



ANNOTATED

IMPLEMENTING RULES AND REGULATIONS
OF THE

Securities Regulation Code

as Amended

PURSUANT TO

Republic Act No. 8799

EDITORIAL NOTE

The Annotated 2015 Implementing Rules and Regulations of the Securities Regulation Code ("Annotated 2015 SRC-IRR") is an official reference material of the Securities and Exchange Commission ("SEC" or the "Commission") mainly for general research and public information purposes.

This material consolidates, annotates, and cross-references the 2015 Implementing Rules and Regulations of the Securities Regulation Code, relevant SEC Memorandum Circulars, and related Commission issuances for ease of reference and public guidance. It is intended to assist regulated entities, practitioners, researchers, and the public in locating and understanding the relationship among existing SEC rules and issuances under the Securities Regulation Code.

The Annotated SRC-IRR does not, by itself, amend, repeal, supersede, or replace any existing rule, regulation, Memorandum Circular, or other SEC issuance, unless expressly stated in a duly approved Commission issuance. In case of inconsistency, the duly promulgated SRC IRR, SEC Memorandum Circulars, and other official SEC issuances shall prevail.

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Annotated SRC-IRR Project Team
Office of the General Counsel
Securities and Exchange Commission

CITATION GUIDE

The Annotated 2015 Implementing Rules and Regulations of the Securities Regulation Code (“Annotated 2015 SRC-IRR”) should be used only as official reference material of the Securities and Exchange Commission for public information purposes, and not as an independently promulgated rule, regulation, or separate source of legal authority.

For formal pleadings, legal opinions, memoranda, and other official submissions, the underlying SRC IRR provision as amended by a particular SEC Memorandum Circular, or other official SEC issuance being relied upon should be cited directly as the controlling legal authority.

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**IMPLEMENTING RULES AND REGULATIONS OF THE SECURITIES REGULATION
CODE (REPUBLIC ACT NO. 8799)**

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TITLE I Title and Definitions

RULE 1 - Reference

These Rules shall be referred to as the “2015 Implementing Rules and Regulations of the Securities Regulation Code” or “2015 SRC Rules”.

RULE 2 - Interpretation of the Rules

Any doubt that may arise in the interpretation of these Rules shall be resolved by the Commission in a manner that would accomplish the following objectives: (i) organize a socially-conscious and self-regulating market, (ii) encourage wide public ownership of business enterprises, (iii) promote the development of the capital market, (iv) protect the investors, (v) ensure full and timely disclosure of material information, and (vi) minimize, if not eliminate, fraudulent or manipulative devices and practices that create distortions in a free market.

RULE 3 - Definition of Terms

- 3.1.** As used in these Rules, unless the context provides otherwise:
- 3.1.1. Associate** is an entity, including an unincorporated entity such as partnership, over which the investor has significant influence and that is neither a subsidiary or an interest in a joint venture.
- 3.1.2. Beneficial owner or beneficial ownership¹** means any person who, directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, has or shares voting power (which includes the power to vote or direct the voting of such security) and/or investment returns or power (which includes the power to dispose of, or direct the disposition of such security); provided, that a person shall be deemed to have an indirect beneficial ownership interest in any security which is:
- 3.1.2.1. held by members of his immediate family sharing the same household;
 - 3.1.2.2. held by a partnership in which he is a general partner;
 - 3.1.2.3. held by a corporation in which he is a controlling shareholder;
or
 - 3.1.2.4. subject to any contract, arrangement or understanding which gives him voting power or investment power with respect to such securities; provided, that the following persons or institutions shall not be deemed to be beneficial owners of securities held by them for the benefit of third parties or in customer or fiduciary accounts in the ordinary course of business, as long as such shares were acquired by such persons or institutions without the definite and/or clear intention of effecting a change or influencing the control of the Issuer:
 - 3.1.2.4.1. A broker dealer;

¹ See MC 15-2025 Re: Guidelines on Beneficial Ownership Disclosure dated 22 December 2025, Section 5 (d). “Beneficial Owner refers to any natural person who ultimately owns or controls or exercises ultimate effective control over a corporation or legal entity.” For purposes of the SRC IRR, the concept of beneficial ownership is applied in a different context and should not be construed as identical to the foregoing definition.

