

EDDIE BAZA CALVO  
Governor



RAY TENORIO  
Lieutenant Governor

*Office of the Governor of Guam*

NOV 27 2013

Honorable Judith T. Won Pat, Ed.D.  
Speaker  
*I Mina' trentai Dos Na Liheslaturan Guåhan*  
155 Hesler Street  
Hagåtña, Guam 96910

32-13-1027  
Office of the speaker  
Judith T. Won Pat, Ed. D.  
Date 11-27-13  
Time 9:58am  
Received by: [Signature]

2013 NOV 29 AM 11:12

Dear Madame Speaker:

Transmitted herewith is Bill No. 170-32 (LS) "AN ACT TO ADD A NEW SUBSECTION (w) TO § 8104, AND TO AMEND §§ 8139.1, 8143(j), 8144, 8145, 8146, 8149, 8150, 8151, 8152, 8153, 8154, 8156, 8157, 8158 AND 8158.1, ALL OF ARTICLE 1, CHAPTER 8 OF TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO THE DEFINED BENEFITS PLAN OF THE GOVERNMENT OF GUAM RETIREMENT FUND" which I signed into law on November 27, 2013 as Public Law 32-086.

*Senseramente,*

EDDIE BAZA CALVO



*I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN*  
2013 (FIRST) Regular Session

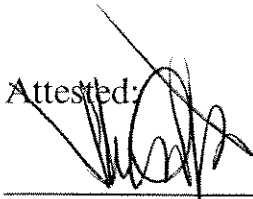
**CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN**

This is to certify that **Bill No. 170-32 (LS)**, "AN ACT TO ADD A NEW SUBSECTION (w) TO § 8104, AND TO AMEND §§ 8139.1, 8143(j), 8144, 8145, 8146, 8149, 8150, 8151, 8152, 8153, 8154, 8156, 8157, 8158 AND 8158.1, ALL OF ARTICLE 1, CHAPTER 8 OF TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO THE DEFINED BENEFITS PLAN OF THE GOVERNMENT OF GUAM RETIREMENT FUND", was on the 12<sup>th</sup> day of November 2013, duly and regularly passed.



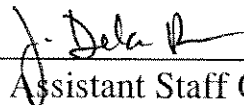
Judith T. Won Pat, Ed.D.  
Speaker

Attested:



Tina Rose Muña Barnes  
Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 15<sup>th</sup> day of Nov., 2013, at 11:28 o'clock A.M.



Assistant Staff Officer  
*Maga'lahi's Office*

APPROVED:



EDWARD J.B. CALVO  
*I Maga'lahaen Guåhan*

Date:

NOV 27 2013

Public Law No. 32-086

*I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN*  
**2013 (FIRST) REGULAR SESSION**

**Bill No. 170-32 (LS)**

As amended on the Floor.

Introduced by:

Vicente (ben) C. Pangelinan  
Michael F. Q. San Nicolas  
T. C. Ada  
V. Anthony Ada  
FRANK B. AGUON, JR.  
B. J.F. Cruz  
Chris M. Dueñas  
Michael T. Lintiaco  
Brant T. McCreadie  
Tommy Morrison  
T. R. Muña Barnes  
R. J. Respicio  
Dennis G. Rodriguez, Jr.  
Aline A. Yamashita, Ph.D.  
Judith T. Won Pat, Ed.D.

**AN ACT TO ADD A NEW SUBSECTION (w) TO § 8104,  
AND TO AMEND §§ 8139.1, 8143(j), 8144, 8145, 8146,  
8149, 8150, 8151, 8152, 8153, 8154, 8156, 8157, 8158 AND  
8158.1, ALL OF ARTICLE 1, CHAPTER 8 OF TITLE 4,  
GUAM CODE ANNOTATED, RELATIVE TO THE  
DEFINED BENEFITS PLAN OF THE GOVERNMENT  
OF GUAM RETIREMENT FUND.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*  
3 finds that legislative action is needed to improve the government of Guam's  
4 ability to meet its obligations to fund the Retirement Fund Defined Benefits Plan.

1 The statutory limitations in the Defined Benefits Plan pertaining to investments  
2 should *not* result in unintended consequences, such as encouraging the  
3 Government of Guam Retirement Fund (Fund) to take undue investment risks, or  
4 permitting disproportionate risks for some asset classes and some investment  
5 vehicles, which might result in an imprudent investment portfolio.

