Republic of the Philippines
Department of Finance
Securities and Exchange Commission
COMMISSION EN BANC

IN THE MATTER OF:

RGS WORLD MARKETING CORP.

SEC CDO Case No. 02-22-082

ENFORCEMENT AND INVESTOR PROTECTION DEPARTMENT (EIPD),

Movant.

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CEASE AND DESIST ORDER

This resolves the *Motion for Issuance of a Cease and Desist Order*[1] (the "Motion") filed by the Enforcement and Investor Protection Department (EIPD) praying that an order be issued (a) directing **RGS WORLD MARKETING CORP.**, its directors, officers, operators, representatives, salesmen, agents and any and all persons, conduit entities and subsidiaries claiming and acting for and in its behalf, to immediately cease and desist from engaging in the sale and/or offer of unregistered securities, and to remove or take down their online posts and offerings, as it does not have the license to solicit, accept or take investments, and the securities that it is selling/offering are not registered with the Securities and Exchange Commission (the "Commission"); and (b) prohibiting directing **RGS WORLD MARKETING CORP.**, its directors, officers, operators, representatives, salesmen, agents and any and all persons, conduit entities and subsidiaries claiming and acting for and in its behalf, from selling, encumbering, conveying, or disposing any of its properties and/or assets without the prior written authority from the Commission.

THE PARTIES

The EIPD is one of the Commission's operating departments tasked, among others, to investigate, institute and prosecute administrative actions against persons and entities engaged in the sale and/or offer of unregistered securities without the requisite license issued by the Commission.[2]

[1] Filed on 7 February 2022.
[2] Section 2-2(c)(1-c), Rule II, Part I of the 2016 SEC Rules.

RGS WORLD MARKETING CORP. (hereinafter referred to as "RGS WORLD"] is a corporation duly organized and existing under Philippines laws, having been issued a Certificate of Incorporation on 10 December 2020, with Company Registration No. CS202069716. Its principal office is at the 2/F Bargain Square Building Cor. San Juan-Gonzaga Street, Barangay 12 (Pob) Bacolod City, Negros Occidental.

The incorporators, stockholders and first directors of RGS WORLD are RODOLFO GARCIA SALARDA, JR., LEAH PASIS SALARDA, RODELYN BALICO SALARDA, HENJE NOBLE CUADRA, AND RYAN C LADOING.

RELEVANT FACTS

Acting on the reports, inquiries and complaints that were received[3], alleging that RGS WORLD is engaged in investment-taking activities, the EIPD formally conducted an investigation on the operations of RGS WORLD for possible violation of the relevant provisions of Republic Act No. 8799 (the "Securities Regulation Code" or "RCC") and its Implementing Rules and Regulations (SRC-IRR).

The investigation of the EIPD yielded pieces of evidence which showed that RGS WORLD is engaged in the sale of unregistered securities without the requisite license from the Commission. The EIPD alleged that prior to its incorporation in 10 December 2020, the incorporators of RGS WORLD were already soliciting investments from the public through RGS ONLINE SHOP/RGS ONLINE MARKETING and RGS Foundation (the "Affiliate Entities") which are entities that were registered (with Business Name No. 2240745) on 14 October 2020 with the Department of Trade and Industry.[4]

Considering that RGS WORLD is operating in the province of Negros Occidental and the Western Visayas areas, the EIPD issued a separate Memorandum dated 18 and 25 January 2021 to the SEC Bacolod City Extension Office (SEC BACEO) and the SEC Iloilo City Extension Office, respectively, requesting for assistance to conduct an ocular inspection and surveillance operation on the investment-taking activities of RGS WORLD.[5]

On 08 February 2021, the EIPD received the written report of SEC BACEO on the matter which found, based on the independent investigation that was conducted, that RGS WORLD is soliciting

[3] Annex "B" of the Motion
[4] Pars. 10 and 11 of the Motion
[5] Annexes "C" and "D" of the Motion

investments from the public, allegedly to further its product distribution business, and promising investors with guaranteed high returns. The SEC BACEO's report also disclosed that the directors, agents, promoters and existing investors of RGS WORLD are using their Facebook accounts, as well as the Facebook accounts of the Affiliate Entities, to entice prospective investors to invest in RGS WORLD by advertising not only the amount of investment and the guaranteed returns, but also photos showing investors who actually received their pay outs.[6]

Consequent to the conduct of its investigation, the EIPD alleged and concluded that RGS WORLD is selling/offering unregistered securities in the form of investment contracts consisting of a compensation plan that prospective investors may choose, to wit:

