list-style-type: none"> More vigorous awareness campaigns of regulatory rules and standards 	<ul style="list-style-type: none"> Rules and regulations widely consulted and properly disseminated 	<ul style="list-style-type: none"> Dissemination through multi-media and through NPO orientation activities. Development of monitoring standards with the SEC. 	<ul style="list-style-type: none"> Basic orientation seminars on NPO registration organized and undertaken. SEC should be able to develop and implement monitoring standards for NPOs. Increased compliance with regulatory measures/ Decline in number of revoked registrations.

NPOs should be made more aware of regulatory rules and standards. This could be properly disseminated in more popular forms through hard copies and through agency websites. NPOs could also undertake basic orientation seminars using this form. The output of these interventions should be the decline in the number of revoked registrations.

I. Risk 9 (Differences in perception of protection) Interventions

How can this be acted upon or monitored?	What is the acceptable standard?	How can the standard be achieved?	Key indicators that the standard has been achieved?
<ul style="list-style-type: none"> Develop a general consensus on the concept of 'protection' 	<ul style="list-style-type: none"> Common understanding of the concept of 'protection' and how it should be operationalized 	<ul style="list-style-type: none"> Ensure that there is continuous dialogue and communication between the government and the NPO sector Regular consultations and forums 	<ul style="list-style-type: none"> Operationalization of protection measures through government issuance Decline in number of complaints against regulatory agencies.

Risk 9 pertains to the difference in notion of perception among NPOs and government on the concept of 'protection'; some NPOs perceive that many of the rules that regulatory agencies issue impinge too much on their freedom to undertake socio-economic programs and projects. The solution here is to for both sectors to develop a consensus on the term protection and how it actually should be operationalized. This would hopefully guide the issuance of regulatory directives and result in a decline in the number of complaints against the regulatory agencies.

J. Risk 10 (Many NPOs are not adequately regulated and supervised) Intervention

How can this be acted upon or monitored?	What is the acceptable standard?	How can the standard be achieved?	Key indicators that the standard has been achieved?
<ul style="list-style-type: none"> Supervision of non-profit types without secondary regulatory agencies (i.e., alumni associations, neighborhood associations) by SEC, by a new agency or through self-regulation (i.e., PCNC) 	<ul style="list-style-type: none"> There are minimum standards/ rules for the declared purposes of these types of non-profits following the proportionality principle 	<ul style="list-style-type: none"> Dialogue with SEC regarding monitoring of these non-profits Lobby Congress for enactment of appropriate law Regulatory standards for these organizations should be set through government laws/ directives 	<ul style="list-style-type: none"> The agency/ agencies for monitoring these organizations exist Rules are promulgated for adequate monitoring of these organizations

<ul style="list-style-type: none"> • Tap federations or networks to assist in some parts of the regulatory processes. 	<ul style="list-style-type: none"> • There are some ministerial tasks that federations and networks are more likely to undertake. 	<ul style="list-style-type: none"> • Tap NPO/ PO networks to supervise their membership. 	<ul style="list-style-type: none"> • Develop rules for federation/ monitoring of networks of their members, a la trade unions.
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Differences in perception of regulation could be addressed by continuous dialogue between government and NPO sectors. This could be done through mechanisms already existing in government institutions such as the National Anti-Poverty Commission, the National Economic and Development Authority, or through other agencies. But the end goal still is to ensure self-regulation of NPOs so that the sector would have some level of autonomy from the government. Minimum rules or standards should be developed to ensure that non-profits are being regulated well following the proportionality principle. These can be undertaken through dialogue with the SEC on how these NPOs could be monitored well (a short-term solution until more permanent structures can regulate the sector), and in the long term, lobbying Congress for enactment of a law that would ensure that agencies exist to monitor these non-profits and the development of regulatory standards for these organizations.

The validation workshop attendees also suggested the following:

- ask LGUs to help, but guard against undue restrictions on NPOs;
- ask SEC and other government agencies to tap NPO/PO networks to monitor and supervise NPOs and
- encourage NPOs to adopt self-regulatory mechanisms to protect the sector.

K. Risk 11 (Limited coordination mechanisms among government agencies) Intervention

How can this be acted upon or monitored?	What is the acceptable standard?	How can the standard be achieved?	Key indicators that the standard has been achieved?
<ul style="list-style-type: none"> • Development of coordinating mechanism for regulatory agencies 	<ul style="list-style-type: none"> • Exchange of information among different types of risks and strategies to mitigate risks among agencies 	<ul style="list-style-type: none"> • Continuous coordination among different agency types • Clarification of types of information that can be shared by other NPOs. 	<ul style="list-style-type: none"> • Presence of formal/informal mechanism to exchange information • Integrate with solution in risk 1 • Develop list of minimum set of information/ data that can be shared among NPOs.

Government agencies regulating the NPO sector are encouraged to develop mechanisms for coordination both formally and informally. These agencies can discuss important issues relating to regulation, including the processes of registration or licensing different non-profits, and exchanging information on the different types of risks of different organizations.

Conclusion

As stated in the Introduction, this report documents achievements of the LAC in meeting several objectives: first, to pilot test and assess the NPO Assessment Tool; second, to gather desk-based data on the Philippine nonprofit sector; third, review the existing framework of nonprofit sector regulation in the Philippines; and fourth, attempt to identify key risks to the Philippine nonprofit sector.

The LAC is confident that all of these objectives have been satisfactorily achieved.

In terms of the first objective, with funding from the International Monetary Fund and the United Kingdom's Foreign Commonwealth Office, the Project was able to duly pilot test the NPO Assessment Tool developed by the Charity Commission of England and Wales. The LAC's assessment of the Tool itself is subject of a separate report to be submitted to the Charity Commission.

The materials used in the desk-based survey indicated certain risks to Philippine NPOs, mainly institutional-based ones, including the following: dependence on declining grant funding from overseas; intervention of politicians and political groups in decision-making processes of certain NPOs; lack of accountability of NPOs and their boards to their stakeholders and the general public; human and financial management issues; and lack of clear outcomes and impacts. The causes of these vulnerabilities were attributed to: limited administrative capacity; pre-occupation with building donor relationships; inactive boards and lack of clarity in board responsibilities; and limited influence in official development assistance. These were considered in the preparation of the interview and focused group guidelines. However, given the resource and capability limitations of the project, these risks could not be verified as to whether they are still valid and to what degree and thus, were not considered in this Report. What is clear is that the Tool greatly facilitated the task of assessing the Philippine nonprofit sector in accordance with international standards.

In terms of the second objective, the desk-based survey yielded rich information on the Philippine nonprofit sector. Current statistics on NPOs were derived from primary sources particularly SEC, CDA, HLURB, DOLE, DSWD, and DOH. However, the data gathered from both primary and secondary sources do not provide sufficient bases for formulating conclusions on a number of dimensions about NPOs, such as number of members, visible and invisible income, sources of income, beneficiaries, or forms of expenditure. While the Tool itself provided certain priority levels for certain kinds of information, there were noticeable overlaps in categories of information within the different priority levels, and access to these information could not be made due to limited resources and capacity. The LAC suggests that a more in-depth data gathering process be set in place to obtain the required information. Despite these limitations, however, the data gathered have been most useful.

In terms of the third objective, the Project was able to undertake a review of existing laws, rules, and regulations on the Philippine nonprofit sector based on the Tool and the standards set by the Charity Commission. Regarding the regulatory objectives of Establishing and Identifying NPOs, the LAC found the current legal and regulatory frameworks to be very effective. The regulatory framework for Identifying Concerns and Investigating Concerns ranked second while the lowest ratings were given to protecting NPOs and Mitigating Risks. The LAC observed that government regulators seem to perceive the meaning of protection (which appears to be an element of all the regulatory objectives listed in Table 30) differently from the NPOs. The differences in perception

were viewed by LAC members as partly caused by miscommunication considering that although the regulators have policies in place for supervising NPOs, while the latter do not feel that the implementation of these policies is for their protection. There is consensus among the LAC that the differences in assessment ratings on the regulatory environment, as perceived by the government and the nonprofit sector, focused more on the efficiency and effectiveness of implementation rather than the absence of measures and policies.

The Project, despite its limitations, was an “eye-opener” for the LAC members on the opportunities for a more healthy and positive dynamics between government and the nonprofit sector.

In terms of the fourth objective, the assessment was able to establish that most of the institutional risks and vulnerabilities to which the NPO sector were susceptible were related to abuses occurring in the NPO sector: mismanagement of funds, abuse of clients, *ultra vires* acts (those not within its stated purposes), internal issues and conflicts among members (such as elections and membership fees), misfeasance by or malfeasance of officers and members, non-compliance with standards set by the regulatory agency, non-submission of reportorial requirements, violations of rules and regulations issued by the regulatory agencies. Again, due to the limitations of the project, especially the lack of data gathering resources and capabilities of the LAC, these institutional risks were not fully explored. As such, for this fourth objective, the LAC, using the methodology of the Tool, focused more on the opportunities, constraints and risks of regulation of government agencies in reducing these vulnerabilities, rather than the vulnerabilities of NPOs themselves. These risks, which are more fully discussed in Chapter on Strategic Risks and Interventions to Reduce Risks, included the following:

1. Limited resources of government agencies regulating NPOs.
2. Incidental costs of registration of small NPOs are large relative to their income and assets.
3. Unevenness of information on NPOs, in terms of dissemination and availability.
4. Lack of detailed data on non-profit organizations, e.g., regional location, income and assets, in some agency databases.
5. Lack of distinction between for-profit and non-profit organizations in some agency databases.
6. Profit institutions are sometimes registered as non-profit institutions for tax purposes or as conduit of funds of politicians.
7. Certain NPO self regulatory initiatives have been subject to political influences.
8. Limited awareness among NPOs about regulatory measures and how they are implemented.
9. Differences in the perception (between government and NPOs, and among NPOs) of ‘protection’ that has to be undertaken by government regulators.
10. Many non-profits are not adequately regulated and supervised.
11. Limited formal structures and mechanisms for coordination among agencies in dealing with NPO matters.

As provided by the Tool, the LAC took these issues one level higher and conducted a brainstorming session in Tagaytay. The discussions were quite frank, with both sides constructing and deconstructing issues and perceptions with the help of the Tool’s Problem Tree (The Five Whys). In the end, interventions and strategies were formulated and prioritized according to the risk matrix provided in the Tool.

The key recommendations that came out of the entire exercise are geared towards improving the regulatory environment of the NPO sector and are summarized as follows:

- Improve the level of financial and human resources for regulatory bodies. This implies the formulation of guidelines that will help government agencies achieve proportionality in their regulation. Agency personnel should also be provided with technical assistance in order to upgrade their knowledge and skills on risks and vulnerabilities of NPOs given the fast changing environment and trends in the sector.
- Improve the systems of public access to information on NPOs. General information on NPOs should be available to and easily accessible by the public. There should be standards for data retention and government databases should be regularly reviewed to measure the level of risk of certain types of groups.
- Introduce and/or encourage/support self-regulatory (SR) mechanisms for NPOs and their networks or federations. Government should encourage the development of SR organizations so that NPOs can police their own ranks. Laws could be drafted explicitly recognizing this to reduce undue government interference in regulating the sector.
- Enhance and strengthen awareness of regulatory measures and policies through outreach programs, forums and consultations. Government should undertake greater effort to disseminate information on regulatory measures that are in place, while NPOs should exert more effort to understand how these measures would affect them. NPO consultative mechanisms should be developed in each regulatory agency so that government personnel can regularly dialogue with NPO leaders on problems and issues that affect them.
- Develop more coordinative structures for regulation. Government regulatory agencies could develop more formal means of sharing their best practices to learn from one another.

In the future, to enrich the results emanating from this study, it would also be useful to review the practices of the other ‘secondary regulatory’ agencies, such as the Department of Education, the Commission on Higher and Education, and others, as well as the local government units, which have been licensing and accrediting NPOs in their respective jurisdictions.

In conclusion, it is hoped that the results and recommendations arising from this project will provide the bases for improvements in the regulatory framework of the Philippine nonprofit sector, so that it can become a more effective partner in the economic and social development in the country.