6 *I Liheslaturan Guåhan* finds that the investment limitations in current law  
7 must be updated and revised to expand the Fund’s opportunity to improve the risk  
8 adjusted return of the investment portfolio for the benefit of the Retirement Fund  
9 as a whole.

10 *I Liheslaturan Guåhan* finds inconsistent treatment in provisions allowing  
11 investments in various equity categories, while prohibiting investments in non-  
12 investment grade corporate bonds, even though all bond categories (including  
13 high-yield) can be safer and more protected under stress scenarios than equities  
14 because of established capital structure priorities.

15 *I Liheslaturan Guåhan* further finds similar inconsistent treatment in  
16 provisions that allow bond investments so long as they are included in the  
17 applicable bond benchmark (e.g., the U.S. Aggregate Index), while prohibiting  
18 equity investments in certain non-U.S. headquartered companies even though  
19 such companies do most of their businesses in the U.S. and are included in  
20 applicable U.S. equity benchmarks (e.g., the Russell 1000 Index and the Russell  
21 2000 Index).

22 *I Liheslaturan Guåhan* further finds that current statutes limiting non-U.S.  
23 investments, which had a historical purpose of controlling risks in under-  
24 developed markets, are no longer relevant today and may be significantly  
25 inconsistent with global opportunity sets.

26 *I Liheslaturan Guåhan* further finds that, for purposes of quantitative  
27 limitations, further clarity is needed when classifying investments by asset classes

1 (e.g., stocks and bonds) and by the vehicles used to purchase such stocks and  
2 bonds (e.g., in mutual funds, exchange traded funds, index funds).

3 *I Liheslaturan Guðhan* further finds that capital requirements for non-  
4 locally chartered bank custodians and for investment agents should be updated  
5 and more clearly defined in accordance with Federal Deposit Insurance  
6 Corporation Regulations, and increased in accordance with the level of assets  
7 under Fund management since the statute was enacted.

8 *I Liheslaturan Guðhan* further finds that the fiduciary duties of the Board  
9 of Trustees of the Fund should expressly reflect that their investment decisions  
10 respecting individual assets should be evaluated not in isolation, but in the context  
11 of the Fund's portfolio as a whole, and as part of an overall investment strategy  
12 having risk and return objectives reasonably suited to the Fund.

13 Accordingly, the Board of Trustees' decisions or actions in discharging  
14 their fiduciary duties should be reviewed in light of the facts and circumstances  
15 existing at the time of such decision or action, and not by hindsight.

16 Based on these findings, *I Liheslaturan Guðhan* intends to amend the  
17 Defined Benefits Plan statute: (1) to allow investments in non-investment grade  
18 U.S. corporate bonds, up to eight percent (8%) of the Fund at cost and  
19 investments in U.S. and non-U.S. stocks, either directly or indirectly through  
20 purchases in investment funds or exchange traded funds, up to seventy percent  
21 (70%) of the Fund at cost; (2) to clarify that such quantitative limitations on direct  
22 and indirect investments in specific asset classes are separate from the  
23 quantitative limitations for the investment vehicles (e.g., investment funds or  
24 exchange traded funds); (3) to increase the capital base required for non-locally  
25 chartered bank custodians and for investment agents to One Billion Dollars  
26 (\$1,000,000,000); and (4) to expressly state how the Board of Trustees'

1 investment decisions should be evaluated based on risk and return objectives  
2 reasonably suited to the Fund.

3 **Section 2.** A new Subsection (w) is hereby *added* to §8104 of Article 1,  
4 Chapter 8, Title 4, Guam Code Annotated, to read:

5 “(w) *Tier 1 Capital shall* have the meaning set forth in regulations  
6 promulgated by the Federal Deposit Insurance Corporation as codified in the  
7 Code of Federal Regulations, 12 C.F.R. § 325, as amended from time to  
8 time.”

9 **Section 3.** §8139.1 of Article 1, Chapter 8, Title 4, Guam Code Annotated,  
10 is hereby *amended* to read:

11 **“§ 8139.1. Fiduciary Duties.**

12 (a) The members of the Board of Trustees stand in a fiduciary  
13 relationship to the beneficiaries of the Retirement Fund in regard to the  
14 management of the Fund.