Compensation Plan	Amount of Investment (PhP)	Return (PhP)	Non-monetary Return
ComPlan A	1,000	3,500	Frozen goods
ComPlan B	5,000	17,500	11kg of rice
ComPlan C	10,000	35,000	20kg of rice
ComPlan D	20,000	80,000	1 sack of rice

Prospective investors get to avail of RGS WORLD's guaranteed returns and benefits by becoming a member of the company by paying the membership fee which is the required investment amount corresponding to the ComPlan chosen. Moreover, an existing member-investor may earn additional bonuses, incentives and products by referring and/or recruiting more members.

In relation to the claim of RGS WORLD that the investments that it is soliciting from the public is used in furtherance of its marketing and distribution operations of certain products i.e. soap, liniment, poultry, rice, eggs, the EIPD substantiated its allegation that RGS WORLD is not engaged in a legitimate distribution business by submitting in evidence the FDA Certification dated 18 March 2021 which confirmed that the products claimed to be distributed by RGS WORLD and its Affiliate Entities have no License to Operate (LTO).

During the course of the investigation, the SEC-BACEO started receiving numerous complaints from investors of RGS WORLD who claimed that they have not been paid their guaranteed return, and have not received the goods/products promised to them.[7]

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[6] Annex "E" of the Motion
[7] Complaints of Joan Jalandoni (Annex "I"), Robert Faciolan (Annex "J"), Jerald Salvaña et. al (Annex "L"), Billy Melgarejo Capague et. al. (Annexes "M", "N", "O", "P", "Q", "R", and "S"), and Rogelyn Lavadia and Jared Roy Regodos (Annex "T")

The EIPD also secured the relevant Certification from the Company Registration and Monitoring Department (CRMD)[8], which confirmed that while RGS WORLD was registered as a corporation on 10 December 2020, it has not been issued a secondary license as a Lending Company, Broker and/or Dealer of Securities, Dealer in Government Securities, Investment Adviser of an Investment Company, Investment House and Transfer Agent. The Certification of the Corporate Governance and Finance Department (CGFD)[9] on the other hand, which was submitted in evidence by the EIPD confirmed that RGS WORLD is not a registered issuer of mutual funds, exchange traded funds and proprietary/non-proprietary shares or membership certificates and timeshares. Finally, the Certification of the Markets and Securities Regulation Department (MSRD)[10] which was also obtained and submitted in evidence by the EIPD confirmed that RGS WORLD has not registered any securities pursuant to Sections 8 and 12 of the SRC, and has not been issued a Permit to Sell Securities.

It is on the basis of RGS WORLD's lack of the required licenses to sell and/offer securities, which were also unregistered, that the EIPD came to this Commission seeking the issuance of a CDO for the protection of the investing public.

ISSUE

Whether the issuance of a cease and desist order against RGS WORLD is warranted based on the findings and evidence presented by the EIPD.

RULING

The Commission finds the *Motion* meritorious.

At the outset, the Commission notes that the primary purpose of RGS WORLD as stated in its Articles of Incorporation, specifically provides that it has no authority to solicit or accept investments from the public, *to wit*:

> "To engage in business of selling, marketing, promotion, distribution of food or non-food products or commodities, food supplements, cosmetics, beauty products and any related food and wellness products through wholesale or retail within and outside of the Philippines.

[8] Annex "U" of the Motion.
[9] Annex "W" of the Motion
[10] Annex "V" of the Motion

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Provided that the corporation shall not solicit, accept or take investments/placements from the public neither shall it issue investment contracts." (Emphasis supplied)

After carefully considering the Motion which was supported by substantial evidence, the Commission holds that the EIPD was able to establish that RGS WORLD is selling and/or offering unregistered securities in the form of investment contracts to the public without the requisite license from the Commission, in violation not only of its AoI but also of the relevant provisions of the SRC and its IRR.