Annexes

Annex A. Meetings and Workshops Undertaken by the Project Local Advisory Committee

- October 1, 2007, LAC meeting
- October 30, 2007, LAC meeting at the Dulcinea Restaurant, Tomas Morato St., Quezon City
- December 3, 2007, LAC meeting at the Ascott Serviced Apartments, Glorietta 4, Ayala Center, Makati
- January 4, 2008, LAC meeting at the Caucus of Development NGO Networks office, 69 Esteban Abada Street, Loyola Heights, Quezon City
- January 14, 2008, Assessment Team meeting at the Peace and Equity Foundation office, 69 Esteban Abada, Street, Loyola Heights, Quezon City
- January 27- 28, 2008, Expanded LAC meeting at the Taal Vista Lodge, Tagaytay City
- February 15, 2008, LAC meeting at the CODE-NGO office
- February 29, 2008, LAC meeting at the CODE-NGO office
- March 28, 2008, National Validation Workshop at the Linden Suites, Ortigas, Pasig
- April 8, 2008, LAC meeting at the CODE-NGO office
- July 28, 2008, LAC meeting at the CODE-NGO office

Annex B. List of Key Informants for the Project

- Mr. Crescente Paez, President and Chief Executive Officer, National Confederation of Cooperatives, Quezon City, interviewed on January 9, 2008
- Atty. Ferdinand Sales, Assistant Director, Corporate and Partnership Registration Division, Securities and Exchange Commission, Mandaluyong City, interviewed on January 15, 2008
- Ms. Fely Soledad, Executive Director, Philippine Council for NGO Certification, Sta. Mesa, Manila, interviewed on January 15, 2008
- Ms. Alice Bala, Undersecretary, Department of Social Welfare and Development, Quezon City, interviewed on January 16, 2008
- Atty. Wilfredo I. Imperial, Director, Executive Services Group Housing and Regulatory Board, Quezon City, interviewed on January 16, 2008
- Atty. Neil Santillan, Executive Director, Cooperatives Development Authority, Quezon City, interviewed on January 16, 2008
- Pastor Paul Parrenas, Program Manager, KBCF, and Board Member, National Council for Social Development, Quezon City, interviewed on January 16, 2008
- Atty. James Roldan, Assistant Commissioner, Bureau of Internal Revenue, Quezon City, interviewed on January 16, 2008
- Dick Balderama, National Coordinator, Philippine Support Service Agencies, Quezon City, interviewed on January 16, 2008
- Mr. Teodulo Romo, Regional Director, Central Visayas, Department of Social Welfare and Development, Cebu City, interviewed on January 17, 2008
- Jackie dela Pena, Coordinator of KAABAG sa Sugbu NPO-PO Network, Cebu City, interviewed on January 17, 2008
- Col. Benjamin T. Yu, Administrator and officer-in-charge, Central Visayas Region, Cebu City, Cooperatives Development Authority, interviewed on January 18, 2008
- Ben Togonon, Networking officer, Mindanao Alliance of Self Help Societies-Southern Philippines Educational Center (MASS-SPECC), Davao City, interviewed on January 17, 2008
- Ms. Prescilla Razon, Assistant Regional Director, and Mr. Alfred Sy, Head, Standards Unit, Southern Mindanao Regional Office, Department of Social Welfare and Development, Davao City interviewed on January 18, 2008
- Ms. Elma Oguis, Assistant Regional Director, and Mr. Glenn Garcia, Acting Senior Development Cooperatives Specialist, Cooperatives Development Authority, Southern Mindanao, Davao City, interviewed on January 18, 2008
- Mr. Javey Paul Francisco, Regional Director, Securities and Exchange Commission, Davao City, interviewed on January 18, 2008
- Atty. Miguel Palma Gil, Arbiter, Southern Mindanao Regional Office, Housing and Land Use Regulatory Board, Davao City, interviewed on January 18, 2008
- Ms. Yasmin Lao, Executive Director, Al-Mujadillah Foundation, and Atty. Raissa Jajurie, Mindanao coordinator, Sentro ng Alternatibong Lingap Panlegal, Davao City interviewed on January 18, 2008
- Atty. Alexander Padilla, Undersecretary, Department of Health, interviewed on January 21, 2008
- Atty. Vicente Aquino, Executive Director, Anti-Money Laundering Council Secretariat, Manila, interviewed on January 21, 2008
- Ms. Veronica Villavicencio, Executive Director, Peace and Equity Foundation, Quezon City, interviewed on January 21, 2008
- Ms. Aurora Tolentino, Chief Executive, Asia Pacific Policy Consortium, Quezon City, interviewed on January 21, 2008
- Mr. Totoy Labudahon, Labor Organizer, Alliance of Progressive Labor, Quezon City, interviewed on January 21, 2008
- Mr. Andrew Parker, Senior Rural Development Economist, and Ms. Malou Padua, Operations Officer (Social Development), World Bank Office, Manila, interviewed on January 21, 2008
- Two informants from the Bureau of Labor Relations
- Ms. Vida Chiong, Deputy Commissioner, Insurance Commission, Manila, interviewed on March 5, 2008
- Mr. Alexander Dimaculangan, Executive Director, CARD Mutual Benefits Association, San Pablo City, interviewed on March 24, 2008

Annex C. References and Documents consulted

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Annex D. Initial Regulatory Review Sheets and Proposed Guide Questions for Key Informant Interviews.

The regulatory review sheets below contain information on each agency gathered from secondary literature as of the first week of January, 2008. These sheets were used to guide the LAC members, particularly those who participated in the Assessment Team visits, in formulating guide questions for each regulatory agency. While every effort was undertaken to check the veracity of the policies below, the data listed may have been supplanted by newer issuances by different government agencies. The reader should be guided by the fact that the main text contains more updated data gathered from the agencies during the assessment than the ones listed in this Annex.

A. Securities and Exchange Commission

Non-stock, non-profit corporations- definition

Non-stock, non-profit corporations are defined by Batas Pambansa 68 or the Corporation Code of the Philippines. all non-stock corporations, which are defined as legal entities which do not have “capital stock [that are] divided into shares and are authorized to distribute to the holders of such shares dividends or allotments of the surplus profits on the basis of the shares.” A non-stock corporation is one where no part of its income is distributable as dividends to its members, trustees, or officers, subject to the provisions of the Corporation Code, provided that any profit which a non-stock corporation may obtain as an incident to its operations shall, whenever necessary or proper, be used for the furtherance of the purpose or purposes for which the corporation was organized (section 87, Corporation Code). Non-stock corporations may be formed or organized for charitable, religious, educational, professional, cultural, fraternal, literary, scientific, social, civic service, or similar purposes, like trade, industry, agricultural and like chambers, or any combination thereof, subject to the special provisions of this Title governing particular classes of non-stock corporations (section 88, Corporation Code).

Non-stock, non-profit corporations- governance

Every corporation incorporated under the Corporation Code has the power and capacity:

- To sue and be sued in its corporate name;
- Of succession by its corporate name for the period of time stated in the articles of incorporation and the certificate of incorporation;
- To adopt and use a corporate seal;
- To amend its articles of incorporation in accordance with the provisions of this Code;
- To adopt by-laws, not contrary to law, morals, or public policy, and to amend or repeal the same in accordance with this Code;
- In case of stock corporations, to issue or sell stocks to subscribers and to sell stocks to subscribers and to sell treasury stocks in accordance with the provisions of this Code; and to admit members to the corporation if it be a non-stock corporation;
- To purchase, receive, take or grant, hold, convey, sell, lease, pledge, mortgage and otherwise deal with such real and personal property, including securities and bonds of other corporations, as the transaction of the lawful business of the corporation may reasonably and necessarily require, subject to the limitations prescribed by law and the Constitution;
- To enter into merger or consolidation with other corporations as provided in this Code;
- To make reasonable donations, including those for the public welfare or for hospital, charitable, cultural, scientific, civic, or similar purposes: Provided, That no corporation, domestic or foreign, shall give donations in aid of any political party or candidate or for purposes of partisan political activity;
- To establish pension, retirement, and other plans for the benefit of its directors, trustees, officers and employees; and

- To exercise such other powers as may be essential or necessary to carry out its purpose or purposes as stated in the articles of incorporation (section 36, Corporation Code).

Regular meetings of members shall be held annually on a date fixed in the by-laws, or if not so fixed, on any date in April of every year as determined by the board of directors or trustees; a written notice of regular meetings shall be sent to all stockholders or members of record at least two (2) weeks prior to the meeting, unless a different period is required by the by-laws. Special meetings shall be held at any time deemed necessary or as provided in the by-laws: however, at least one (1) week written notice shall be sent to all stockholders or members, unless otherwise provided in the by-laws. (sections 49- 51, Corporation Code).

Every corporation shall keep and carefully preserve at its principal office a record of all business transactions and minutes of all meetings of stockholders or members, or of the board of directors or trustees, in which shall be set forth in detail the time and place of holding the meeting, how authorized, the notice given, whether the meeting was regular or special, if special its object, those present and absent, and every act done or ordered done at the meeting. Upon the demand of any director, trustee, stockholder or member, the time when any director, the time when any director, trustee, stockholder or member entered or left the meeting must be noted in the minutes; and on a similar demand, the yeas and nays must be taken on any motion or proposition, and a record thereof carefully made. The protest of any director, trustee, stockholder or member on any action or proposed action must be recorded in full on his demand. (section 74, Corporation Code)

Within ten (10) days from receipt of a written request of any stockholder or member, the corporation shall furnish to him its most recent financial statement, which shall include a balance sheet as of the end of the last taxable year and a profit or loss statement for said taxable year, showing in reasonable detail its assets and liabilities and the result of its operations. (section 75, Corporation Code)

All business conducted and all property of such corporations controlled and held by the board of directors or trustees to be elected from among the holders of stocks, or where there is no stock, from among the members of the corporation, who shall hold office for one (1) year until their successors are elected and qualified. At all elections of directors or trustees, there must be present, either in person or by representative authorized to act by written proxy, the owners of a majority of the outstanding capital stock, or if there be no capital stock, a majority of the members entitled to vote. The election must be by ballot if requested by any voting stockholder or member.

Non-stock, non-profit corporations- Rules for registration

Any number of natural persons not less than five (5) but not more than fifteen (15), all of legal age and a majority of whom are residents of the Philippines, may form a private corporation for any lawful purpose or purposes. A corporation shall exist for a period not exceeding fifty (50) years from the date of incorporation unless sooner dissolved or unless said period is extended. (section 10, Corporation Code)

All corporations organized shall file with the Securities and Exchange Commission articles of incorporation in any of the official languages duly signed and acknowledged by all of the incorporators. Every corporation formed under this Code must, within one (1) month after receipt of official notice of the issuance of its certificate of incorporation by the Securities and Exchange Commission, adopt a code of by-laws. (sections 14 and 15, Corporation Code) In addition, a bank certification to evidence contribution of its members is required; membership contributions should not be less than P 1 million for foundations and not less than P 100,000 for other types of non-stock, non-profit corporations.

Any provision or matter stated in the articles of incorporation may be amended by a majority vote of the board of directors or trustees and the vote or written assent of at least two-thirds (2/3) of the

members if it be a non-stock corporation. The Securities and Exchange Commission may reject the articles of incorporation or disapprove any amendment thereto if the same is not in compliance with the requirements of the Corporation Code. The following are grounds for such rejection or disapproval:

1. That the articles of incorporation or any amendment thereto is not substantially in accordance with the form prescribed [in the Corporation Code];
2. That the purpose or purposes of the corporation are patently unconstitutional, illegal, immoral, or contrary to government rules and regulations;

As of January, 2008, according to the SEC, the general procedure is given in Table 1, while required documents are available in Table 2 (SEC Citizens' Manual for Registration of Corporations and Partnerships).