15 (b) The members of the Board of Trustees *shall* discharge their  
16 duties with respect to management of the Retirement Fund:

17 (1) solely in the interest of the members and beneficiaries of  
18 the Fund, and for the exclusive purpose of providing benefits to  
19 members and beneficiaries and defraying reasonable expenses of  
20 administering the Fund;

21 (2) with the care, skill, and prudence and diligence under the  
22 circumstances then prevailing that a prudent person acting in a like  
23 capacity and familiar with such matters would use in the conduct of an  
24 enterprise of a like character and with like aims;

25 (3) by diversifying the investments of the Fund so as to  
26 minimize the risk of large losses, unless under the circumstances it is  
27 clearly prudent not to do so; and

1 (4) in accordance with the documents and instruments  
2 governing the Fund.

3 (c) *Unless* otherwise provided in this Chapter, investment and  
4 management decisions respecting individual assets *shall* be evaluated *not* in  
5 isolation, but in the context of the Fund's portfolio as a whole, and as a part  
6 of an overall investment strategy having risk and return objectives  
7 reasonably suited to the Fund.

8 (d) A Trustee's decision or action in discharging his or her  
9 fiduciary duties *shall* be reviewed in light of the facts and circumstances  
10 existing at the time of such decision or action, and *not* by hindsight."

11 **Section 4.** Subsection (j) of §8143 of Article 1, Chapter 8, Title 4, Guam  
12 Code Annotated, is hereby *amended* to read:

13 "(j) Before the Board may approve by resolution the acquisition of  
14 real property consisting of physical assets under §4225.16 of the  
15 Government Code, as amended, codified as §8159 of Title 4 GCA, the  
16 following steps must be taken:

17 (1) the proposed acquisition must be reviewed and  
18 recommendations must be submitted to the Board by an investment  
19 agent as defined under §8145 of this Chapter;

20 (2) the completion of an in-house evaluation of the proposed  
21 acquisition must be completed;

22 (3) a review of the proposed acquisition as to legal  
23 sufficiency must be made by the Attorney General; and

24 (4) a review and recommendation must be submitted by  
25 three (3) members of the Board of Trustees.

26 At *no* time *shall* an acquisition considered under this Subsection (j) be  
27 made that would provide an immediate investment return which is less than

1 the average rate of investment return that the Fund is receiving overall on its  
2 alternative investment portfolio.”

3 **Section 5.** §8144 of Article 1, Chapter 8, Title 4, Guam Code Annotated,  
4 is hereby *amended* to read:

5 “§ 8144. **Custodian.** The Board *shall* engage one or more  
6 custodians to assume responsibility for the physical possession of fund  
7 assets or evidences of assets. The custodian *shall* submit such reports,  
8 accountings and other information in such form and at such times as  
9 requested by the Board. All costs incurred for custodial services *shall* be a  
10 direct charge to Investment Income. The custodian *shall* hold all assets for  
11 the account of the Government of Guam Retirement Fund, and *shall* act *only*  
12 upon the instructions of the Board, its *ex-officio* director or a member,  
13 committee or agent so authorized by the Board. No custodian shall be  
14 engaged unless it:

15 (a) has been continuously engaged in rendering custody  
16 services for a period of ten (10) or more years; and

17 (b) is organized under the laws of the United States or a  
18 state or territory thereof; and

19 (c) has Tier 1 capital in excess of One Billion Dollars  
20 (\$1,000,000,000) in any rolling 12 month period; and

21 (d) is a member of the Federal Reserve System whose  
22 deposits are insured by the Federal Deposit Insurance Corporation or  
23 any successor thereto; or

24 (e) notwithstanding any of the above, any locally chartered  
25 bank may be a custodian of the Retirement Fund.”

26 **Section 6.** §8145 of Article 1, Chapter 8, Title 4, Guam Code Annotated,  
27 is hereby *amended* to read:



1           “§ 8145.     **Investment Agent.**

2           (a)     In order to secure expert advice and counsel, the Board  
3     may engage an investment agent to serve as investment counsel,  
4     which *shall* be either an investment counsel or a bank trust  
5     department as hereinafter qualified; and one or more investment  
6     agents to serve as investment manager(s) to manage asset classes  
7     identified by the Board upon the recommendation of investment  
8     counsel. All costs incurred in this connection *shall* be a direct charge  
9     to investment income.

10          (b)     No person, firm or corporation *shall* be eligible for  
11     employment as investment counsel which acts as principal for its  
12     own account or as broker for a client other than the Fund in  
13     connection with the sale of any security to or the purchase of any  
14     security from the Fund.