- 3.1.2.4.2. An investment house registered under the Investment Houses Law;
- 3.1.2.4.3. A bank authorized to operate by the Bangko Sentral ng Pilipinas ("BSP");
- 3.1.2.4.4. A duly-registered insurance company;
- 3.1.2.4.5. An investment company registered under the Investment Company Act;
- 3.1.2.4.6. A pension plan registered with and regulated by the Bureau of Internal Revenue, Insurance Commission or any other regulatory authority; and
- 3.1.2.4.7. An entity whose members are the persons specified above.

All securities of the same class that are beneficially owned by a person, regardless of the form of the beneficial ownership, shall be aggregated in calculating the number of shares that shall be considered as beneficially owned by such person.

A person shall be deemed to be the beneficial owner of a security if that person has the right to acquire beneficial ownership within thirty (30) days from the exercise of any option, warrant or right, or conversion of any security; or pursuant to the power to revoke a trust, discretionary account or similar arrangement; or pursuant to the automatic termination of a trust, discretionary account or similar arrangement.

3.1.3. Bill of Exchange is an unconditional order in writing addressed by one person to another, signed by the person giving it, requiring the person to whom it is addressed to pay on demand or at a fixed or determinable future time a sum certain in money to order or to bearer.

3.1.4. Clearing agency is any entity that provides a facility for the performance of the following activities:

- 3.1.4.1. Make deliveries of securities and/or payments in connection with transactions in securities;
- 3.1.4.2. Reduce the number of settlements of securities transactions or allocate settlement responsibilities in accordance with the rules issued by the Commission or the Exchange; and/or
- 3.1.4.3. Provide the means for the central handling of securities so that transfers, loans, pledges and similar transactions can be made by bookkeeping entry; or otherwise facilitate the settlement of securities transactions without physical delivery of securities certificates.

As used in this Rule, "facility" includes a clearing agency's systems, processes or services and all the properties necessary to operate such systems, processes or services, whether within or outside its specific physical location, for the performance of any or all the activities enumerated in the immediately preceding SRC Rule, as may be authorized by the Commission.

3.1.5. Code means the Securities Regulation Code.

3.1.6. Commercial paper means an evidence of indebtedness of any person with a maturity of three hundred and sixty-five (365) days or less.

3.1.7. Commission means the Securities and Exchange Commission.

3.1.8. Control is the power to determine the financial and operating policies of an entity in order to benefit from its activities. It is presumed to exist

when the parent entity owns, directly or through subsidiaries and/or associates, more than fifty percent (50%) of the voting power of an entity. It also exists when the parent entity owns fifty percent (50%) or less of the voting power of an entity, but has any of the following powers:

- 3.1.8.1. Over more than fifty percent (50%) of the voting rights by virtue of an agreement with other investors;
- 3.1.8.2. To govern the financial and operating policies of the entity under a statute or agreement;
- 3.1.8.3. To appoint or remove the majority of the members of the board of directors or equivalent governing body; or
- 3.1.8.4. To cast the majority of votes at meetings of the board of directors or equivalent governing body.

3.1.9. Derivative is a financial instrument whose value changes in response to changes in a specified interest rate, security price, commodity price, foreign exchange rate, index of prices or rates, credit rating or credit index, or similar variable or underlying factor. It is settled at a future date. This term shall include, but not limited, to the following:

- 3.1.9.1. Options or contracts that give the buyer the right, but not the obligation, to buy or sell an underlying security at a predetermined price called the exercise or strike price, on or before a predetermined date, called the expiry date; and
- 3.1.9.2. Warrants or rights to subscribe or purchase new or existing shares in a company on or before a predetermined date.

3.1.10. Exchange is an organized marketplace or facility that brings together buyers and sellers, and executes trades of securities and/or commodities.