Relative thereto, Section 3 of the SRC defines "securities" as follows:

> "SEC. 3. Definition of Terms. –
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> 3.1. "**Securities**" are **shares, participation or interests** in a corporation or **in a commercial enterprise** or profit-making venture and evidenced by a certificate, contract, instrument, whether written or electronic in character. It **includes:**
>
> x x x
>
> (b) **Investment contracts**, certificates of interest or participation in a profit sharing agreement, certificates of deposit for a future subscription;" (Emphasis supplied)

Moreover, an "investment contract" is defined in the SRC-IRR as follows:

> **An investment contract means a contract, transaction or scheme** (collectively "contract") **whereby a person invests his money in a common enterprise and is led to expect profits primarily from the efforts of others.** An investment contract is presumed to exist whenever a person seeks to use the money or property of others on the promise of profits.
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> **A common enterprise is deemed created when two (2) or more investors "pool" their resources, creating a common enterprise,** even if the promoter receives nothing more than a broker's commission."[11] (Emphasis supplied)

Section 8.1 of the SRC categorically provides that securities cannot be sold or offered for sale within the Philippines if the same are not registered with the Commission in the form of an approved Registration Statement and a Permit to Offer/Sell issued in favor of the applicant, to wit:

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[11] Rule 26.3.5 of the Implementing Rules and Regulations of the SRC.

*"**SEC. 8. Requirement of Registration of Securities.** – 8.1 **Securities shall not be sold or offered for sale or distribution within the Philippines, without a registration statement duly filed with and approved by the Commission**. Prior such sale, information on the securities, in such form and with such substance as the Commission may prescribe, shall be made available to each prospective purchaser."* (Emphasis and underscoring supplied)

In the case of *Power Homes Unlimited v. Securities and Exchange Commission,*[12] the Supreme Court ruled that investment contracts are securities that are required to be registered with the Commission for the protection of the investing public, to wit:

> "**As an investment contract that is security under R.A. No. 8799, it must be registered with public respondent SEC, otherwise the SEC cannot protect the investing public from fraudulent securities.** The strict regulation of securities is founded on the premise that the capital markets depend on the investing public's level of confidence in the system." (Emphasis supplied)

The concept of an investment contract in the Philippines is of American origin. It traces its roots from the US Supreme Court case *Securities and Exchange Commission v. W.J. Howey Co.*[13] where the Court stated that an investment contract is a transaction, contract, or scheme whereby a person (1) makes an investment of money, (2) in a common enterprise, (3) with the expectation of profits, (4) to be derived solely from the efforts of others. Investment contracts have been used and adopted in various situations where individuals were led to invest money in a common enterprise with the expectation that they would earn a profit through the efforts of the promoter or of someone other than themselves.[14]

The concept of an investment contract was thereafter adopted and used in *Power Homes Unlimited Corporation v. Securities and Exchange Commission,*[15] where the Supreme Court ruled that an investment contract in our jurisdiction, to be a security subject to regulation by the Commission, must be proved to be *(1) an investment of money; (2) in a common enterprise; (3) with expectation of profits, (4) primarily from efforts of others.* Under this definition, whenever an investor relinquishes control over his or her funds and submits their control to another for the

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[12] Note 24, *Supra.*
[13] 328 U.S. 293, 66 S. Ct. 1100, 90 L. Ed. 1244, 163 A.L.R. 1043 (1946).
[14] *Ibid.* Although the definition as stated in the Howey Case qualified that the earning of profit was expected to be solely through the efforts of another party, Rule 26.3 of the 2015 IRR of the SRC replaced the qualifier with *"primarily"*, acknowledging that an investment contract may still be present where the individual who placed the money exerted a small amount of effort in an attempt to earn the profits.
[15] G.R. No. 164182, 26 February 2008.

purpose of deriving profits from them, he or she is in fact investing in a security.[16]

Applying the foregoing to the instant case, this Commission finds, and so holds, that RGS WORLD is unlawfully engaged in the sale and/or offer of unregistered securities in the form of investment contract, because it has no license to carry out the same.

> **First**, RGS WORLD required its investors to invest the required amounts corresponding to the ComPlan that were availed of i.e. P1,000 for ComPlan A, P5,000 for ComPlan B, P10,000 for ComPlan C, and P20,000 for ComPlan D. In this case, the actual investment of money was substantiated by the complaints received by the EIPD which showed that member-investors were claiming the guaranteed returns for the ComPlans that they paid for.
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> **Second**, The EIPD was able to show that the investment scheme of RGS WORLD involves the pooling of the resources consisting of the moneys of its investors which are actually utilized to satisfy and pay the guaranteed returns of its existing investors. This is the common enterprise that is being sustained by the investments received by RGS WORLD from the public, although the same is masked by a product distribution business which, in reality, does not exist.
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> **Third**, RGS WORLD's investors expect to receive a guaranteed monthly return in an amount ranging from 250% to 300% of the investment, plus products and bonuses.
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> **Finally**, RGS WORLD's investors need not do anything except to entrust their money to the former, whose directors, officers, agents and promoters operate the business and give them their guaranteed return.