15          (c)     No investment agent *shall* be engaged *unless*:

16                 (1)     the principal business of the person, firm or  
17     corporation selected by the Board consists of rendering  
18     investment supervisory services, that is, the giving of  
19     continuous advice as to the investment of Funds on the basis of  
20     the individual needs of each client; and

21                 (2)     the principal ownership or control of such person,  
22     firm or corporation rests with individuals who are actively  
23     engaged in such business; and

24                 (3)     such person, firm or corporation and its  
25     predecessors have been continuously engaged in such business  
26     for a period of ten (10) or more years; and

1 (4) such person, firm or corporation is registered as  
2 an investment adviser under the laws of the United States of  
3 America as from time to time in effect; and is in good standing  
4 with the Financial Industry Regulatory Authority (FINRA) and  
5 the Security and Exchange Commission (SEC) on a continuous  
6 and ongoing basis; and

7 (5) the contract between the Board and the investment  
8 agent is of no specified duration and is voidable at any time by  
9 either party; and

10 (6) such person, firm or corporation certifies in  
11 writing, to the Board, that the assets under its direct investment  
12 supervision are in excess of One Billion Dollars  
13 (\$1,000,000,000) in any rolling 12 month period.

14 (d) The Board *shall not* engage a bank trust department  
15 *unless* it:

16 (1) certifies in writing, to the Board, that the assets  
17 under its direct investment supervision are in excess of One  
18 Billion Dollars (\$1,000,000,000) in any rolling 12 month  
19 period; and

20 (2) has been, together with its predecessors,  
21 continuously engaged in supervising investments for a period of  
22 ten (10) or more years; and

23 (3) is organized under the laws of the United States or  
24 a state or territory thereof; and

25 (4) has Tier 1 capital in excess of One Billion Dollars  
26 (\$1,000,000,000) in any rolling 12 month period; and

1 (5) is a member of the Federal Reserve System whose  
2 deposits are insured by the Federal Deposit Insurance  
3 Corporation or any successor thereto.

4 (e) The Board, or its designee under § 8143(a), *shall*  
5 establish and may from time to time change operating arrangements  
6 with the investment agent in order to facilitate efficient management  
7 and timely investment action.

8 (f) *No investment shall be made unless* in the opinion of the  
9 investment agent it is an appropriate investment for the Fund and is an  
10 authorized investment under §§ 8143 through 8159, inclusive, or in  
11 the absence of such opinion, unless preceded by a resolution of the  
12 Board directing the investment.”

13 **Section 7.** § 8146 of Article 1, Chapter 8, Title 4, Guam Code Annotated,  
14 is hereby *amended* to read:

15 “§ 8146. **General Investment Limitations.** *No investment shall*  
16 *be made if, after such investment, the Fund would own:*

17 (a) any combination of obligations of any one political  
18 subdivision, corporation or other single issuing entity in excess of five  
19 percent (5%) of Fund assets at cost. This limitation *shall not* apply to  
20 general obligations of the United States, investments authorized under  
21 § 8150, or general obligations of the government of Guam.

22 (b) any combination of investment instruments as covered by  
23 § 8151, Subsection (b) of § 8154, Subsection (b) of § 8156, and  
24 Subsection (b) of § 8157 in excess of thirty-five percent (35%) of  
25 Fund assets at cost.

26 (c) Obligations or other investments issued or guaranteed by  
27 the government of Guam in excess of ten percent (10%) of Fund

1 assets at cost; provided, however, that this limitation *shall not* apply to  
2 such obligations or other investments that are unconditionally  
3 guaranteed as to principal and interest by, or supported by lease  
4 assignment from, another entity whose principal business is outside of  
5 Guam, and whose obligations are authorized investments under §§  
6 8143 through 8159, inclusive.”

7 **Section 8.** § 8149 of Article 1, Chapter 8, Title 4, Guam Code Annotated,  
8 is hereby *amended* to read:

9 **“§ 8149. Same: Bank Deposits; Other Cash Equivalents.**

10 (a) Interest-bearing time deposits, demand deposits, and cash  
11 sweep deposit accounts in banks organized under the laws of the United  
12 States or any state or territory thereof; provided, that said bank:

13 (1) has Tier 1 capital in excess of One Billion Dollars  
14 (\$1,000,000,000) in any rolling 12 month period; and

15 (2) is a member of the Federal Reserve System; and

16 (3) together with any predecessors, have been conducting a  
17 banking business for a continuous period of ten (10) or more years; or

18 (4) any bank or savings and loan association chartered in  
19 Guam, and is a member of the Federal Deposit Insurance Corporation  
20 or the Federal Home Loan Bank System.

