

MALACAÑANG

Manila

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 590

DEACTIVATING THE ARMED FORCES OF THE PHILIPPINES RETIREMENT AND SEPARATION BENEFITS SYSTEM BY 31 DECEMBER 2006, DIRECTING THE TRANSFER OF ITS ASSETS IN TRUST TO A GOVERNMENT FINANCIAL INSTITUTION, AND FOR OTHER PURPOSES

WHEREAS, the Armed Forces of the Philippines ("AFP") Retirement and Separation Benefits System ("RSBS" or "System") was established under Presidential Decree No. 361 issued on 30 December 1973 (PD 361) to provide the funding scheme for the payment of retirement and separation benefits provided under existing laws to military personnel of the AFP;

WHEREAS, under Section 5 of PD 361, as amended by Presidential Decree No. 1656 issued on 21 December 1979 (PD 1656), the funds of the RSBS shall be allowed to grow to be able to provide perpetually the cash requirement covering the retirement and separation benefit payments to military personnel on a self-sustaining basis, and that prior to the time when perpetual self-sufficiency of the funds of the RSBS is attained as determined by actuarial valuation, the yearly requirement for retirement and separation benefits of military personnel as provided under existing laws shall be fully funded out of the annual appropriations for the AFP;

WHEREAS, in the *Senate Blue Ribbon Committee Report* issued in 1998, the revision or creation of a new RSBS Charter was recommended, providing for a highly structured organization, with clearly defined powers and functions, and strict investment guidelines;

WHEREAS, in the *Feliciano Commission Report* issued in 2003, it was determined that the RSBS, in its present conception and structure, was "fundamentally flawed" and had not discharged its mandate. Accordingly, the Feliciano Commission recommended that the RSBS be liquidated in an orderly manner; that soldiers' contributions be returned to them with interest and that an AFP Service and Insurance System be initiated, which shall be subject to the financial and investment disciplines of the *Bangko Sentral ng Pilipinas* (BSP) and the *Securities and Exchange Commission* (SEC);

WHEREAS, based on the *Financial Advisory Report* prepared by the *KPMG Laya Mananghaya & Co., Philippines* (hereinafter, the "KPMG Report") on



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the financial status and condition of RSBS, the following conclusions were arrived at:

- a. Inappropriateness of RSBS' investment portfolio, which consisted mainly of non-liquid assets (*i.e.*, real estate and equity investments in and advances to non-traded companies) that take a long time to dispose, are risky and with very low yields;
- b. Slow Fund build-up and inability to achieve its goal of self-sufficiency, caused primarily by the low rate of profitability of a majority of its assets, classified as non-productive and low-yielding;
- c. Illiquid position as a large portion of its assets is in non-earning or low-yielding investments; and
- d. Inability of RSBS to follow a Board Resolution, following the Senate Blue Ribbon Committee investigation of RSBS in 1998, to divest and liquefy all real estate assets and to focus on fixed-income investments.

WHEREAS, based on the 16th *Actuarial Valuation Report* rendered by Feliciano F. Miravite, Inc. dated 30 November 2005, it was concluded that the self-sufficiency projections under the current valuation estimate the point of self-sustaining status of RSBS to occur in the year 2058, and that the funds of the System shall be exhausted within 32 years after achieving self-sufficiency in the year 2090;

WHEREAS, the foregoing reports provided an indication of the estimated magnitude of RSBS' Fund deficiency, for the net assets of RSBS to be able to satisfy the retirement benefit payments due to retired/retiring military personnel under existing laws on the retirement benefits due them;

WHEREAS, the Secretaries of the Department of National Defense (DND), Department of Finance (DOF), and the Department of Budget and Management (DBM), together with the Chief of Staff, Armed Forces of the Philippines (CSAFP), have jointly recommended the deactivation and winding down of the RSBS since it does not and will not be able to attain its objective of attaining self-sufficiency, which means that the payment of retirement benefits to be given to retired/retiring military personnel shall continue to be funded by annual appropriations for the AFP in the General Appropriations Act (GAA);

WHEREAS, in order to insure that the Funds of the System shall be preserved for the payment of the refund of members' contributions as and when



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they fall or become due, it is necessary to deactivate the operations of the System in an efficient and orderly manner;

NOW, THEREFORE, I, GLORIA MACAPAGAL-ARROYO, President of the Republic of the Philippines, by virtue of the powers vested in me by law, do hereby order:

SECTION 1. *Deactivation of the Armed Forces of the Philippines Retirement and Separation Benefits System.* – The Armed Forces of the Philippines Retirement and Separation Benefits System, a government instrumentality under the Executive Branch, is hereby deactivated, effective 31 December 2006.