Moreover, the evidence presented by the EIPD also shows that RGS WORLD's investment scheme involves public offering of securities in the form of investment contracts considering that its business operations are being published online through the social media platforms.

Public offering of securities is defined under Rule 3.1.17 of the 2015 IRR of the SRC as follows:

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[16] Investment Co. Institute v. Camp, 274 F. Supp. 624 (D. D.C. 1967).

> "3.1.17. **Public offering is any offering of securities to the public or to anyone, whether solicited** or unsolicited. Any solicitation or presentation of securities for sale through any of the following modes shall be presumed to be a public offering:
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> x x x
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> 3.1.17.3 Advertisement or announcement in radio, television, telephone, **electronic communications, information communication technology or any other forms of communication;**"[17] (Emphasis supplied)

Here, the evidence submitted by the EIPD shows that RGS WORLD is offering compensation plans publicly through its official website and social media platforms, i.e., Facebook, to potential investors without prior registration.

Relative to a valid issuance of a CDO, Section 64 of the SRC provides, thus:

> "Section 64. *Cease and Desist Order.* — 64.1. *The Commission,* after proper investigation or verification, *motu proprio* or upon verified complaint by any aggrieved party, **may issue a cease and desist order without the necessity of a prior hearing if in its judgment the act or practice, unless restrained, will operate as a fraud on investors or is otherwise likely to cause grave or irreparable injury or prejudice to the investing public.**" (Emphasis supplied)

Under the afore-quoted provision, there are two (2) essential requisites that must be complied with for a cease and desist order can be validly issued:

1) There must be a conduct of a proper investigation or verification; and

2) There must be a finding that the act or practice, unless restrained, will operate as a fraud on investors or is otherwise likely to cause grave or irreparable injury or prejudice to the investing public.[18]

Anent the first requisite, the records disclose that the EIPD conducted a proper investigation as evidenced by the various documents gathered and submitted in support of its Motion showing the unauthorized investment taking activities of RGS WORLD.

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[17] Rule 3.1.17 of the Implementing Rules and Regulations of the SRC.
[18] Securities and Exchange Commission vs. Performance Foreign Exchange Corporation, G.R. No. 154131, July 20, 2006.

The second requisite is likewise present considering that RGS WORLD employed fraud when its directors, officers, agents, representatives and promoters made it appear to the public that it is investment plans are registered with the Commission and that it is authorized to sell, offer and deal with securities.

In *People of the Philippines vs. Mateo, et al.*[19], the Supreme Court held that fraud is a generic term that covers any act calculated to deceive, thus:

> "**Fraud**, in its general sense, **is deemed to comprise anything calculated to deceive**, including all acts, omissions, and concealment involving a breach of legal or equitable duty, trust, or confidence justly reposed, resulting in damage to another, or **by which an undue and unconscientious advantage is taken of another. It is a generic term embracing all multifarious means which human ingenuity can devise, and which are resorted to by one individual to secure an advantage over another by false suggestions or by suppression of truth** and includes all surprise, trick, cunning, dissembling and any unfair way by which another is cheated. On the other hand, **deceit is the false representation of a matter of fact**, whether by words or conduct, **by false or misleading allegations**, or by concealment of that which should have been disclosed **which deceives or is intended to deceive another so that he shall act upon it to his legal injury.**" (Emphasis supplied)

Moreover, this Commission holds that the act of RGS WORLD in selling/offering unregistered securities operates as a fraud to the public which, if unrestrained, will likely cause grave or irreparable injury or prejudice to the investing public.[20] This finds support in the case of *Securities and Exchange Commission vs. CJH Development Corp.*[21] where the Supreme Court emphasized the need for a prompt issuance of a CDO after a finding of a violation of the SRC that will likely defraud or cause grave or irreparable injury to the investing public, thus:

> "**The law is clear on the point that a cease and desist order may be issued by the SEC *motu proprio***, it being unnecessary that it results from a verified complaint from an aggrieved party. **A prior hearing is also not required whenever the Commission finds it appropriate to issue a cease and desist order that aims to curtail fraud or grave or irreparable injury to investors. There is good reason for this provision, as any delay in the restraint of acts that yield such results can only generate further injury to the public that the SEC is obliged to protect.**