21 (b) Cash equivalents purchased in investment funds authorized  
22 under §8158, or in exchange-traded funds authorized under §8158.1; in  
23 amounts and for durations approved by the Board in connection with the  
24 management of uninvested cash balances; such purchases *shall* be excluded  
25 from limitations of §8158(e) and § 8158.1(b).”

26 **Section 9.** §8150 of Article 1, Chapter 8, Title 4, Guam Code Annotated,  
27 is hereby *amended* to read:

1           “§ 8150.   **Same: Bonds of United States and Federal**  
2   **Instrumentalities.**

3           (a) Bonds or other evidence of indebtedness of the United States of  
4   America, or any of its agencies or instrumentalities, when such obligations  
5   are guaranteed as to principal and interest by the United States of America or  
6   by any agency or instrumentality thereof;

7           (b) Debt securities issued by the Federal National Mortgage  
8   Association or the Federal Home Loan Mortgage Corporation that are  
9   backed by pools of mortgage loans and guaranteed as to timely repayment of  
10  principal and interest by the Federal National Mortgage Association or the  
11  Federal Home Loan Mortgage Corporation; or

12          (c) Non-mortgage-related bonds or other evidence of indebtedness  
13  of the Federal National Mortgage Association or the Federal Home Loan  
14  Mortgage Corporation.

15          (d) Bonds authorized under this Section may be purchased and held  
16  in investment funds authorized under §8158, or in exchange-traded funds  
17  authorized under §8158.1; such purchases *shall* be excluded from the  
18  limitations of §8158(e) and §8158.1(b).”

19   **Section 10.** § 8151 of Article 1, Chapter 8, Title 4, Guam Code Annotated,  
20  is hereby *amended* to read:

21           “§ 8151.   **Same: Bonds Issued by National Governments Other**  
22  **Than the United States.** Bonds and other evidences of indebtedness  
23  which are direct obligations of, or secured by, the full faith and credit of  
24  national governments other than the United States, where there exists the  
25  power to levy taxes for the prompt payment of the principal and interest of  
26  such bonds or evidences of indebtedness, provided that:

1 (a) the issuer *shall not* be in default in the payment of  
2 principal or interest on any bonds or other evidences of indebtedness;  
3 and

4 (b) the investment agent determines that such an investment  
5 would be employed by a prudent person acting in a like capacity and  
6 familiar with such matters would use in the investment of a fund with  
7 like character and with like aims; and

8 (c) *no* investment *shall* be made in any one (1) issue  
9 described in this Section in an amount in excess of ten percent (10%)  
10 of such issues.

11 (d) Bonds authorized under this Section may be purchased  
12 and held in investment funds authorized under §8158, or in exchange-  
13 traded funds authorized under §8158.1; such purchases *shall* be  
14 excluded from the limitations of §8158(e) and §8158.1(b).”

15 **Section 11.** §8152 of Article 1, Chapter 8, Title 4, Guam Code Annotated,  
16 is hereby *amended* to read:

17 **“§ 8152. Same: Bonds of States and Territories.**

18 (a) Bonds or other evidences of indebtedness which are direct  
19 obligations of or secured by the full faith and credit of, any state or territory  
20 of the United States, or the District of Columbia, where there exists the  
21 power to levy taxes for the prompt payment of the principal and interest of  
22 such bonds or evidences of indebtedness; but the issuer *shall not* be in default  
23 in the payment of principal or interest on any bonds or other evidences of  
24 indebtedness.

25 (b) Bonds authorized under this Section may be purchased and held  
26 in investment funds authorized under §8158, or in exchange-traded funds

1 authorized under §8158.1; such purchases *shall* be excluded from the  
2 limitations of §8158(e) and §8158.1(b).”