TABLE 1 : STEPS IN REGISTRATION	
1	Verify/reserve proposed name with the Name Verification Unit.
2	Draw up the Articles of Incorporation and By-laws in accordance with the Corporation Code. Blank forms are also available from the Company Registration and Monitoring Department (CRMD).
3	If required, get endorsements from other government agencies as given in Table 4. In addition, the CRMD obtains clearances from other SEC departments whenever these are deemed appropriate.
4	Deposit paid-up capital / contribution (for foundations only) in the bank. Table 5 gives the minimum paid-up capital requirements for certain types of corporations.
5	Present 6 sets of the accomplished forms and documents for pre-processing at the CRMD. Only complete application documents are accepted for processing. All documents executed outside the Philippines must be authenticated by the appropriate Philippine embassy or consulate in the area concerned.
6	Pay the filing fees to Cashier.
7	Claim the Certificate/License from the Releasing Unit, Records Division upon presentation of the official receipt issued for payment of filing fee. ***

TABLE 2 REQUIRED DOCUMENTS FOR APPLICANT CORPORATION & PARTNERSHIP	STOCK CORP	NON-STOCK	PARTNERSHIP
Name Verification Slip	✓	✓	✓
Articles of Incorporation and By-laws or Articles of Partnership	✓	✓	✓
Treasurer's Affidavit/Authority to Verify Bank Account	✓		
Bank Certificates of Deposit (notarized in place where bank is located)	✓		
Written Undertaking to Change Corporate Name by any Incorporator or Director, Trustee, Partner **	✓	✓	✓
Registration Data Sheet	✓	✓	✓
Clearance from other government agencies (if needed)	✓		✓
Resolution of the Board of Trustees that the corporation will comply with SEC requirements for non-stock corporations **		✓	
List of members certified by the Secretary and undertaking to submit list of additional members to SEC from time to time **		✓	
List of contributors and their corresponding contributions certified by the Treasurer **		✓	
Affidavit of Affirmation or Verification by the Chief Priest, Minister, Rabbi or Presiding Elder (for religious organizations)		✓	
Customs Broker Licenses and PTR of at least 2 Officers or Partners (for customs brokerages)		✓	✓
Articles of Partnership (For Limited Partnerships, this should be executed under oath.)			✓
Foreign Investment Application Form (for subsidiaries of foreign corporations)	✓		

Filing fees for non-stock, non-profit corporations are the following: P 210.00 for articles of incorporation and by-laws, and amendments of both documents; and, P 75.00 for membership book. The application process takes around three days, with a Certificate of Registration issued by the SEC Company Registration and Monitoring Department.

The corporation is also required to submit a Modus Operandi (which the corporation has to certify under oath) which details the mode of operation, source of funds, proposed application of funds and prospective beneficiaries of the institution, and a sworn statement of application of funds which details the sources and the amounts of funds established and names of beneficiaries.

Rules for dissolution

A private corporation may extend or shorten its term as stated in the articles of incorporation when approved by a majority vote of the board of directors or trustees and ratified at a meeting by the stockholders representing at least two-thirds (2/3) of the outstanding capital stock or by at least two-thirds (2/3) of the members in case of non-stock corporations. A corporation may, by a majority vote of its board of directors or trustees, sell, lease, exchange, mortgage, pledge or otherwise dispose of all or substantially all of its property and assets, including its goodwill, upon such terms and conditions and for such consideration, which may be money, stocks, bonds or other instruments for the payment of money or other property or consideration, and may invest its fund in any other corporation or business or for any purpose other than the primary purpose for which it was organized when approved by its board of directors or trustees may deem expedient, ...or in case of

non-stock corporation, by the vote of at least two-thirds (2/3) of the members, in a stockholder's or member's meeting duly called for the purpose. (Section 94, Corporation Code).

Rules for monitoring and supervision

All non-stock, non-profit corporations should submit the following annually to the SEC (Citizen's Manual of Reportorial Requirements, Securities and Exchange Commission): General Information sheet as of Date of Annual Meeting, 6 sets within 30 days from date of annual meeting as specified in the By-Laws; Audited Financial Statement (AFS) duly stamped "Received" by the BIR for corporations without secondary license, 5 sets, within 120 days from end of the fiscal year as specified in the By-Law. All non-stock, non-profit corporations with total assets of P 500,000 or more or with an income of P 100,000 or more in a single fiscal year is required to be audited by a certified public accountant; otherwise the financial statements of the corporation can be certified by the treasurer of the corporation.

Additional reportorial requirements for foundations, including certification of application of funds and submission of letter of willingness to be audited, are required under SEC Memorandum Circular No. 8, Series of 2006, which provides for additional reportorial requirements for foundations.

SEC has inherent powers to investigate complaints against non-stock, non-profit corporations, (section 6, Corporation Code) and to impose administrative and civil sanctions (section 144, Corporation Code). The SEC Compliance and Enforcement Department is responsible for these.

Special organizations

Under the Code, there are two types of special corporations, educational corporations which "shall be governed by special laws and by the general provisions of this Code," and religious corporations which may be classified into "corporations sole and religious societies." A 'corporate sole' is established "for the purpose of administering and managing, as trustee, the affairs, property and temporalities of any religious denomination, sect or church, a corporation sole may be formed by the chief archbishop, bishop, priest, minister, rabbi or other presiding elder of such religious denomination, sect or church." At the same time, a "religious society or religious order, or any diocese, synod, or district organization of any religious denomination, sect or church, unless forbidden by the constitution, rules, regulations, or discipline of the religious denomination, sect or church of which it is a part, or by competent authority, may, upon written consent and/or by an affirmative vote at a meeting called for the purpose of at least two-thirds (2/3) of its membership, incorporate for the administration of its temporalities or for the management of its affairs, properties and estate.

Brief background of the agency

The SEC was created on October 26, 1936 by virtue of Commonwealth Act No. 83 entitled the Securities Act. Its establishment was prompted by the need to safeguard public interest in view of local stock market boom at that time. At that time, while the SEC took care of registering corporations and recording partnerships, the Commission's major functions included the registration of securities, analysis of every registered security, evaluation of the financial condition and operations of applicants for security issue, screening of applications for broker's or dealer's license, and supervision of stock and bond brokers as well as the stock exchanges. By virtue of the Corporation Code of the Philippines (Batas Pambansa 86), the SEC is also required to be the registrant agency of non-stock, non-profit institutions.

Tax Treatment

The 1997 Tax Code of the Philippines exempts non-stock, non-profit corporations from income taxation (section 30); other organizations exempt from taxation include labor or agricultural

organizations not organized for profits, mutual savings and cooperative banks organized for mutual purposes and without profit, beneficiary society, order or association, cemetery company owned and operated exclusively for its members, business leagues or chambers of commerce, civic leagues, non-stock and non-profit and government educational institution, mutual or cooperative organizations. However, according to the Bureau of Internal Revenue Memorandum Circular 76-2003, income derived from properties shall be 'returned for taxation'; in addition, interest income from bank deposits or trust funds are subject to 20 percent final withholding tax while those from foreign currency deposits subject to 7.5 percent final withholding tax.

The Tax Code provides for limited deductibility for income taxes for individual (in the amount not exceeding 10 percent of donations or gifts) and corporate donors (in the amount not exceeding five percent).

Proposed guide questions for key informant interview (SEC)

1. Establishment of non-profit organizations
 - a) What are the usual problems that are encountered in the registration of non-stock, non-profit corporations?
 - b) What are the usual problems that are encountered in the monitoring of non-stock, non-profit corporations?
 - c) Does SEC keep a register of organizations that have been dissolved? What activities does it usually undertake the clean its roster of books?
2. Availability of information on non-profit organizations
 - a) Are there any plans of improving web access to the database given the limited hours of service of the site and connection problems given Java-based program?
 - b) How can one identify the type of non-government organization based on information provided in the general information sheet?
3. Identification of non-profit organization concerns
 - a) Does SEC have a system for identifying whether non-stock, non-profit activities are being undertaken as originally intended as its monitoring system for securities/ financial/ quasi-financial firms?
4. Investigation relating to non-profit organization concerns
 - a) Is information of SEC investigation on non-stock, non-profit organizations publicly available?
 - b) What are the cases that usually occur?
 - c) Is there a mediation process?
5. Protection of non-profits
 - a) How many court cases are filed by the SEC against non-stock, non-profit corporations?
 - b) What are the results of these cases?
6. Reduction of risks
 - a) Are there any on-going efforts within the SEC to improve the monitoring and regulation of non-stock, non-profit corporations?
 - b) Are there any on-going efforts to dialogue with the multitude of non-stock, non-profit corporations?
 - c) Are there any efforts to promote best practices in terms of institutional governance of non-profits?

B. Cooperatives Development Authority

Cooperatives- definition

A cooperative is defined under Republic Act 6938 or the Cooperative Code of the Philippines as “a duly registered association of persons, with a common bond of interest, who have voluntarily joined together to achieve a lawful common social or economic end, making equitable contributions to the capital required and accepting a fair share of the risks and benefits of the undertaking in accordance with universally accepted cooperative principles.” (section 6, Cooperative Code) These are groups organized by at least 15 persons to “provide goods and services to its members and thus enable them to attain increased income and savings, investments, productivity, and purchasing power and promote among them equitable distribution of net surplus through maximum utilization of economies of scale, cost-sharing and risk-sharing without, however, conducting the affairs of the cooperative for eleemosynary or charitable purposes.” (section 7, Cooperative Code)

There are different types of cooperatives. These include credit (which aim to promote thrift among its members and creates funds in order to grant loan for productive and provident purposes), consumer (aims to procure and distribute commodities to members and non-members), producers (undertakes joint product whether agricultural or industrial), marketing (which engages in the supply of production inputs to members and markets their products); service (engages in medical and dental care, hospitalization, transportation, insurance, housing, labor, electric light and power, communication and other services); and multipurpose (one which combines (2) or more of the business activities of these different types of cooperatives). Cooperatives can be categorized in terms of membership as primary (members are ordinary persons), secondary (members which are primaries) and tertiary (the members which are secondaries upward to one or more apex organizations) (section 23, Cooperative Code).

According to the Cooperative Code, there are also special cooperatives. These include agrarian reform cooperatives (for agrarian reform beneficiaries), public service cooperative (for those required to undertake a franchise or certificate of public convenience), cooperative banks (for those organized to provide financial services to cooperatives), credit cooperatives, and cooperative insurance societies (for those organized to address insurance requirements of cooperatives). These cooperatives are also covered by respective government agencies such as the Department of Agrarian Reform, the Bangko Sentral ng Pilipinas, the Insurance Commission, among others (sections 88 to 118, Cooperative Code).

Cooperatives- governance

A cooperative shall exist for a period not exceeding fifty (50) years from the date of registration unless sooner dissolved or unless said period is extended. The cooperative term, as originally stated in the articles of cooperation, may be extended for periods not exceeding fifty (50) years in any single instance by an amendment of the articles of cooperation.

Any Filipino, except employees of the Cooperatives Development Authority or elective officials (except barangay chairpersons), can be a member of a cooperative. There are two types of membership- regular, who can vote during general assemblies, and associate, whose rights are fixed by the cooperative's by-laws but cannot vote.

The highest policy-making body in a cooperative is the general assembly. The general assembly shall have the following exclusive powers which cannot be delegated: to determine and approve amendments to the articles of cooperation and by-laws; to elect or appoint the members of the board of directors, and to remove them for cause; to approve developmental plans of the cooperative; and other matters requiring two-thirds vote of the assembly. General assembly meetings are held annually on a date fixed by its by-laws. Each member shall have one vote in the assembly (while

each member of a secondary or tertiary cooperative shall have five votes). A quorum shall consist of 25 percent of all assemblies.

The conduct and management of the affairs of the cooperative shall be vested in a board of directors which shall be composed of not less than five nor more than fifteen members elected by the general assembly for a term fixed in the by-laws but not exceeding a term of two years and shall hold office until their successors are duly elected and qualified, or until duly removed. However, no director shall serve for more than three consecutive terms. The board may call special meetings of the general assembly. The board meetings in turn are undertaken monthly, while special meetings may be called by the President. The board of directors should elect among themselves the cooperative chairperson and vice-chairperson, and other officers from outside the board membership. The cooperative by-laws may allow the cooperative to create an executive committee that may delegate some of the powers of the board; it should also create an audit committee and other special committees that would help in administering the affairs of the cooperative.