[19] G.R. No. 210612, October 9, 2017.
[20] Section 64 of the Securities Regulation Code.
[21] (G.R. No. 210316, November 28, 2016)

> **The act of selling unregistered securities would necessarily operate as a fraud on investors as it deceives the investing public by making it appear that respondents have authority to deal on such securities.** Section 8.1 of the SRC clearly states that securities shall not be sold or offered for sale or distribution within the Philippines without a registration statement duly filed with and approved by the SEC and that prior to such sale, information on the securities, in such form and with such substance as the SEC may prescribe, shall be made available to each prospective buyer." (Emphasis supplied)

WHEREFORE, premises considered, RGS WORLD MARKETING CORP., its directors namely RODOLFO GARCIA SALARDA, JR., LEAH PASIS SALARDA, RODELYN BALICO SALARDA, HENJE NOBLE CUADRA, AND RYAN C LADOING, officers, operators, representatives, salesmen, agents and any and all persons, conduit entities and subsidiaries claiming and acting for and in its behalf, are hereby ordered to **IMMEDIATELY CEASE AND DESIST** from engaging in the unlawful/unauthorized solicitation, offer and/or sale of securities in the form of investment contracts or any others of the same nature, as discussed in this *Cease and Desist Order*, until the requisite registration statement is duly filed with and approved by the Commission.

Further, RGS WORLD MARKETING CORP., its directors namely RODOLFO GARCIA SALARDA, JR., LEAH PASIS SALARDA, RODELYN BALICO SALARDA, HENJE NOBLE CUADRA, AND RYAN C LADOING, officers, operators, representatives, salesmen, agents and any and all persons, conduit entities and subsidiaries claiming and acting for and, in its behalf, are likewise directed to **CEASE** their internet presence relating to the transactions and investment scheme covered by this *Cease and Desist Order*. The Commission will institute the appropriate administrative and criminal action against any persons or entities found to act as solicitors, information providers, salesmen, agents, brokers, dealers or the like for and in their behalf

Finally, the Commission hereby **PROHIBITS** RGS WORLD MARKETING CORP., its directors namely RODOLFO GARCIA SALARDA, JR., LEAH PASIS SALARDA, RODELYN BALICO SALARDA, HENJE NOBLE CUADRA, AND RYAN C. LADOING, officers, operators, representatives, salesmen, agents and any and all persons, conduit entities and subsidiaries claiming and acting for and in its behalf from transacting any business involving funds in its depository banks, and from transferring, disposing, or conveying in any manner, any and all assets, properties, real or personal, including bank deposits, if any, of which the named persons herein may have interest, claim or participation, whether directly or x---x

indirectly, under their custody, to ensure the preservation of the assets of the investors

The **EIPD** of the Commission is hereby **DIRECTED** to (a) serve a copy of this Order to RGS WORLD MARKETING CORP., its directors namely RODOLFO GARCIA SALARDA, JR., LEAH PASIS SALARDA, RODELYN BALICO SALARDA, HENJE NOBLE CUADRA, AND RYAN C. LADOING, (b) cause the posting of this Order in the Commission's website, and (c) the publication of the same in a newspaper of general circulation as provided for under Section 4-2, Rule IV, Part I of the 2016 Rules of Procedure of the SEC.

The EIPD is **FURTHER DIRECTED** to submit a formal compliance report, by way of pleading, to the Commission *En Banc* WITHIN TEN (10) DAYS from receipt of this ***Cease and Desist Order***.

Let a copy of this Order be furnished to the Company Registration and Monitoring Department, Market and Securities Regulation Department, Corporate Governance and Finance Department and the Information and Communications Technology Department of this Commission, the Bangko Sentral ng Pilipinas, the Department of Trade and Industry, the National Privacy Commission and the Department of Information and Communications Technology for their information and appropriate action.

In accordance with the provisions of Section 64.3 of the SRC and Part II, Rule IV, Section 4-3 of the 2016 Rules of Procedure of the SEC, the Respondent may file a verified ***Motion to Lift the CDO*** to the Commission En Banc thru the Office of the General Counsel, within five (5) days from receipt of this Order.

FAIL NOT UNDER PENALTY OF LAW.

SO ORDERED.

Pasay City, Philippines; 1 March 2022.

EMILIO B. AQUINO
Chairperson

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EPHYRO LUIS B. AMATONG
Commissioner

JAVEY PAUL D. FRANCISCO
Commissioner

KELVIN LESTER K. LEE
Commissioner

KARLO S. BELLO
Commissioner