S E C   A D V I S O R Y

The Securities and Exchange Commission ("SEC") warns the public against entities engaged in FOOD FRANCHISING, FOOD CONCESSIONAIRE ARRANGEMENTS, AND OTHER SIMILAR FOOD BUSINESS SCHEMES which, although presented as legitimate franchising, co-ownership, co-partnership programs, or shared franchise programs, may in reality constitute the offer and sale of securities in the form of investment contracts under Republic Act No. 8799, otherwise known as the Securities Regulation Code ("SRC").

The SEC has observed that there is a growing trend of business models centered on food ventures, ranging from franchising and concessionaire arrangements to pooled funding schemes, where **investors are enticed to contribute capital with promises of passive income, profit-sharing, profit distribution, or projected returns, <u>COUPLED WITH ASSURANCES THAT INVESTORS NEED NOT BE INVOLVED IN THE DAY-TO-DAY MANAGEMENT OR OPERATIONS OF THE BUSINESS</u>.**

While franchising, concessionaire arrangements, and other food business partnership and/or agreements are generally recognized as legitimate commercial undertakings, the SEC emphasizes that the designation of a scheme as a "franchise," "sub-franchise," "co-ownership," "joint venture," "shared franchise," "profit-sharing," "profit distribution," or "partnership" does not, by itself, exempt it from the coverage of the SRC. Evidently, **when the elements of an investment contract are present, the arrangement may be deemed as securities regardless of the terminology used to describe it.**

Offers of investment opportunities that are in the nature of **"investment contracts,"** which are classified as "securities" under the Securities Regulation Code needs to be registered with the Commission and that the company and individual representatives thereof offering and selling the same needs to be licensed and registered as broker in securities and salesmen, respectively.

The elements of an investment contract were enumerated in the case of *Power Homes Unlimited Corporation vs. SEC (G.R. No. 164182 February 26, 2008)* traced from the case of *SEC vs. Howey Co. (66 S. Ct.1100 May 27, 1946)* and was later modified in the case of *SEC vs Glenn W. Turner Enterprises, Inc. (474 F.2d476 February 1, 1973)*, as follows:

- An investment of money;
- A common enterprise;
- Expectation of profits; and
- Profits arises primarily from the entrepreneurial and managerial efforts of the others.

As discussed earlier, **investors are enticed to contribute capital with promises of passive income, profit-sharing, profit-distribution, or projected returns, <u>COUPLED WITH ASSURANCES THAT INVESTORS NEED NOT BE INVOLVED IN THE DAY-TO-DAY MANAGEMENT OR OPERATIONS OF THE BUSINESS.</u> Such facts sufficiently satisfy the elements of an investment contract.**

Accordingly, under the SRC, securities must be duly registered with the SEC prior to being offered or sold to the public and that persons engaged in the business of selling or soliciting investments must be properly registered and licensed with the Commission.

The SEC reiterates that the mere registration of a corporation does not grant it authority to offer or sell securities or to solicit investments from the public. Such authority requires a separate and specific registration and license under the SRC.

Any entity found to be offering or selling unregistered securities, as well as the officers, directors, agents, and representatives involved in the solicitation thereof, may be held administratively, civilly, and criminally liable under the law.

The SEC strongly urges the public to exercise extreme caution and to conduct thorough due diligence before participating in such schemes that promises passive income, guaranteed returns, or earnings with minimal participation.

The public is highly encouraged to verify with the SEC, through the Enforcement and Investor Protection Department ("EIPD), via email at **epd@sec.gov.ph**, whether the securities being offered are duly registered with the Commission and that the individuals or entities promoting the same are properly authorized to solicit investments.

For the information and guidance of the public.

Makati City, 20 February 2026.