Securities and Exchange Commission PHILIPPINES

OFFICE OF THE GENERAL COUNSEL

29 August 2025

SEC-OGC Opinion No. 25-13
Re: Stock, Non-Profit Corporation

ESTRADA & AQUINO
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Attention: Atty. Joseph Noel M. Estrada
Atty. Willard T. Yung
Atty. Kristine Carmina R. Manaog

Dear Attorneys:

This pertains to your 03 May 2025 letter[1] requesting for an opinion on whether or not (1) Universidad de Zamboanga, Inc. (UDZ) is a stock corporation; and (2) whether or not UDZ can amend its Articles of Incorporation (AOI)[2] to confirm its actual nature as a stock corporation pursuant to law and the 1987 Constitution.

You disclosed that UDZ is a corporation duly registered under Philippine law with SEC Registration No. 9205. It was incorporated as an educational institution on 26 June 1954, under the corporate name "*Zamboanga Arturo Eustaquio Colleges Foundation, Inc.*" On 19 June 2005, the corporate name was amended to "*Universidad de Zamboanga, Inc.*"

According to you, at the time UDZ was incorporated, the prevailing law was the Republic Act. No. 6055, which allowed educational institutions incorporated as stock corporations to convert themselves into non-profit foundations, which are non-stock educational institutions.[3] UDZ, however, did not convert into a non-stock, non-profit educational foundation and remained a stock corporation. UDZ continued to exist as a stock non-profit corporation until the passage of the 1987 Constitution.

You also mentioned that UDZ is not exempt from income tax like non-stock non-profit schools. The Bureau of Internal Revenue (BIR) has been consistently treating UDZ as a proprietary corporation and assessing it for a preferential corporate income tax rate of 10%.

According to you, UDZ complies with the rules of the Commission as a stock corporation, and its General Information Sheet reflects it as such.[4]

Hence, your queries.

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[1] Received by this Office on 05 May 2025.
[2] Attched as Annex "A" of the Letter-request.
[3] Section 1 of R.A No.6055 "An act to Provide for the Conversion of Educational Institutions from Stock Corporations to Non-Profit Foundations, Directing Government Service Insurance System, the Social Security System, and the Development Bank of the Philippines to Assist in such Conversion, and for Other Purposes."
[4] Attached as "Annex C" of the Letter-request.

Section 3 of the Revised Corporation Code (RCC) expressly provides that corporations are either stock or non-stock, viz:

> "Section 3. Classes of Corporations. - Corporations formed or organized under this Code **may be stock or non-stock corporations**. Stock corporations are those which have capital stock 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 held. All other corporations are non-stock corporations." (Emphasis supplied)

Thus, two requisites must be complied with for a stock corporation to exist, to wit: (1) that it has capital stock divided into shares; and (2) that it is authorized to distribute to the holders of such shares, dividends or allotments of the surplus profits on the basis of the shares held.[5]

UDZ has a Six Hundred Thousand Pesos (₱600,000.00) capital stock, divided into One Thousand Two Hundred (1,200) shares, classified as Class A and Class B shares with a par value of Five Hundred Pesos (₱500.00) each. Class A shares have voting rights, whereas Class B shares do not. The holders of shares are referred to as "stockholders", and the presence of the majority of the outstanding capital stock of the corporation is required to constitute a quorum.

The pertinent provision of the UDZ's AOI provides:

> 7. That the capital stock of said corporation is SIX HUNDRED THOUSAND PESOS (P600,000.00) divided into ONE THOUSAND TWO HUNDRED (1,200) shares at the par value of FIVE HUNDRED PESOS (P500.00) each share.
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> 8. That the classes of stock representing capital of said corporation shall be as follows:
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> VOTING STOCK
>
> SIX HUNDRED (600) shares of class A voting stock at the par value of FIVE HUNDRED PESOS (P500.00) each total...₱300,000.00
>
> NON-VOTING STOCK
>
> SIX HUNDRED (600) shares of class B non-voting stock at the par value of FIVE HUNDRED PESOS (P500.00) each total...₱300,000.00
> Total Capital Stock...₱600,000.00