Every cooperative shall have the following open to its members and representatives of the Authority for inspection during reasonable office hours at its official address: a copy of the Cooperative Code and all other laws pertaining to cooperative; a copy of the regulations of the Cooperative Development Authority; a copy of the articles of cooperation and by-laws of the cooperative; a register of members; the books of the minutes of the meetings of the general assembly, board of directors and committees; share books, where applicable; financial statements; and other documents as may be prescribed by laws or the by-laws.

Cooperatives shall be subject to an annual audit by an auditor who satisfies all the following qualifications: independent of the cooperative being audited and of any subsidiary of the cooperative; and a member of any recognized professional accounting or cooperative auditor's association with similar qualifications. The auditor shall submit to the audit committee a report of the audit which shall contain a statement of the assets and liabilities of the cooperative, including earnings and expenses, amount of net surplus as well as losses and bad debts, if any. The audit committee shall forthwith furnish the board of directors a copy of the audit report. Thereafter, the board of directors shall present the complete audit report to the general assembly in its next meeting.

Every cooperative shall draw up an annual report of its affairs as of the end of every fiscal year, and publish the same furnishing copies to all its members of record. A copy thereof shall be filed with the Cooperative Development Authority within sixty days from the end of every fiscal year.

Every director, officer and employee handling funds, securities or property on behalf of any cooperative shall execute and deliver adequate bonds for the faithful performance of his duties and obligations. The board of directors shall determine the adequacy of such bonds.

Rules for registration

All cooperatives applying for registration shall file with the Cooperative Development Authority the articles of cooperation which shall be signed by each of the organizers and acknowledged by them if natural persons, and by the presidents or secretaries, if juridical persons, before a notary public. Four copies each of the proposed articles of cooperation, by-laws, and the general statement required under Section 11 of the Code be submitted to the Cooperative Development Authority. No cooperative shall be registered unless the articles of cooperation are accompanied with the bonds of the accountable officers and a sworn statement of the treasurer elected by the subscribers showing that at least twenty-five per cent (25%) of the authorized share capital has been subscribed and at least twenty-five per cent (25%) of the total subscription has been paid: Provided, That in no case shall the paid-up share capital shall be less than two thousand pesos (P2,000.00).

Under the CDA guidelines, the steps in registration are as follows:

1. Procure checklist of the requirements for the cooperative express lane registration from the Registration Section of the CDA Extension Office in your area.
2. Submit duly accomplished forms and other documents to the Registration Section. If found to be in order, the first page of the Articles of Cooperation will be stamped "For Payment", if not, it will be returned for correction and/or completion.
3. Pay registration fee at the Cashier. The applicable fees are: name verification/ reservation; Ph P 50.00 per allowed name 30 days reservation; and a registration fee, 1/10 Of 1% of the authorized share capital but not lower than PhP1,000.00.
4. Claim the Certificate of Registration from the Releasing Unit at the Registration Section upon presentation of Official Receipt of registration fees.

The required registration documents are as follows: Name Verification Slip; Articles of Cooperation; Cooperative By-Laws; Treasurer's Affidavit; Bond of Accountable Officers; Economic Survey; Undertaking to Submit Reportorial Requirements; Certificate of Pre-Membership Education Training Seminar from the duly accredited institutions or from the CDA Regional/Provincial Offices; and Endorsement letter from other Government Agencies where applicable

Rules for dissolution

The dissolution of a cooperative, if does not prejudice the rights of any creditor having a claim against it, may be affected by a majority vote of the board of directors, and by a resolution duly adopted by the affirmative vote of at least two-thirds (2/3) of all the members with voting rights at a meeting to be held upon call of the directors. If the cooperative registration or has not carried on business for two (2) consecutive years, the Cooperative Development Authority should send formal inquiry to the said cooperative as to the status of its operation; and failure of the cooperative to promptly provide justifiable cause for its failure to operate shall warrant the CDA to strike off its name from the register and, for all intents and purposes, the cooperative shall be deemed dissolved. In the past year, the CDA has removed thousands of cooperatives from its roll and it is planning to even further clean up its register.

A cooperative that is planning to close should create a Board of Liquidators, which shall wind up the day-to-day operations of the cooperative, convert its property into cash, collect its receivables and settle its liabilities

Rules for monitoring and supervision

Cooperatives are required to submit to submit annually the general information sheet, audited financial statements and annual reports. In order to resolve problems, rules on mediation and conciliation have been established recently by the CDA; any minor organizational issues could be solved by conference organized by the CDA central or field office.

Tax treatment

Cooperatives transacting business with both members and non-members shall not be subject to tax on their transactions to members.

Cooperatives with accumulated reserves and undivided net savings of not more than ten million pesos (P10,000,000.00) shall be exempt from all national, city, provincial, municipal or barangay taxes of whatever name and nature. These shall be exempt from customs duties, advance sales or compensating taxes on their importation of machineries, equipment and spare parts used by them and which are not available locally as certified by the Department of Trade and Industry.

Cooperatives with accumulated reserves and undivided net savings of more than ten million pesos (P10,000,000.00) shall pay the following taxes at the full rate:

- Income Tax: On the amount allocated for interest on capitals: Provided, That the same tax is not consequently imposed on interest individually receive by members;
- Sales Tax: On sales to non members: Provided, however, That all cooperatives, regardless of classification, are exempt from the payment of income and sales taxes for a period of ten (10) years.
- All other taxes unless otherwise provided herein; and
- Donations to charitable, research and educational institutions and reinvestment to socio-economic projects within area of operation of the cooperative may be tax deductible.

Description of the Cooperatives Development Authority (from the agency website).

Formerly, the cooperatives were registered with various offices according to their types. Thus, sugar cooperatives were registered with the Sugar Regulatory Administration (SRA), transport cooperatives with the Office of Transport Cooperatives (OTC) and electric cooperatives with the National Electrification Administration (NEA).

To help the government address the confusing and conflicting rules and regulations, which governed the registration of cooperatives, a Bill was passed and signed as law through RA 6938 by then President Corazon C. Aquino on March 10, 1990. A companion law was also passed creating the Cooperative Development Authority under the Office of the President through Republic Act 6939 to unify government efforts in the promotion of growth and development of cooperatives and rationalize rules and policies on cooperative registration into one agency. It absorbed the functions of the Bureau of Agricultural Cooperatives Development (BACOD-DA) and the Regional Cooperatives Development Assistance Offices (Regions IX and XII) and transferred to it the registration and supervision of cooperatives registered under PD Nos. 175, 775 and 269 as amended by PD 1645 including EO 269.

The Cooperative Development Authority (CDA) is a government agency created by virtue of Republic Act No. 6939 in compliance with the provisions of Section 15, Article XII of the Philippine Constitution of 1987 which mandates Congress to create an agency to promote the viability and growth of cooperatives as instruments for equity, social justice and economic development. RA 6939 was signed into law on March 10, 1990. The CDA is governed by a Board of Administrators consisting of a Chairman and six (6) members appointed by the President and are chosen from among the nominees of the cooperative sector with two (2) representatives each from Luzon, Visayas, and Mindanao. They serve for a term of six (6) years without reappointment.

According to the CDA website, there are existing rules on mediation and conciliation of disputes; rules of procedures have already been prescribed.

Proposed guide questions for key informant interview (CDA)

1. Establishment of non-profit organizations
 - a. Some cooperative organizations see the regulatory policies of CDA as ‘too loose’, in the sense that there are no special requirements for knowledge on cooperativism or special skills necessary for organizers for cooperatives. How would you respond to this?
 - b. Some would even say that cooperatives are organized to be able to take advantage of favorable tax treatment for donations or grants; how do you respond to this?
2. Availability of information on non-profit organizations
 - a. We were able to get data on cooperatives for six regions; what are the activities to be undertaken by CDA in the next few months to improve its database for all cooperatives in the country? Are there steps to make the data available in the website?
 - b. Are there steps to coordinate the databases of cooperatives between different government agencies, i.e., data on transport cooperatives in the Department of Transportation and Communications?

- c. Is CDA making steps not distinguish between cooperatives that actually operate and those that just exist on paper?
3. Identification of non-profit organization concerns
 - a. What are the steps that the CDA is making to ensure that cooperative resources have been utilized as originally intended?
 - b. What were the results of the guidelines on mediation that the CDA issued recently?
4. Investigation relating to non-profit organization concerns
 - a. Are there any cases of malfeasance that the CDA has prosecuted?
 - b. Are there any problems when CDA cooperative development specialists investigate cases?
 - c. Is there any truth to some cooperative union concerns that CDA is staffed largely by community organizers and not financial specialists that can make sure that the required audits on cooperatives are made?
5. Protection of non-profits
 - a. What are the steps that CDA would undertake to protect cooperatives against further abuse when a serious risk has been identified?
 - b. What are the steps that CDA make in making sure that the cases are litigated in court?
6. Reduction of risks
 - a. What are the steps that CDA is making to ensure that advice and guidance provided on legal and regulatory obligations?
 - b. What are the steps that CDA is undertaking to ensure that cooperative best practices defined promoted and are efforts made to educate the sector on them?
 - c. Is there a regular review system within the CDA that can help to identify and adapt to new and developing risks?

C. Housing and Land Use Regulatory Board

Homeowners associations- definition

The definition of homeowners associations can be found in the Framework for Governance of Homeowners' Associations, promulgated by the Housing and Land Use Regulatory Board in 2004. Homeowners' associations refers to one that is registered with the Housing and Land Use Regulatory Board, or one previously with the Home Insurance Guaranty Corporation(now Home Guaranty Corporation) or with the Securities and Exchange Commission in accordance with law and shall include the following (section 1, Framework of Governance of Housing Associations, series of 2004).:

- Homeowner and lot owner/ buyer in a subdivision project within the purview of Presidential Decree 958 (or the rules regulating sale of subdivision lots and condominiums);
- An awardee, a leasee, and an occupant in a private or government housing or relocation project and other urban estates;
- An informal settler in the process of being accredited as beneficiary or awardee of ownership rights under the Community Mortgage Agency, Land Tenure Assistance or other similar programs.

Homeowners associations should endeavor to serve the interest of its members through equity of access in decision-making process, transparency and accountability, establish its vision and define and periodically assess its mission, and without abandoning its non-partisan character, actively cooperate with local government units and national government agencies in furtherance of its goals (section 3, Framework). These associations are responsible to its members whose membership is voluntary unless stipulated in the title of property, contract for purchase of lot or requirement under a public housing program (section 5, Framework); members have the right to inspect vote, inspect

Association books and records, avail services and facilities of Associations and enjoy other rights provided by the Association in its bylaws (section 6, Framework).

Housing associations- governance

Homeowners associations are governed by their respective boards that are composed of at least five but not more than 15 elected members, and who are required to prepare an annual program of activities and corresponding budget, record and prepare financial records, implement internal checks and balances and undertake education programs for their members. Board meetings are set by their respective bylaws. These boards also call annual meetings of members based on their by-laws, and create committees that will be responsible for grievance (dispute mediation), audit (review of financial accounts), elections (preparation of electoral guidelines) and other special committees. Elections shall be called annually.

A majority of board members should be free from any business or other relationships that can materially interfere in their decision-making, and conflict of interest provisions exist in the Framework guidelines (sections 46 to 47). The associations are required to promote transparency and full disclosure including posting of all collections and other fees, association funds, compensation, procedures for nomination and other important information. The association president and treasurer are required to post fidelity bonds to answer for the misuse of association funds; the premium of the bond should be sourced from existing funds of the association.