3 **Section 12.** §8153 of Article 1, Chapter 8, Title 4, Guam Code Annotated, is  
4 hereby *amended* to read:

5 “§ 8153. **Same: Public Revenue Bonds.** Bonds or other  
6 obligations which are payable from revenues or earnings specifically pledged  
7 therefore of a public utility, state, municipally or territorially owned, either  
8 directly or through civil division, authority or public instrumentality of a state  
9 or territory or municipality; provided that:

10 (a) the laws of the state or territory or municipality  
11 authorizing the issuance of such bonds or other obligations require  
12 that rates for service *shall* be fixed, maintained and collected at all  
13 times so as to produce sufficient revenue or earnings to pay all  
14 operating and maintenance charges, and both principal and interest of  
15 such bonds or obligations; and

16 (b) *no* such bonds or other *obligations* shall be in default in  
17 the payment of principal or interest.

18 Bonds authorized under this Section may be purchased and held in  
19 investment funds authorized under §8158, or in exchange-traded funds  
20 authorized under §8158.1; such purchases *shall* be excluded from the  
21 limitations of §8158(e) and §8158.1(b).”

22 **Section 13.** §8154 of Article 1, Chapter 8, Title 4, Guam Code Annotated,  
23 is hereby *amended* to read:

24 “§ 8154. **Same: Bonds of Domestic and Foreign Corporations;  
25 Index-Eligible Securities.**

26 (a) Bonds of Domestic Corporations. Bonds, debentures, notes and  
27 other evidences of indebtedness of any corporation, or corporations created

1 or existing under the laws of the United States, or of any of the states or  
2 territories of the United States, or the District of Columbia, which are *not* in  
3 default either as to principal or interest, provided that:

4 (1) such bonds or other evidence of indebtedness are rated  
5 within the four (4) highest categories of two (2) nationally recognized  
6 and published rating services which have been approved by the Board  
7 and the investment agent; or

8 (2) in case such bonds or other evidence of indebtedness are  
9 *not* so rated by two (2) such services, investments in such lesser-  
10 ranked domestic corporate bonds *shall not* exceed eight percent (8%)  
11 of the Fund at cost; *unless* the net earnings available for fixed charges  
12 over a prior period of five (5) fiscal years next preceding the date of  
13 investment have averaged per year and during either of the last two (2)  
14 years have been, after depreciation and after taxes, *not less than*:

15 (A) two (2) times its average annual fixed charges over  
16 the same period, in the case of any public utility company;

17 (B) one and one-half (1½) times its average annual  
18 fixed charges over the same period, in the case of any finance  
19 company; or

20 (C) three (3) times its average annual fixed charges  
21 over the same period, in the case of any other company.

22 (3) *No more than* two percent (2%) of the Fund at cost *shall*  
23 be invested in the obligations of any one (1) domestic corporation or  
24 other single domestic issuing entity described in this Subsection.

25 (b) Bonds of Foreign Corporations. Bonds, debentures, notes and  
26 other evidences of indebtedness of any corporation, or corporations created  
27 or existing under the laws of nations other than the United States which are



1        *not* in default either as to principal or interest; provided, that the investment  
2        agent in its informed opinion, determines that such an investment would be  
3        employed by a prudent person acting in a like capacity and familiar with such  
4        matters would use in the investment of a fund of like character and with like  
5        aims. *No more than* one and one-half percent (1½%) of the Fund at cost *shall*  
6        be invested in the obligations of any one (1) foreign corporation or other  
7        single issuing foreign entity described in this Subsection.

8            (c) *No* investment *shall* be made in any one (1) issue described in  
9        Subsections (a) and (b) of this Section in an amount in excess of ten percent  
10       (10%) of such issues.

11           (d) Other Securities in the U.S. Aggregate Bond Index. Bonds,  
12        debentures, notes and other evidences of indebtedness which are  
13        denominated in U.S. dollars, investment-grade, fixed-rate and of the quality  
14        of fixed income securities covered by the U.S. Aggregate Bond Index.

15           (e) Bonds authorized under this Section may be purchased and held  
16        in investment funds authorized under §8158, or in exchange-traded funds  
17        authorized under §8158.1; such purchases *shall* be excluded from the  
18        limitations of §8158(e) and §8158.1(b).”