3.1.11. Issuer is any entity authorized by the Commission to offer to sell, sell or promote the sale to the public of its equity, bonds, instruments of indebtedness and other forms of securities.

3.1.12. Material fact or information is any fact or information that may result in a change in the market price or value of any of the Issuer's securities, or may potentially affect the investment decision of an investor.

3.1.13. Non-proprietary share or certificate is an evidence of interest, participation or privilege over a specific property of a corporation that allows the holder of the share or certificate to use such property under certain terms and conditions. The holder, however, shall not be entitled to dividends from the corporation or to its assets upon its liquidation.

3.1.14. Organized marketplace or organized market is an exchange, an over-the-counter market, alternative trading system, or otherwise recognized as such by the Commission, and governed by, among others, transparent and binding rules and market conventions on membership, trading, price transparency, trade reporting, market monitoring and orderly conduct or operation of the market which are enforceable on the members and participants.

3.1.15. Proprietary share or certificate is an evidence of interest, participation or privilege in a corporation which gives the holder of the share or certificate the right to use the facilities covered by such certificate and to receive dividends or earnings from the corporation. Upon the liquidation of the corporation, the holder shall have proportionate ownership rights over its assets.

3.1.16. Public company means any corporation with a class of equity securities listed on an Exchange, or with assets in excess of Fifty Million Pesos

(Php50,000,000.00) and has two hundred (200) or more holders each holding at least one hundred (100) shares of a class of its equity securities.

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:

- 3.1.17.1. Publication in any newspaper, magazine or printed reading material which is distributed within the Philippines;
- 3.1.17.2. Presentation in any public or commercial place;
- 3.1.17.3. Advertisement or announcement on radio, television, telephone, electronic communications, information communication technology or any other forms of communication; or
- 3.1.17.4. Distribution and/or making available flyers, brochures or any offering material in a public or commercial place or to prospective purchasers through the postal system, information communication technology and other means of information distribution.

3.1.18. Registrant means an issuer of securities with respect to which a registration statement, or required issuer report has been or is to be filed.

3.1.19. Reporting company is a corporation that has sold a class of its securities pursuant to a registration under Section 12 of the Code, or a public company, as defined under SRC Rule 3.1.16.

3.1.20. Securities shall include: (a) Shares of stock, bonds, government securities, commercial papers, debentures, notes, evidences of indebtedness, asset-backed securities; (b) Investment contracts, certificates of interest or participation in a profit sharing agreement, certificates of deposit for a future subscription; (c) Fractional undivided interests in oil, gas or other mineral rights; (d) Derivatives like options and warrants; (e) Certificates of assignments, certificates of participation, trust certificates, voting trust certificates or similar instruments; (f) Proprietary or nonproprietary membership certificates in corporations; and (g) Other instruments as may in the future be determined by the Commission.

Debt securities/instruments include any evidence of indebtedness such as bonds, notes, debentures, commercial papers, treasury bills, treasury bonds and other similar instruments as may be determined by the Commission.

Equity securities include shares of stock in a corporation.

3.1.21. Securities Depository holds securities accounts, provides central safekeeping and asset services, which may include the administration of corporate actions and redemptions, and plays an important role in helping to ensure the integrity of securities issues (that is, securities are not accidentally or fraudulently created or destroyed or their details changed).

3.1.22. Self-Regulatory Organization, or *SRO*, means an organized Exchange, registered clearing agency, organization or association registered as an SRO under Section 39 of the Code, and which have been authorized by the Commission to: (1) enforce compliance with relevant provisions of the Code and rules and regulations adopted thereunder; (2) promulgate and enforce its own rules which have been approved by the Commission,

by their members and/or participants, and; (3) enforce fair, ethical and efficient practices in the securities and commodity futures industries including securities and commodities exchanges.

3.1.23. Subsidiary is an entity, including an unincorporated entity such as partnership that is controlled by another entity (known as the parent).