Rules on registration

Registration of homeowners' associations used to be undertaken by the Home Insurance and Guaranty Corporation, but by virtue of Republic Act 9874, this has been transferred to the Housing and Land Use Regulatory Board (HLURB). The rules governing the registration and supervision of homeowners associations are listed in HLURB Board of Commissioners Resolution No. R-771, series of 2004. The application for registration of associations (to be undertaken in a regional HLURB office) should include the following: articles of incorporation (with certification of compliance to rules and regulations issued by the HLURB), information sheet (containing basic details of the homeowners association), list of members, certification of existence or absence of other homeowners association in the subdivision or territorial jurisdiction of homeowners association, and authorization by incorporators for representative to transact with the regional office. Additional requirements are necessary if the homeowners are beneficiaries of government housing programs such as the Group Land Acquisition and Development or the Community Mortgage Program, or are federating, consolidating or merging associations.

Upon receipt and processing of the registration, the HLURB is instructed to issue a certificate of incorporation. After a month of receipt of the certification, associations are required to adopt a code of by-laws, which shall include the structure of the homeowners association, mechanics of election of officers and members of the board and special committees, the rules regarding board meetings, special committees and general assemblies, and regular and special financial assessment.

In order to amend the articles or registration or by-laws, an association should submit the required articles, notarized certificate attesting that the changes were approved by the majority of the board and two-thirds of the general membership, and minutes of meetings where the changes were discussed. The board of directors or trustees of the association, by a majority vote, may approve proposals to merge, consolidate or federation, which would be subject to a two-thirds vote of the general membership; the same votes are required for disaffiliation.

The rules of registration are posted in the HLURB website www.hlurb.gov.ph. Filing fees range from 510 pesos (filing of amended articles of incorporation, amended articles of by-laws, and dissolution) to 600 pesos (filing of articles of incorporation and of by-laws).

Rules on segregation and dissolution

A group of members of a homeowners association may petition the HLURB to form a new association if they do not exceed half of the existing membership of the old association and reside in a contiguous area, and if the remaining membership live in an existing area.

An association can be dissolved voluntarily or involuntarily. Under a voluntary dissolution where no creditors are affected, a majority of the board and two-thirds of the membership can undertake this decision, after publication of such decision. Where creditors are affected, then the HLURB regional office shall hold a hearing to publicly discuss such decision and render judgment and order disposition of assets as may be required. The HLURB may also dissolve a homeowners association (involuntary dissolution) after proper notice and hearing.

Rules on monitoring and supervision

Within thirty days of issuance of registration, the homeowners association are required to submit a tax identification number, and the Bureau of Internal Revenue certification or stamped receipts and have their membership book (which contains a list of all members), minutes book (containing the minutes of meetings), cash book, and ledger and journal with the HLURB. Within 45 days from the close of accounting period, the association is required to submit a general information sheet, its recently audited financial statements and a certified true copy of its membership book.

The HLURB is also required to monitor the holding of elections, and may require the calling of a special election for officers of the association and set the rules that shall govern conduct of these elections.

The HLURB regional office may require inspection and examination of documents, books and records, and investigate transactions and activities of homeowners associations. It may also require submission of pertinent books and records, and engage, at the expense of the association, an independent audit of finances. If after an investigation or evaluation, the HLURB finds that the association has violated existing rules, the HLURB can issue a show cause order to require the association to submit additional documents; and then can undertake a clarificatory conference for the resolution of the report or complaint.

Regulatory agency and role

The Housing and Land Use Regulatory Board (HLURB) is a national government agency tasked as the planning, regulatory and quasi-judicial body for land use development and real estate and housing regulation. These roles are done via a triad of strategies namely, policy development, planning and regulation. It was organized in 1973 and named the Task Force on Human Settlements under Executive Order No. 419, and renamed the Human Settlements Commission in 1976 and Human Settlements Regulatory Commission in 1978. In 1981, it was granted additional powers to supervise the sale of residential subdivisions and condominiums, and in 1986, it was renamed the Housing and Land Use Regulatory Board and was designated the regulatory body for housing and land development under the Housing and Urban Development Coordinating Committee.

The HLURB is required to keep a registration book that contains a list of all information of the housing associations that have been registered in its respective area.

The HLURB can also impose administrative sanctions for fraud, misrepresentation, refusal to comply with the lawful order of HLURB, misuse of right, privilege or franchise, commission or omission of acts which amounts to a surrender of its corporate rights or privileges or which is an offense against HLURB rules, non-operation or inactivity of five years, or repeated or habitual failure or delay in submission of reports. Appeals to the decisions of the regional office can be made to the HLURB Board of Commissioners.

Proposed guide questions for key informant interview (HLURB)

1. Establishment of non-profit organizations
 - a. What are the steps that HLURB is undertaking to ensure that all residential associations are registered as homeowners associations? Are there any education or information dissemination seminars that are undertaken?
2. Availability of information on non-profit organizations
 - a. What are the steps that HLURB is undertaking to ensure that data on homeowners associations (and not only those in the NCR) are disseminated widely?
3. Identification of non-profit organization concerns
 - a. What are the steps that HLURB is undertaking to ensure that information on homeowners association are disseminated to their members?
 - b. What are the steps that HLURB is undertaking to ensure that financial information on homeowners association are disseminated to their members?
 - c. Does HLURB undertake spot checks or audits of audited financial statements? Does HLURB accredit auditors similar to the SEC?
4. Investigation relating to non-profit organization concerns
 - a. What is the mediation process to ensure that cases of potential abuse of homeowners associations are resolved?
5. Protection of non-profits
 - a. How does the HLURB protect homeowners associations' members against further abuse when a serious risk has been identified?
 - b. Do the authorities punish those responsible for abuse?
6. Reduction of risks
 - a. Does HLURB undertake activities that provide guidance on legal and regulatory obligations of homeowners associations?
 - b. Are homeowners associations involved in the design and implementation of the regulation framework?
 - c. Are best practices defined, promoted and are efforts made to educate the homeowners on them?
 - d. Is information on the homeowners associations as a whole regularly gathered and analyzed?
 - e. Is there a regular review system within the HLURB that can help to identify and adapt to new and developing risks?

D. Bureau of Labor Relations

Labor Unions- definition

Under the Labor Code of the Philippines (Presidential Decree 442), labor organizations are defined as “any union or association of employees which exists in whole or in part for the purpose of collective bargaining or of dealing with employers concerning terms and conditions of employment,” and a "legitimate labor organization" means “any labor organization duly registered with the Department of Labor and Employment, and includes any branch or local thereof.”

All persons employed in commercial, industrial and agricultural enterprises, including employees of government-owned or controlled corporations without original charters established under the Corporation Code, as well as employees of religious, charitable, medical or educational institutions whether operating for profit or not, shall have the right to self-organization and to form, join or assist labor organizations for purposes of collective bargaining; provided, however, that supervisory

employees shall not be eligible for membership in a labor organization of the rank-and-file employees but may form, join or assist separate labor organizations of their own.

Labor Unions- governance

Article 241 of the Labor Code prescribes rights and conditions of membership in a labor organization including no arbitrary or excessive fees may be levied by organization, right to full and detailed information of activities of the organization, right to elect officers, right to vote on major policy issues, and provision of receipt on fees levied on members. In addition, labor organizations are required to keep financial records and the treasurer of the organization should report the finances of the organization thirty days after the close of the fiscal year of the organization. Officers shall not be paid any compensation unless those stipulated under the organization's constitution and by-laws.

The Labor Code (article 242) also prescribes legitimate labor organization shall have the following rights: to act as the representative of its members for the purpose of collective bargaining; to be certified as the exclusive representative of all the employees in an appropriate bargaining unit for purposes of collective bargaining; to be furnished by the employer, upon written request, with its annual audited financial statements, including the balance sheet and the profit and loss statement, within thirty calendar days from the date of receipt of the request, after the union has been duly recognized by the employer or certified as the sole and exclusive bargaining representative of the employees in the bargaining unit, or within sixty (60) calendar days before the expiration of the existing collective bargaining agreement, or during the collective bargaining negotiation; to own property, real or personal, for the use and benefit of the labor organization and its members; to sue and be sued in its registered name; and, to undertake all other activities designed to benefit the organization and its members, including cooperative, housing, welfare and other projects not contrary to law.

Rules for registration

The rules for labor union registration are covered by Department of Labor and Employment (DOLE) Department Order No. 9, series of 1997. The application for registration of any federation, national or industry union or trade union center shall be filed with the Bureau of Labor Relations; and if filed with the Regional Office, it shall be immediately forwarded to the Bureau central office within forty-eight hours from filing. The application for registration of an independent union shall be filed with and be acted upon by the Regional Office where the applicant's principal office is located.

The application for registration of an independent union shall be supported by the following:

- The names of its officers, their addresses, the principal address of the labor organization, the minutes of the organizational meetings and the list of workers who participated in such meetings;
- The number of employees and names of all its members comprising at least twenty percent (20%) of the employees in the bargaining unit where it seeks to operate;
- If the applicant union has been in existence for one or more years, two copies of its annual financial reports, unless it has not collected any amount from the members, in which case a statement to this effect shall be included in the application;
- Four copies of its constitution and by-laws, minutes of its adoption or ratification, and the list of the members who participated in it; and,
- A certificate verifying the documents made by the union secretary and treasurer, which is attested to by the union president.

According to Republic Act 9481, this has been revised to the following requirements:

- Fifty pesos (P50.00) registration fee;
- The names of its officers, their addresses, the principal address of the labor organization, the minutes of the organizational meetings and the list of the workers who participated in such meetings;

- In case the applicant is an independent union, the names of all its members comprising at least twenty percent (20%) of all the employees in the bargaining unit where it seeks to operate;
- If the applicant union has been in existence for one or more years, copies of its annual financial reports; and four copies of the constitution and by-laws of the applicant union, minutes of its adoption or ratification, and the list of the members who participated in it.

Republic Act 9481 also allowed duly registered federation or national unions to directly create a local chapter by issuing a charter certificate; the chapter is recognized as a legal personality for purposes of filing a petition for certification election. It shall be organized as a legitimate labor organization upon submission of the names of chapter officers, addresses and principle office and the chapter's constitution and by-laws, including the charter certificate.

For trade union federations or national unions, the application should also include the resolution of 10 local chapters that are duly recognized as collective bargaining agents of the same number of companies and the names and addresses of the companies. For an industry or trade union center, the application should include list of member organization, resolution of membership of each member organization, copy of its constitution and by-laws and minutes of meetings in which the constitution and by-laws were ratified. For workers' associations, additional requirements are the names of members of the association and its constitution and by-laws.

These are then filed with payment of respective fees, and these shall be processed by the Bureau of Labor Relations or its regional office within a period of 30 days. Any appeals (if the application is denied) can be filed with the Director of the BLR or the Secretary of the Department of Labor and Employment; these shall be decided with a period of 20 days.

To register a collective bargaining agreement, the parties (management and labor union) to a collective bargaining agreement shall submit to the appropriate DOLE regional office two duly signed copies thereof within thirty calendar days from execution. Such copies of the agreement shall be accompanied with verified proof of posting in two conspicuous places in the work place and of ratification by the majority of all the workers in the bargaining unit. The proof shall consist of copies of the following documents certified under oath by the union secretary and attested to by the union president: statement that the collective bargaining agreement was posted in at least two conspicuous places in the establishment at least five (5) days before its ratification; and statement that the collective bargaining agreement was ratified by the majority of the employees in the bargaining unit. The posting required in the preceding paragraph shall be the responsibility of the parties. The Regional Office shall assess the employer for every collective bargaining agreement a registration fee of one thousand pesos (P1,000.00). This process has been recently strengthened by Republic Act 9481, wherein workers organizations are not required to register with the Bureau of Labor Relations in order to act as collective bargaining agent; local unions can now be provided with a personality by a national federation to

To apply as a public sector union, the following are the requirements:

- ₱110.00 registration fee payment, pursuant to DOLE Department Order No. 1-A, s. 1991. (Payment through Postal Money Order should be payable to the Bureau of Labor Relations, Department of Labor and Employment);
- The names and addresses of the officers, the principal address of the organization, minutes of organizational meeting and list of employees with their corresponding signatures who participated in such meeting;
- The names of the employees comprising at least 10% as above mentioned;
- Copy of financial report if the applicant employees organization has been in existence for one year;
- Four (4) copies of the Constitution and By-Laws of the applicant organization, minutes of its adoption or ratification and the list of employees with their corresponding signatures who participated;

- Certification from the Personnel/Administrative Office as to the total number of rank and file employees in the agency or regional office concerned, on which the 10% membership requirement shall be based.