On the other hand, its AOI also provides that UDZ's stockholders are not entitled to dividends, to wit:

> 9. That, since said corporation is a NON-PROFIT CORPORATION, **no stock shall be entitled to dividends** during the lifetime of the corporation, the right of the holders thereof being limited to the repayment of the value of the said stocks upon the repurchase from their holders by said corporation in accordance with the Corporation Law and the By-Laws, or upon expiration of terms of existence or upon its dissolution in accordance with law, PROVIDED HOWEVER, that the value of said stocks shall be determined in this manner:
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> (a) If at the time of the repurchase from the stockholder, or at the time of expiration of the term of existence of said corporation, or dissolution, the total assets amount to more than the par value of the remaining stocks outstanding, the stock will be appraised at a value in cash proportionally equivalent to its actual monetary value on the date of its subscription, i.e., any deflation or inflation of monetary value shall be for the account of the stockholders concerned.
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> xxx xxx xxx
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> (b) If at the expiration of the term of existence of said corporation or dissolution, the assets are less than the par value of the total remaining stock outstanding, Non-Voting stocks shall be paid out first in accordance with paragraph 9 (a). Then if there be any remainder, they shall be divided to voting stocks, proportionately. (These conditions shall be printed in the stock certificates to be issued by the corporation)."

Nonetheless, the Commission has ruled that **the authority to declare dividends is inherent in a common share**. Of course, **the corporation may *choose* to stipulate in its AOI that no dividends will**

[5] Collector of Internal Revenue v. Club Filipino, G.R. No. L-12719, 31 May 1962; Republic of the Philippines v. City of Parañaque, G.R. No. 191109, 18 July 2012.

at any time be declared and/or paid."[6] In short, a corporation is authorized to distribute dividends by the very existence of common shares, but may choose to waive the declaration of dividends.

Thus, notwithstanding Article 9 of its AOI, the status of UDZ as a stock corporation is not affected. Further, while UDZ's stockholders are not entitled to dividends, they still have an interest in the corporate assets upon dissolution as they are entitled to the repayment of the value of their shares upon such dissolution.

Thus, we answer your **first query** in the **affirmative.**

At this point, it's worthy to stress that the AOI is not just an ordinary contract, as it binds not only the corporation to its stockholders but also the corporation to the State.[7] Based on rulings in cases involving stock non-profit corporations, any provision in the AOI that is inconsistent with their status as stock corporations must be amended.[8] This is to ensure conformity with their prescribed nature and purposes as stated in the AOI.

To ensure that the amendment of the AOI complies with the provisions of the RCC, we recommend that you coordinate with our Company Registration and Monitoring Department (CRMD) or the Commission's pertinent Extension Office, which has jurisdiction over applications for amendments to the AOI.

Thus, we answer your **second query** in the **affirmative**, provided that all provisions comply with the law and that any provision inconsistent with the corporation's status as a stock corporation, as may be determined by the CRMD or the pertinent Extension Office, must be amended.

It shall be understood that the foregoing opinion is rendered based solely on the facts, circumstances, and documents disclosed/submitted and relevant solely to the particular issue raised therein. It shall not be used in the nature of a standing rule binding upon the Commission in other cases or upon the courts whether of similar or dissimilar circumstances.[9] If, upon further inquiry or investigation, it will be disclosed that the facts relied upon are different, this opinion shall be rendered void.

Please be guided accordingly.

Very truly yours,

Romuald C. Padilla
General Counsel

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[6] Fairways & Bluewater Resort Golf and Country Club vs. Corporate Governance and Finance Department, SEC En Banc Case No. 03-17-424, 23 July 2019; Forest Hills Golf and Country Club Inc. vs. Company Registration and Monitoring Department, SEC En Banc Case No. 06-14-334, 23 July 2019; Sherwood Hills Golf Club Inc. vs. Atty. Justina F. Callangan, SEC En Banc Case No. 02-10-195, 23 July 2019
[7] Securities and Exchange Commission v. Locsin-Garcia, G.R No. 239010, 06 July 2022.
[8] Supra, Note 6.
[9] Section 7, SEC MC No. 15 Series of 2003, 16 December 2003.