19        **Section 14.** §8156 of Article 1, Chapter 8, Title 4, Guam Code Annotated, is  
20        hereby *amended* to read:

21            “§ 8156.        **Same: Domestic and Foreign Preferred Stock.**

22            (a) Domestic Preferred Stock. Domestic preferred or guaranteed  
23        stock or shares of any institution created or existing under the laws of the  
24        United States or of any state, district or territory thereof or the District of  
25        Columbia; provided that:

1 (1) All publicly held prior obligations and prior preferred  
2 stock, if any, of such institution at the date of acquisition are eligible as  
3 investments under §§ 8143 through 8160; and

4 (2) the net earnings of the institution available for fixed  
5 charges over a period of five (5) fiscal years next preceding the date of  
6 investment have averaged per year, and during either of the last two (2)  
7 years have been, after depreciation and after income taxes, *no less*  
8 *than:*

9 (A) two times its average annual fixed charges,  
10 maximum contingent interest and preferred dividend  
11 requirements over the same period, in the case of any public  
12 utility company; or

13 (B) three (3) times its average annual fixed charges,  
14 maximum contingent interest and preferred dividend  
15 requirements over the same period, in the case of any other  
16 company.

17 For purposes of this Subsection, the term *preferred dividend*  
18 *requirements shall* mean cumulative and noncumulative dividends on  
19 all preferred stock of the issuer, whether paid or not.

20 (b) Foreign Preferred Stock. Foreign preferred or guaranteed stock  
21 or shares of any institution created or existing under the laws of nations other  
22 than the United States which are *not* in default either as to principal or  
23 interest; provided, that the investment agent in its informed opinion,  
24 determines that such an investment would be employed by a prudent person  
25 acting in a like capacity and familiar with such matters would use in the  
26 investment of a fund of like character and with like aims.

27 (c) Limitations:

1 (1) *No investment shall* be made in any one issue described in  
2 Item (1) of Subsection (a) of this Section in an amount in excess of ten  
3 percent (10%) of such issues.

4 (2) *No more than two percent (2%)* of the Fund at cost shall  
5 be invested in the preferred stock of any one issuing domestic  
6 company.

7 (3) *No more than two percent (2%)* of the Fund at cost shall be  
8 invested in the preferred stock of any one issuing foreign company.

9 (4) The aggregate of all investments authorized under this  
10 Section *shall not* exceed fifteen percent (15%) of Fund assets at cost.

11 (5) Preferred stock authorized under this Section may be  
12 purchased and held in investment funds authorized under §8158, or in  
13 exchange-traded funds authorized under §8158.1; such purchases *shall*  
14 be excluded from the limitations of §8158(e) and §8158.1(b).”

15 **Section 15.** §8157 of Article 1, Chapter 8, Title 4, Guam Code Annotated, is  
16 hereby *amended* to read:

17 **“§ 8157. Same; Common Stock.**

18 (a) Common or capital stock of any institution or entity created or  
19 existing under the laws of the United States, or any state, district, or territory  
20 thereof, or of the District of Columbia or of any foreign country; provided  
21 that, with respect to *at least* fifty percent (50%) of the investments at cost  
22 purchased directly under this Section:

23 (1) the issuing institution, entity, or a predecessor thereto, has  
24 reported a profit in *at least* four (4) of the five (5) fiscal years next  
25 preceding the date of investment, or alternatively in *at least* seven (7) of  
26 the ten (10) fiscal years next preceding the date of investment; and

1           (2) the institution, entity or such predecessor has paid cash  
2 dividends on its common or capital stock in *at least* four (4) of the five  
3 (5) years next preceding the date of investment, or alternatively in *at*  
4 *least* seven (7) of the ten (10) fiscal years next preceding the date of  
5 investment; and

6           (3) total cash dividends have *not* exceeded total earning in the  
7 five (5) years next preceding the date of investment; and

8           (4) on the date of investment, the issuer *shall not* be in default  
9 in payment of principal or interest on any of its publicly held bonds or  
10 other evidences of indebtedness; and any contingent interest,  
11 cumulative and noncumulative preferred dividends and dividends on  
12 prior common or capital stock *shall* have been paid in full.

13           *No more than* five percent (5%) of the Fund *shall* be invested directly in  
14 the common or capital stock of anyone issuing domestic company described in  
15 this Section.

16           (b) Common or capital stock of any institution or entity created or  
17 existing under the laws of nations other than the United States; provided, that  
18 the investment agent determines that such an investment would be employed  
19 by a prudent person acting in a like capacity and familiar with such matters  
20 would use in the investment of a fund with like character and with like aims.  
21 *No more than* one and one-half percent (1½%) of the Fund at cost *shall* be  
22 invested directly in the common or capital stock of anyone issuing foreign  
23 company described in this Section.