Rules for dissolution

Petitions for cancellation of registration may be filed with the BLR central office (if a national federation or trade union center) or the regional office (if a local chapter, affiliate or workers' association whose operations are limited to a single region). Any party-in-interest may commence a petition for cancellation of registration, except in actions involving violations of Article 241 which can be commenced only by members of the respondent labor organization or workers' association. The petition shall be under oath and shall state clearly and concisely the facts and grounds relied upon, accompanied by proof of service that a copy thereof has been furnished the respondent.

The following are grounds for cancellation of the registration:

- (a) Failure to comply with any of the registration requirements;
- (b) Violation of any of the provisions of Article 239 of the Labor Code, including misrepresentation, false statements or frauds in connection with the adoption or ratification of constitution and by-laws, with election of officers, with failure to submit annual financial reports, submission of documents, acting as a labor contractor, entering into collective bargaining agreements which contain minimum standards contained by law, asking for attorney's or negotiation fees from employees, checking off special assessments without written authorization of members, failure to submit list of individual members to the Bureau, and other violations of the Labor Code;
- (c) Commission of any of the acts enumerated under Article 241 (rights and conditions of membership in a union) of the Labor Code; provided, that no petition for cancellation based on this ground may be granted unless supported by at least thirty percent (30%) of all the members of the respondent labor organization or workers' association.

Republic 9481 has revised the grounds to cancellation as follows: (a) Misrepresentation, false statement or fraud in connection with the adoption or ratification of the constitution and by-laws or amendments thereto, the minutes of ratification, and the list of members who took part in the ratification; (b) Misrepresentation, false statements or fraud in connection with the election of officers, minutes of the election of officers, and the list of voters; (c) Voluntary dissolution by the members.

The Regional or Bureau Director, as the case may be, shall have thirty days from submission of the case for resolution within which to resolve the petition. The decision of the Regional or Bureau Director may be appealed to the Bureau or the Secretary, as the case may be, within ten (10) days from receipt thereof by the aggrieved party on the ground of grave abuse of discretion or any violation of these Rules. The Bureau or the Secretary shall have fifteen (15) days from receipt of the records of the case within which to decide the appeal. The decision of the Bureau or the Secretary shall be final and executory.

Rules for monitoring and supervision

Every labor organization and workers' association to submit to the Regional Office or the Bureau two (2) copies each of the following: any amendments to its constitution and by-laws and the minutes of adoption or ratification of such amendments, within thirty (30) calendar days from its adoption or ratification; annual financial reports within thirty (30) calendar days after the close of each fiscal year; updated list of newly-elected officers, together with the appointive officers or agents who are entrusted with the handling of funds, within thirty (30) calendar days after each regular or special election of officers, or from the occurrence of any change in the officers or agents of the labor organization or workers' association; and updated list of individual members, locals/chapters, affiliates or branches, as the case may be, within thirty (30) calendar days after the

close of each fiscal year. The fiscal year of a labor organization or workers' association shall coincide with the calendar year, unless a different period is prescribed in its constitution and by-laws.

Republic 9481 had revised the report to the following: amendments thereto, the minutes of ratification, and the list of members who took part in the ratification of the constitution and by-laws within thirty (30) days & adoption or ratification of the constitution and by-laws or amendments thereto; (b) Its list of officers, minutes of the election of officers, and list of voters within thirty (30) days from election; (c) Its annual financial report within thirty (30) days after the close of every fiscal year; and (d) Its list of members at least once a year or whenever required by the Bureau.

Tax treatment

According to key informants in the Bureau of Labor Relations, trade unions are tax-exempt from income taxes. However, according to the same informants, there is some discussion between the agency, the Bureau of Internal Revenue and some trade union federations on whether their books of accounts should be certified with the Bureau of Internal Revenue and whether they should issue non-VAT receipts.

Government agency summary

Under Article 226 of the Labor Code, "The Bureau of Labor Relations and the Labor Relations Divisions in the regional offices of the Department of Labor, shall have original and exclusive authority to act, at their own initiative or upon request of either or both parties, on all inter-union and intra-union conflicts, and all disputes, grievances or problems arising from or affecting labor-management relations in all workplaces, whether agricultural or non-agricultural, except those arising from the implementation or interpretation of collective bargaining agreements which shall be the subject of grievance procedure and/or voluntary arbitration."

Proposed guide questions for key informant interview (BLR)

1. Establishment of non-profit organizations
 - a. What is the effect of Republic Act 9481 on the registration and monitoring process? Have these been already published in the website?
 - b. What percentage of all workers' unions are already covered by the DOLE-BLR and the regional offices?
2. Availability of information on non-profit organizations
 - a. What are the steps that the BLR or the regional offices are undertaking to ensure that the basic information on trade unions widely exist and are these publicly available?
 - b. Are stakeholders able to identify the unions that are actually operating from the information that is made available to them?
 - c. Is the available information accurate and up-to-date?
3. Identification of non-profit organization concerns
 - a. What are the BLR activities that would ensure that basic information on what trade unions are doing widely and publicly available?
 - b. Are there any steps that BLR is undertaking to ensure a trade union's resources have been utilized as originally intended?
 - c. Are worker organizations or trade unions entitled to tax free treatment?
4. Investigation relating to non-profit organization concerns
 - a. What is the role of the regional industrial relations office in terms of investigating concerns within workers organizations and trade unions?

5. Protection of non-profits
 - a. How many cases of trade union abuse are recorded monthly? What are these types of cases?
 - b. What are the steps that DOLE undertakes to ensure that trade union members are protected against further abuse when a serious risk has been identified?
6. Reduction of risks
 - a. What types of information or training sessions do the DOLE provide in terms of advice and guidance on legal and regulatory obligations?
 - b. Are best practices of management of trade unions or workers organizations defined, promoted and are efforts made to educate the sector on them?
 - c. Is information on the labor sector as a whole regularly gathered and analyzed?
 - d. Is there a regular review system that can help to identify and adapt to new and developing risks?

E. Department of Social Welfare and Development

Social welfare organizations- definition

Social work agency is “a person, corporation, or organization, private or governmental, that engages mainly and generally, or represents itself to engage in social welfare work, whether casework, group work, community work, and obtains its finances either totally or in part, from any agency or instrumentality of the government and/or from the community by direct or indirect solicitations and/or fund drives, and/or private endowment.” (Republic Act 4373, Act to Regulate the Practice of Social Work and the Operation of Social Work Agencies in the Philippines).

Social welfare and development agency is “a non-profit or profit entity, either individual or group, public or private, that primarily engages in the provision of social welfare programs and services, to one or more disadvantaged or vulnerable groups. These may be children, youth, women, persons with disabilities, older persons, victims of disasters, disadvantaged families, and communities and individuals, families and communities in crisis.” (Department of Social Welfare and Development Administrative Order No. 6, series of 2005)

Social welfare organizations- governance

Standards of conduct and management of different types of social welfare and development agencies exists. These are contained in the following Department of Social Welfare and Development Administrative Orders (AO):

- AO 82 series of 2002, for social welfare and development service delivery system in the local government units;
- AO 83 series of 2003, for operation of special drug education centers;
- AO 29 series of 2004, for day care, other ECCD centers and service providers (for children aged 0-5.11 years);
- AO 13, series of 2005, for community based services;
- AO 16, series of 2005, for center-based services;
- AO 15, series of 2005, for youth detention homes;
- AO 17, series of 2005, for group homes with unattached persons; and,
- AO 11, series of 2007, for centers with residential care, revising AO 141, series of 2002.

All of these are available in the DSWD website www.dswd.gov.ph

Rules on registration and licensing

Any person, group or organization that intends to engage or currently engaged generally and mainly in social welfare activities may apply for registration as social welfare and development agency (SWDA). The requirements for application are an accomplished application form and checklist of

requirements and a certificate of the agency's personality or the Securities and Exchange Commission (SEC) registration, including a copy of the organization's articles of incorporation and by-laws.

The DSWD will assess the organization's intention to operate if it is within the field of social welfare and development, within five working days from receipt of complete requirements. All agencies that have been assessed as a SWD agency shall be entered in the Registry of SWD Agencies and shall be issued a Certificate of Registration which shall be sent to the agency within 15 working days from date of completion of assessment. The Certificate of Registration shall be valid throughout the entire operation of the SWD agency unless canceled by the DSWD for cause, including failure to submit an annual report of its implementation of social welfare activities for two (2) consecutive years.

All registered SWD agencies employing social work methods shall be licensed as a social work agency within two years after issuance of their registration certificate. These include (1) all child and youth welfare agencies as provided for in Article 117 of Presidential Decree No. 603 or The Child and Youth Welfare Code, as amended such as 'child-caring institutions', child placement or adoption organizations, detention homes, receiving homes (or temporary shelters), nursery, maternity homes, rehabilitation centers, and children and youth reception and study center; (2) SWDAs providing residential care, operating a facility providing care and shelter during part of a day, other than those cited under PD 603; and (3) SWDAs implementing community based and street based services using social work methods, i.e casework, group work and community organization.

A registered SWD agency that is required to be licensed shall apply for License to Operate as a social work agency by accomplishing the required form and submit the requirements to include certificate of agency's judicial personality (either SEC or Cooperatives Development Authority registration), certificate of employment of registered social workers, documents indicating the agency's source of fund to support its operation for at least two years; and written report on the agency's operation for the latest year prior to application which shall be submitted to the DSWD Standards Bureau or to the DSWD Field Office, as the case may be. In addition, specific requirements are necessary for applications for agencies providing residential care or child placement services and SWDA operating in more than one region. Within thirty days of submission of requirements, DSWD personnel should evaluate the applicants through agency visit and 15 working days after the visit, should be able to inform the agency of their recommendation in writing.

Licensed social work agencies or social service units of hospitals or medical centers are required to accredit their social work programs with the DSWD. The Standards Bureau shall notify the agency for the need for accreditation of its social welfare and development programs and services simultaneously with issuance of license to operate. Within one year from the date of issuance of license to operate, licensed SWA shall submit application for accreditation of SWD programs and services. Application for accreditation should be accompanied by the following: manual of operations, audited financial report, list and profile of clients served and required safety certificates (in case of residential care institution), list of members of governing board and agency personnel, work and financial plan and previous year's accomplishment report. The authorized Standards Bureau personnel or qualified authorized intermediary shall undertake accreditation assessment using prescribed methodology, standards and instruments for the assessment of specific SWD programs and services. The SWA shall be informed of the result of the assessment within 15 working days from the last day of visit specifying recommendations. If complied with the standards; the accreditation certificate is issued with validity period of three to five years based on the rating that SWA garnered in the accreditation process.

Registration and licensing of SWDA and accreditation of SWD programs and services can also be applied at the DSWD online transactions at <http://eservices.dswd.gov.ph>. Online forms are available but documents should be scanned and uploaded in the site.

Rules on suspension and revocation for license

The license of a social work agency can be suspended or revoked due to the following reasons:

The license of a social work agency can be suspended or revoked due to the following reasons:

- Reasons for revocation
 - That the children therein are being neglected or are undernourished;
 - Ceased to operate as a social work agency;
 - Using the agency for immoral purposes, such as using it as a front for child trafficking or child prostitution and other similar acts;
 - Commission of any act showing its unworthiness and incompetence to continue acting as a social work agency;
 - Falsification of the requirements for registration of social work agencies as enumerated under Sec. 23 of R.A. No. 4373;
 - Exploitation, abuse, or neglect of its clients/s; and,
 - Revocation of SEC registration.
- Reasons for suspension
 - That said agency is insolvent or is not in a financial position to support and maintain the children therein or to perform the functions for which it was granted license;
 - That the place is so unsanitary so as to make it unfit for children;
 - That said agency is located in a place or community where children should not be, or is physically dangerous to children or would unduly expose children to crime, vice, immorality, corruption or severe cruelty;
 - Mismanagement of funds;
 - Poor sanitation of facilities and surroundings rendering these unfit for clientele; and,
 - Violation of the agency's Constitution and By-laws.