SECTION 2. *Creation of Cabinet Oversight Committee.* – A Cabinet Oversight Committee is hereby created, composed of the *Secretary of National Defense*, the *Secretary of Finance*, the *Secretary of Budget and Management*, together with the *Chief of Staff, Armed Forces of the Philippines (CSAFP)*, and a representative of the Office of the President designated by the President (hereinafter, the “COC-RSBS”). The COC-RSBS shall provide policy guidelines for, and oversee, the final liquidation of assets and liabilities of the RSBS, the winding-down of its operations, and the retirement and separation of its personnel, in accordance with existing laws, rules and regulations, as well as the guidelines set forth in this Executive Order.

SECTION 3. *Specific Guidelines for Deactivation, Liquidation and Winding Down of RSBS.* – The deactivation of RSBS, particularly with respect to the liquidation of its assets and liabilities, as well as the winding-down of its operations, shall be subject to the following guidelines:

- 3.1. *Due Diligence of RSBS and its Subsidiaries.* – In order to accurately determine the financial condition of RSBS, including all of its Subsidiaries, particularly with respect to the actual value of its assets and liabilities for purposes of liquidation, the Secretary of National Defense, in coordination with the Secretary of Finance, shall direct the conduct of a due diligence review of the books of RSBS and its Subsidiaries as of 30 June 2006;
- 3.2. *Transfer of Assets to a Government Financial Institution Preparatory to Liquidation and Winding-Down.* – Upon determination of the net asset value of RSBS and its Subsidiaries, the current assets of the RSBS and its Subsidiaries, shall be transferred to a Government Financial Institution (GFI) [*i.e., Development Bank of the Philippines (DBP) or Land Bank of the*



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Philippines (LBP)] recommended by the Cabinet Oversight Committee created under Section 2 hereof (hereinafter, the "GFI Trustee"), for programmed liquidation (hereinafter, the "Transferred Assets"), whereby the GFI Trustee shall dispose of and liquidate as much of the Transferred Assets, in accordance with the implementing rules and regulations to be issued by the Cabinet Oversight Committee for the purpose;

- 3.3. *Trust Account.* -- The proceeds of the sale of the Transferred Assets shall, together with all the mandatory contributions of military personnel collected by the AFP as prescribed under Section 4 of PD 361 consisting of five percent (5%) of their monthly base pay, shall be remitted to a Trust Account, to be established by the GFI Trustee for the purpose.
- 3.4. *Professional Trust Management of Members' Contributions.* -- The funds in the Trust Account referred to in 1.3 hereof shall be placed under professional trust management of the GFI Trustee, or such other GFI professional fund manager to be approved by the Cabinet Oversight Committee, subject to such investment guidelines as may be prescribed in the rules and regulations to be jointly issued by the DND, DOF and DBM to implement this Executive Order;
- 3.5. *Return of Members' Contributions.* -- The return of members' contributions as mandated under PD 1656, plus six percent (6%) interest upon the retirement of military personnel shall be paid from RSBS funds in the Trust Account as and when they fall due, and shall be guaranteed by the National Government.

SECTION 4. *Separation or Retirement of RSBS Personnel.* -- All officers and employees affected by the deactivation of the RSBS as directed herein shall be retired or separated from the service, in accordance with the provisions of Republic Act No. 6656, otherwise known as "*An Act to Protect the Security of Tenure of Civil Service Officers and Employees in the Implementation of Government Reorganization,*" and other applicable civil service laws, rules and regulations: *Provided,* That in the implementation of the provisions of RA 6656, the provisions of Republic Act No. 6758, entitled "*An Act Prescribing a Revised Compensation and Position Classification in the Government and For Other Purposes,*" otherwise known as the "*Salary Standardization Law*" shall be strictly complied with.



SECTION 5. Assistance by the Government Corporate Counsel.

– The Office of the Government Corporate Counsel (OGCC), is hereby directed to assist the Cabinet Oversight Committee or the GFI Trustee on any aspect relating to the deactivation of the RSBS as directed herein.

SECTION 6. New Philippine Military Retirement System.

– The DND is hereby directed to complete the study and prepare the draft legislation that shall establish and set up a new retirement and pension system for military personnel, that shall have strict guidelines on the organization of its Governing Board, particularly the investment parameters it is allowed to undertake in the course of the management of its funds. The provisions of the new retirement and systems law shall apply only to new recruits or entrants to military service, reckoned from the date of effectivity of the new retirement and pension system law.

SECTION 7. Effectivity.

– This Executive Order shall take effect immediately.

DONE in the City of Manila, this 15th day of December in the year of our Lord, Two Thousand and Six.

Gloria M. Arroyo



By the President:

Eduardo R. Ermita

EDUARDO R. ERMITA
Executive Secretary



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