24           (c) *No* direct investment *shall* be made in any one (1) issue described  
25 in this Section in an amount in excess of ten percent (10%) of such issues.

26           (d) Common or capital stock of any institution or entity created or  
27 existing under the laws of the United States, or any state, district, or territory

1           thereof, or of the District of Columbia, or of any foreign country, purchased  
2           and held in investment funds authorized under §8158, or in exchange-traded  
3           funds authorized under §8158.1; such purchases being excluded from the  
4           limitations of §8158(e) and §8158.1(b).

5           (e)     The aggregate amount of all direct and indirect investments under  
6           this Section at cost *shall not* exceed seventy percent (70%) of the Fund.”

7           **Section 16.** § 8158 of Article 1, Chapter 8, Title 4, Guam Code Annotated, is  
8           hereby *amended* to read:

9                     **“§ 8158.     Investment Funds.**

10           (a)     Common or capital shares of any investment trust or mutual fund  
11           (including any index fund) registered with the Securities and Exchange  
12           Commission under the Investment Company Act of 1940, as from time to time  
13           amended; provided, that the cost of the shares acquired is no greater than their  
14           net asset value on the date of acquisition.

15           (b)     Units in any common trust fund or commingled fund (including  
16           any index fund) maintained by a custodian meeting the requirements of Title 4  
17           GCA, § 8144, and advised or sub-advised by an investment management  
18           organization meeting the requirements of Title 4 GCA, § 8145.

19           (c)     Preferred shares of any investment trust or mutual fund  
20           (including any index fund) registered with the Securities and Exchange  
21           Commission under the Investment Company Act of 1940, as from time to time  
22           amended; provided that:

23                     (1)     the number of issued and outstanding common or capital  
24                     shares multiplied by their asset value per share, plus;

25                     (2)     the number of issued and outstanding preferred shares,  
26                     multiplied by their par or stated value, is *at least* fifty percent (50%)  
27                     greater than the number of issued and out-standing preferred shares,

1 multiplied by their par or stated value. For purposes of this Section, the  
2 number of issued and outstanding shares *shall* be taken as of the latest  
3 available public report of such investment trust or mutual fund.  
4 Preferred shares as described in this Subsection *shall not* be subject to  
5 the provisions of §8156.

6 (d) The term *net asset value* as used in this Section *shall* mean the  
7 total quoted or estimated market value of all securities or other assets owned,  
8 less that total of all determinable liabilities, as reported by such common trust  
9 fund, commingled fund, investment trust or mutual fund.

10 (e) Limitation:

11 (1) The investment in units, preferred, common and capital  
12 stock of any one common trust fund, commingled fund, investment trust  
13 or mutual fund *shall not* exceed five percent (5%) of the Fund at cost;  
14 and

15 (2) The aggregate of all investments under this Section, *except*  
16 for investment fund purchases of cash equivalents authorized under  
17 §8149, bonds authorized under §§8150 through 8154, domestic and  
18 foreign preferred stock authorized under §8156, and common or capital  
19 stock authorized under §8157, *shall not* exceed thirty percent (30%) of  
20 the Fund at cost.”

21 **Section 17.** §8158.1 of Article 1, Chapter 8, Title 4, Guam Code Annotated,  
22 is hereby *amended* to read:

23 **“§ 8158.1. Exchange Traded Funds.**

24 (a) Units *or* shares of any exchange traded fund (ETF) established as  
25 an open-end investment management company *or* a unit investment trust  
26 registered with the Securities and Exchange Commission under the Investment  
27 Company Act of 1940, as from time to time amended. Although ETFs may

1 trade at prices established throughout the trading day, like any other listed  
2 equity security trading in the secondary market on an exchange, the units *or*  
3 shares described in this Subsection *shall not* be subject to the provisions of  
4 §8157. Although ETFs are unit investment trusts, the units *or* shares described  
5 in this Subsection *shall not* be subject to the provisions of §8158.

6 (b) The investment in units *or* shares of any one exchange traded fund  
7 *shall not exceed* twenty percent (20%) of the Fund at cost.”

8 **Section 18. Effective Date.** This Act *shall* become effective upon enactment.

9 **Section 19. Severability.** *If* any provision of this Act or its application to any  
10 person or circumstances is held invalid, the invalidity *shall* not affect any other  
11 provision or applications of this Act which can be given effect without the invalid  
12 provision or application, and to this end the provisions of this Act are severable.