Reprimand is a penalty imposed on a social work agency that has committed a violation for the first time. It has an effect of forewarning the respondent agency that a second violation shall merit the penalty of suspension. A commission of a third offense regardless of its nature shall merit the penalty of revocation of license to operate. The order of reprimand shall be in letter form signed by the members of the review committee which will include a plan of action. Suspension or revocation order shall be issued by the Department Secretary, or his/her duly authorized representative in all appealed cases while those cases decided at the initiatory stage shall be the responsibility of the Field Office Director. If the license is revoked, closure of the establishment and forfeiture of properties shall be dealt with in accordance with pertinent laws, rules and regulations.

Rules on supervision and monitoring

An SWDA that is not able to comply with the requirements shall be assisted towards registration, licensing and/or accreditation by the DSWD authorized personnel in the formulation of a plan of action based on recommendations. The plan is subject for monitoring to determine compliance of SWDA on the requirements. Monitoring is undertaken every six months. Failure by the SWD agency to comply with the standards set or any requirements by the DSWD Field Office or the Standards Bureau. on the last re-assessment shall make the agency or facility eligible for closure and termination of operation to be coordinated with the local government unit by the Field Office where the facility and/or head office of the agency is located.

The Standards Bureau or the DSWD field offices shall undertake monitoring of standards compliance. This shall be undertaken through the following: review and assessment of records, documents, and reports; ocular survey of agency facilities and/or location/s of projects, clients or

program/service implementation; interview of agency personnel, significant stakeholders and/or clients; and other methods may be used as deemed appropriate.

Rules on fundraising and solicitations

Rules for fundraising have also been issued by the DSWD; these are contained in AO 14, series of 2007 (Omnibus Rules and Regulation on Public Solicitation, as amended). All public and private agencies with intent to solicit funds for charitable and/or public welfare purposes are required to apply authority to conduct fund campaign. These should apply at the Standards Units of DSWD Field Offices for assessment and issuance of permit for local fund raising. However, for fund raising activity that shall cover more than one region or nationwide shall be forwarded to the DSWD Standards Bureau, for final evaluation and approval.

The required documents for application should include: letter addressed to DSWD containing the concept of fundraising campaign or application form; SEC registration; list of members of governing board; list of solicitors; endorsements from agencies; commitment letter from officers assuming full responsibility for fundraising, and pledge limiting administrative expenses in a campaign (if a solicitation) or audited financial statement (if a renewal of a permit to undertake national campaign).

Permits can be revoked after an investigation arising from complaints made on the campaign or solicitation or violations of Presidential Decree 1564 (or the Solicitation Permit Law).

Government agency overview

The Standards Bureau develops quality assurance measures and regulates the implementation of SWD policies, rules and regulations through its registration, licensing and accreditation functions. Its jurisdiction covers individuals, public and private agencies and organizations engaged in SWD activities, including fund drives and other forms of solicitation for public welfare purposes.

Proposed guide questions for key informant interview (DSWD)

1. Establishment of non-profit organizations
 - a. What percentage of those applying for registration (as a social welfare and development agency), licensing (as a social work agency), or for accreditation (of their social welfare programs) are able to do so?
 - b. What are the problems in registration, licensing and accreditation?
 - c. What are steps that are being undertaken by the DSWD to improve the registration, licensing and accreditation process, if any? How has the process evolved throughout the years?
 - d. Are all social welfare and development or social work agencies accredited? What are the gaps?
2. Availability of information on non-profit organizations
 - a. Is basic information on social welfare and development agencies or social welfare agencies widely available? Are these up-to-date?
 - b. Will the list of agencies be publicly available in the website?
 - c. What are the established procedures to make these available to a researcher or an individual needing the information?
3. Identification of non-profit organization concerns
 - a. Do you think that the social welfare and development community are aware of the standards that have been developed?
 - b. What percentage of institutions that are registered violate these standards in a year? What are these types of violations?
 - c. Is the DSWD pro-active in making a case against agencies that do not meet standards or does it generally wait for complaints from the public?

4. Investigation relating to non-profit organization concerns
 - a. What are the procedures if an institution does not meet standards for each type of social welfare agency (youth detention, residential care, etc.)?
 - b. Does DSWD able to make a proper assessment of the potential risk in the social welfare agency that is being investigated?
 - c. What are some examples of institutions that have been investigated and what are the results of these investigation?
5. Protection of non-profits
 - a. When serious cases of abuse occur, how does DSWD protect the social welfare beneficiaries of the agency being investigated?
 - b. Do the authorities protect social welfare agencies against further abuse when a serious risk has been identified?
6. Reduction of risks
 - a. What activities does DSWD undertake so that advice and guidance provided on legal and regulatory obligations for its registered and licensed agencies?
 - b. Is the social welfare and development sector involved in the design and implementation of the regulation framework?
 - c. Does DSWD identify and promote best practices among social welfare agencies and are efforts made to educate the sector on them?
 - d. Is there a regular review system that can help to identify and adapt to new and developing risks and problems among social welfare agencies?

F. Insurance Commission

Mutual Benefit Associations- definition

Mutual benefit association is defined in Chapter eight of the Insurance Code of the Philippines (Presidential Decree No. 612) as any society, association or corporation, without capital stock, formed or organized not for profit but mainly for the purpose of paying sick benefits to members, or of furnishing financial support to members while out of employment, or of paying to relatives of deceased members of fixed or any sum of money, irrespective of whether such aim or purpose is carried out by means of fixed dues or assessments collected regularly from the members, or of providing, by the issuance of certificates of insurance, payments of its members of accident or life insurance benefits out of such fixed and regular dues or assessments, but in no case shall include any society, association, or corporation with such mutual benefit features and which shall be carried out purely from voluntary contributions collected not regularly and or no fixed amount from whomsoever may contribute.

Any association, society, or corporation principally organized as labor union shall be governed by the Labor Code notwithstanding any mutual benefit feature provisions in its charter as incident to its organization.

In no case shall a mutual benefit association be organized and authorized to transact business as a charitable or benevolent organization, and whenever it has this feature as incident to its existence, the corresponding charter provision shall be revised to conform with the provision of this section.

Under Insurance Commission Memorandum Circular 9- 2006, any mutual benefit association wholly engaged in the business of providing microinsurance, or the insurance business activity of providing specific insurance products that meet the needs of the disadvantaged for risk protection and relief against distress or misfortune, for their members shall be referred to as a “Microinsurance MBA.” Any existing and/or new MBA shall be considered wholly engaged in microinsurance if it only provides microinsurance policies to its members; and it has at least five thousand (5,000) member-clients.

In the 2006 annual report of the Insurance Commission, the following are the updates:

- Twenty (20) MBAs submitted their Annual Statements for business year 2006. Three (3) of these were newly licensed namely, Alalay sa Kaunlaran MBA (ASKI, Rural Bank of Talisayan MBA, Inc. (RBT) and Tulay sa Pag-unlad, MBA (TSPI).
- Aggregate assets as of year-end amounted to P16.7 billion, a 12.08% increase over that of the previous year, with Other Loans comprising 29.94% of the amount. The sector has been dominated by five (5) bigger MBAs sharing 93.41% of the total reported assets.
- Total Member's Equity was posted at P6 billion, a 7.14% increase over the reported equity in 2005.
- Total cash receipts from different sources during the year amounted to P14.4 billion. However, corresponding disbursements exceeded the total cash receipts with the P14.7 billion expenses incurred during the year.
- Total underwriting income as of the year-end amounted P2.5 billion, while underwriting expenses amounted P2.3 billion. Net income posted at the end of the year however, amounted to P0.7 billion in view of higher income from investments contributed mostly by the Public Safety and Armed Forces of the Philippines (AFP) MBAI.

Mutual Benefit Associations – governance

Sec. 393 of the Insurance Code prescribes the issuance of certificates to members where benefits entitled to them are specified. Such certificates, together with the articles of incorporation of the association or its constitution and by-laws, and all existing laws as may be pertinent shall constitute the agreement, as of the date of its issuance, between the association and the member. The membership certificate shall be in a form previously approved by the Commissioner.

The code also provides that death benefit and other relief funds must be created and used exclusively for the payment of benefits to the members as specified in their respective certificates. In addition, a general fund should be created to be used to finance expenses and operation of the association.

Sec. 398 also prescribes for the rights of mutual benefit associations including investing portion of its funds as shall, grant loans to members on the security of a pledge or chattel mortgage of personal properties of the borrowers, or in the absence thereof, on the security of the membership certificate of the borrowing members.

Rules for registration

Rules for registration and licensing of mutual benefit associations are covered by the Insurance Code (Sec. 391). All mutual benefit association applying for license should file with the Insurance Commission together with true copies of the articles of incorporation or the constitution and by-laws of the association, all amendments, and whatever additional documents or testimonies that the Commissioner may require.

No license shall be granted to a mutual benefit association until the Commissioner shall have been satisfied by such examination as may make and such evidence as he may require that the association is qualified under existing laws to operate and transact business as such. The Commissioner may refuse to issue a license to any mutual benefit association if, in his judgment, such refusal will best promote the interest of the members of such association and of the people of this country. Any license issued shall expire on the last day of June of the year following its issuance and, upon proper application, may be renewed if the association is continuing to comply with existing laws, rules, regulations, orders, instructions, rulings and decisions of the Commissioner. Every association receiving such license shall be subject to the supervision of the Commissioner: *Provided*, That no such license shall be granted to any such association if such association has no actuary.

A Guaranty Fund should be established first by depositing with the Commissioner an initial minimum amount of ten thousand pesos in cash, or in government securities, with a total value equal to such amount, before a license could be issued to operate a mutual benefit association. In addition, prior of after the licensing of the association, the Commissioner may require that such Guaranty Fund may be increased from the initial minimum amount required to an amount equal to at least ten percent of its assets, if such asset exceed one hundred thousand pesos, but in no case shall such increase exceed the maximum amount of capital investment required of a domestic insurance company under section two hundred and three of the code (as amended by Presidential Decree No. 1455).

Under Insurance Commission Memorandum Circular 2- 2006, the amount of the Guaranty Fund must be the following:

- On or before December 31, 2006, all existing mutual benefit associations must have a fund of Twelve Million and Five Hundred Thousand Pesos (P12,500,000.00); and,
- effective July 1, 2006, any new mutual benefit association or one that is sought to be rehabilitated must have an initial Fund equivalent to not less than twenty five percent (25%) of the minimum paid-up capital required for new insurance companies or One Hundred Twenty Five Million Pesos (P 125,000,000.00).

The licensing requirements as provided by the Insurance Commission are the following:

1. Accomplished application form (duly notarized);
2. SEC Certificate of Registration of Articles of Incorporation and By Laws;
3. Certificate of Registration with the following agencies: Bureau of Internal Revenue (BIR); Office of the Mayor/Municipal Permit; and the Social Security System (SSS);
4. Books of Accounts to be used in the transaction of association, duly registered with the BIR, including the following: General Journal; General Ledger; Cash Receipt; Cash Disbursement;
5. List of Officers, Board of Directors, personnel and its members and positions held;
6. Organizational Chart;
7. ITR for the preceding year and curriculum vitae of the officers, member of the Board Directors, Accountant, Actuary and External Auditor;
8. Floor Plan and Lease Agreement of the office space, if any;
9. Inventory of equipment, furniture and fixtures;
10. Paid-up Capital;
11. Deposit the Amount of P 10,000.00 in Government securities as Guaranty Fund;
12. Submit Fidelity Bond of accountable officer/s;
13. Bank account/s of the association;
14. Execute waiver in favor of the Insurance Commission to verify the existence of association's capital deposit with the depository bank/s;
15. Clearance fro NBI of the officer and Board of Directors;
16. Documentary Stamps;
17. Pre-Licensing Examination;
18. P 150.00 License Fee.

Actuarial requirements are the following:

1. Actuarial projection prepared and signed by a duly accredited actuary showing probable income and outgo, reserve requirements, enumerating the actuarial assumptions and bases thereof;
2. Governing rules and regulations of the association;
3. Copy of membership application form;
4. Certificate of Membership or Certificate or Insurance Certificate form showing the benefits;
5. List of Members;
6. List of Reinsurers;
7. Draft/copy of reinsurance.

Rules for dissolution

To file for cancellation of registration, the association should notify the Commissioner. Certified copy of the resolution authorizing the dissolution, financial statements as of the date of the resolution, and such other papers or documents as may be required by the Commissioner should also be submitted.

The following are grounds for cancellation of the registration:

- (a) Failure to comply with any provision of the Insurance Code;
- (b) Failure to comply with any other law or regulation obligatory upon it;
- (c) Failure to comply with any order, ruling, instruction, requirement, or recommendation
- (d) Exceeded its power to the prejudice of its members;
- (e) Conducted its business fraudulently or hazardously;
- (f) Rendered its affairs and condition to one of insolvency; or
- (g) Failed to carry out its aims and purposes for which it was organized due to any cause.

Associations may seek to appeal for restoration of the revoked or suspended license. They should exert effort to immediately apply correcting measures on the circumstance that have brought about the order.

Rules for monitoring and supervision

Mutual benefit associations are required to submit an annual statement to the Commissioner, in form and details as he would prescribe. It should be filed on or before the 30th of April each year. Such document should be sworn to by the officers of the association including the president, secretary, treasurer and actuary of the association, showing the exact condition of its affairs preceding the thirty first day of December.

The Commissioner or any of his duly designated representatives has the power of visitation, audit and examination into the affairs, financial condition, and methods of doing business of all mutual benefit associations. Such examinations may be made at least once every two years or whenever it may be deemed necessary. Free access to all information shall be accorded to the Commissioner or his representatives including books, records and documents of the association such that true affairs, financial condition, and method of doing business may be readily verified and determined. Authority to administer oaths, take testimony or other evidence on any matter relating to the affairs of the association is also accorded to the Commissioner or his representatives during the course of such examinations.

Tax treatment

According to the National Internal Revenue Code (Republic Act 8424 or the Tax Reform Act of 1997), section 37 (b) states that, “in the case of mutual fire and mutual employers' liability and mutual workmen's compensation and mutual casualty insurance companies requiring their members to make premium deposits to provide for losses and expenses, said companies shall not return as income any portion of the premium deposits returned to their policyholders, but shall return as taxable income all income received by them from all other sources plus such portion of the premium deposits as are retained by the companies for purposes other than the payment of losses and expenses and reinsurance reserves.” In other words, only incomes from sources other than premium deposits paid by members are taxable.

Government agency summary

The Insurance Commission is the regulatory body assigned to supervise mutual benefit associations. Licensing of MBAs are undertaken by the IC Licensing Division.

Guide questions for key informant interview

1. Establishment of non-profit organizations

- a. Why are there very few mutual benefit associations that have been organized?

- b. What was the effect of Presidential Decree No. 1455 prohibiting any mutual benefit association to be organized and authorized to transact business as a charitable or benevolent organization?
 - c. What could be the advantage or disadvantages of having the Insurance Commission hold major roles and powers on the many aspects of registration and licensing of mutual benefit associations?
- 2. Availability of information on non-profit organizations
 - a. What practical measures or policies could possibly be put in place to make sure that data and information on mutual benefit association are readily available and accessible?
 - b. Are there penalties/ sanctions to such associations who fail to submit the annual reports required of them? Are they being implemented? Who are the units, agencies in charge of implementation, are there also sanctions, penalties upon these agencies who fails to implement these rules?
 - c. What do you think could be the major factors contributing to the availability or lack of available, accessible updated information?
- 3. Identification of non-profit organization concerns
 - a. What can you say of the concern regarding the licensing of mutual benefit associations possibly being lifted from Insurance Commission? Which among the existing agencies do you think would handle it best given its nature as an organization?
 - b. What are the specific agencies or units responsible for addressing and monitoring members concerns on claiming their rights and benefits?
- 4. Investigation relating to non-profit organization concerns
 - a. Are there current or new initiatives in place by the Insurance Commission to ensure that all of members' concern and issues are efficiently and effectively addressed?
- 5. Protection of non-profits
 - a. Are there any mutual benefit associations that do not meet the standard?
 - b. How many cases of unclaimed payments are recorded monthly? What are these types of cases?
- 6. Reduction of risks
 - a. Is there a defined system for reporting and monitoring risks faced by the members and the organization itself?
 - b. Are members well informed of their rights and duties and measures that they could take in events of
 - c. Is information on the MBAs as a whole regularly gathered and analyzed?
 - d. Is there an auditing body directly and regularly providing check and balance on the actions of the Commission itself?

G. Philippine Council for NGO Certification

Rules for accreditation

To qualify for tax donee status, according to BIR Revenue Regulations No. 13- 1998, non-stock, non-profit organizations should submit to the accrediting entity the following requirements: articles of incorporation and by-laws; SEC registration; affidavit of 'modus operandi' listing the 'character of organization', the purpose for which it was organized, list of projects for two years, the source of income and utilization and other facts relating to their qualifications as donee institution; and duly audited financial statements for the past two years. The accrediting entity (which shall review the

applicant institution in terms of their mission and goals, financial and human resources, programs and evaluation mechanisms and future plans. Upon approval of the application, the institution shall be given a five year donee status for existing non-stock, non-profit corporations and a three year donee status for newly-organized corporations (Article 2, BIR Regulation 13- 1998).

The accrediting agency is the Philippine Council for NGO Certification (or PCNC), according to a memorandum of agreement signed between the Department of Finance and the PCNC in January, 29, 1998. The PCNC was founded by several NGO networks including the Caucus of Development NGO Networks, the Philippine Business for Social Progress, the Association of Foundations, the Bishops-Businessmen's Conference on Human Development, the National Council for Social Development and the League of Corporate Foundations.

Newly organized entities may also apply and the Secretary of Finance, upon recommendation of the Board of Trustees of the PCNC, can waive the submission of duly audited financial statements; these shall be eligible to apply for a three year probationary status.

Donations, contributions or gifts given to accredited non-stock, non-profit corporations shall be allowed limited deductibility amounting to a limit of ten percent for an individual donor and five percent for a corporate donor. Donations, contributions or gifts shall be allowed full deductibility (100 percent tax deductibility) conditioned that these funds are utilized within the calendar year when the donation is made, the level of administrative expenses shall not exceed 30 percent, all the members of the non-stock, non-profit corporation do not receive any compensation for their services. All donations are exempt from donor's taxes. Deductibility will not apply to the following uses of funds: lending unless part of microfinance program; purchase or sales of securities; sale or lease of property to a member of the donee institution; illegal activities. (section 3, BIR Regulation 13- 1998)

The following is its established norms of procedures for accreditation by the PCNC (PCNC Brief Description of the Accreditation Process):

1. The organization inquires with PCNC for requirements.
2. PCNC sends the following forms to be filled-up by the applicant NGO:
3. Letter of Intent (1 copy)
4. Application for Accreditation for Donee Institution Status and also sends the checklist of requirements. (1 copy)
5. The applicant NGO submits the Letter of Intent and Application Form together with their latest Audited Financial Statement and the initial payment of Php 1,000.00
6. PCNC sends applicant NGO a survey form to be accomplished in four (4) copies.
7. Applicant NGO submits survey form with complete attachments, and the balance of the application fee according to the socialized fee scheme based on Total Assets, as follows:
 - a. organizations with less than 5 million total assets = 10,000.00
 - b. organizations with 5 to 15 million total assets = 15,000.00
 - c. organizations with more than 15 million total assets = 20,000.00
8. The secretariat forms the evaluation team line-up.
9. The evaluators confirm their availability; PCNC secretariat makes arrangements for the visit.
10. The evaluation team conducts the evaluation visit.
11. The PCNC Board deliberates on the evaluation team's recommendation.
12. NGO is then notified on the PCNC Board's decision.
13. For certified NGO, the PCNC Secretariat submits certification results to the BIR.
14. The BIR issues Certificate of Donee Institution Status to NGO.

PCNC has a list of donee institutions; the list is available in their website, and the full database is available upon request.

Rules for withdrawal of accreditation

The PCNC has the authority to withdraw the Certificate of Accreditation which it issued to a non-stock, non-profit corporation/NGO upon a determination that the latter no longer meets the criteria for accreditation. The PCNC should inform the Legal Service of the BIR National Office or the concerned division of the BIR Regional Offices of the withdrawal of the Certificate of Accreditation and recommend to the BIR the revocation of the Certificate of Registration of the non-stock, non-profit corporation/NGO concerned. The PCNC also should inform the same offices in cases of violations of the regulations as a donee institution (section 11, BIR Regulation 13- 1998)

Rules for monitoring

The BIR Commissioner shall approve all projects that utilize these donations, contributions or gifts. Accredited donee institutions have to regularly report to the local BIR office. The certification for the donee institution can be withdrawn for any violations of listed regulations. (section 4, BIR Regulation 13- 1998) The books of accounts and other pertinent records, as well as the operations, of accredited non-stock, non-profit corporations/NGOs may be examined by the BIR annually (section 9, BIR Regulation 13- 1998).

Proposed guide questions for key informant interview (PCNC)

1. What percentage of those applying as donee status fail in the review process? Why do they do not pass?
2. What are the problems encountered by the PCNC in its accreditation process?
3. Have there been non-stock, non-profit corporations that have violated reporting processes? What are the usual problems?
4. Have there been non-stock, non-profit corporations whose accreditation had been withdrawn? Why?

Annex E. Attendees of the March 28, 2008, National Validation Workshop

A. Local Advisory Committee Members

1. Raquel A. Ascaño, Department of Social Welfare and Development
2. Joey Austria, Department of Environment and Natural Resources
3. Arnel B. Garcia, Department of Social Welfare and Development
4. Marieta T. Hwang, Cooperatives Development Authority
5. Norman Joseph Q. Jiao, Association of Foundations
6. Atty. Celia Escareal-Sandejas, Bangko Sentral ng Pilipinas
7. Felicidad I. Soledad, Philippine Council for NGO Certification
8. Sixto Donato C. Macasaet, Caucus of Development NGO Networks

B. Government Invitees

9. Vivian Ilarina, National Statistical Coordination Board
10. Andrea Morales, National Statistical Coordination Board
11. Ronnie Buenviaje, Department of Finance
12. Aida dela Rosa, Department of Science and Technology
13. Atty. Arnold G. Frane, Anti-Money Laundering Council Secretariat
14. Cynthia Ilano, Department of Social Work and Development
15. Marites Lagarto, National Economic Development Authority
16. Dr. William Malitao, Office of Programs and Standards, Commission on Higher Education
17. Atty. Joselito F. Melchor, Housing and Land Use Regulatory Board
18. Pia Roman, Bangko Sentral ng Pilipinas
19. Atty. Ferdinand Sales, Securities and Exchange Commission
20. Atty. Niel Santillan, Cooperatives Development Authority
21. Dr. Virginia Sylvestre, Department of Education
22. Ares Baron, Department of Environment and Natural Resources
23. Ramon Falcon, National Economic and Development Authority
24. Jovito Labajo, Department of Environment and Natural Resources

C. Non-Government Invitees

25. Stanley Andrew Yu, NGOs for Fisheries Reform
26. Elaine Teope, PAKISAMA
27. Rowena Sugay, Philippine Business for Social Progress
28. Emelina Santos, National Confederation of Cooperatives
29. Arvin Paglinawan, Philippine Army Finance Center Producers Integrated Cooperatives
30. Jaybee Garganera, Philippine Partnership for the Development of Human Resources in Rural Areas
31. Jacquelyn dela Pena, KAABAG sa Sugbo
32. Emmanuel Arenos, Western Visayas Network of Social Development NGOs

D. Project Team

33. Al Alegre, Foundation for Media Alternatives
34. Roselle Rasay, Caucus of Development NGO Networks
35. Josephine Tria, Foundation for Media Alternatives
36. Randy Tuaño, Foundation for Media Alternatives