3.1.24. Trading Participant is any broker dealer who has the right, *pursuant* to the rules of the Exchange or any organized market, to trade in that Exchange or organized market.

3.1.25. Transfer agent is any *person* who performs on behalf of an Issuer or by itself as Issuer any of the following activities:

3.1.25.1. Countersigns, when applicable, certificates of securities upon their issuance;

3.1.25.2. Monitors the issuance of securities to prevent unauthorized issuances;

3.1.25.3. Registers the transfer of such securities;

3.1.25.4. Exchanges or converts such securities;

3.1.25.5. Records the ownership of securities by bookkeeping entry without physical issuance of securities certificates.

3.2. Unless otherwise specifically stated, the terms used in these Rules shall have the meaning provided in the Code.

3.3. A person, under these Rules, refers to natural or juridical persons depending on the context it is used. All references to the masculine gender in these Rules shall likewise cover the feminine gender.

"Days" shall be understood to be calendar days, unless the rules specifically state "business days" which shall be computed according to the number of working days of the Commission.

3.4. A rule or regulation which defines a term without express reference to the Code or these Rules, or any of its parts, shall be considered as defining such term for all purposes as used in the Code and in these Rules, unless the context specifically requires otherwise.

TITLE II Securities and Exchange Commission

RULE 4 - Securities and Exchange Commission²

4.1. These Rules shall be implemented by the Commission as a collegial body composed of a Chairperson and four (4) Commissioners.

4.2. The Commission has four (4) principal departments, each to be headed by a director. Its core function of capital market regulation shall be performed by the Markets and Securities Regulation Department and Corporate Governance and Finance Department. Its company registration, and enforcement functions shall be performed by the Company Registration and Monitoring Department, and Enforcement and Investor Protection Department.

4.2.1. The **Markets and Securities Regulation Department** develops the registration criteria for all market participants and supervises them to ensure compliance with registration requirements and endorses infractions of the Code and rules and regulations to the Enforcement and Investor Protection Department. It registers equity securities and debt instruments, or recommends their exemption from registration, before they are sold, offered for sale, or distributed to the public and ensures that full, timely and accurate information is available about the said securities.

4.2.2. The **Corporate Governance and Finance Department** registers mutual funds, including exchange-traded funds, membership certificates, club shares, both proprietary and non-proprietary, and time shares before they are offered for sale or sold to the public and ensures that adequate information is available about the said securities. It also ensures that investors have access to all material disclosures regarding the said offering and the securities of public companies. The department also monitors compliance by the above issuers with the Code and rules and regulations adopted thereunder and compliance of financing, lending companies and foundations with existing laws, rules and regulations and endorse infractions thereof to the Enforcement and Investor Protection Department.

It monitors covered companies' compliance with the Revised Code of Corporate Governance³ and other corporate governance issuances of the Commission.

4.2.3. The **Company Registration and Monitoring Department** registers domestic corporations, partnerships and associations, including representative offices and foreign corporations intending to do business in the Philippines. It also supervises and monitors such entities relative to their compliance with law, rules and regulations administered by the Commission.⁴

4.2.4. The **Enforcement and Investor Protection Department** ensures compliance by all market participants, issuers and individuals, and takes appropriate enforcement action against them for legal infraction of the Code and other relevant laws, rules and regulations administered by the Commission.

4.3. The Commission shall have support services departments, namely Human Resource and Administrative Department, Economic Research and Training Department, Information and Communications Technology Department, Financial Management Department, each of which shall be headed by a director.

² SEC Office Order No. 545, s. 2023 Re: Revised Functions and Jurisdiction of SEC Departments and Offices, modified Sections 4.2, 4.3, 4.4, and 4.5; *See* Securities and Exchange Commission (Philippines) Official Website, [SEC Office and Departments](#) for the *updated list* of SEC Departments and Offices.

³ Now [MC 24-2019 Re: Code of Corporate Governance for Public Companies and Registered Issuers](#) dated 19 December 2019 and [MC 19-2016 Re: Code of Corporate Governance for Publicly-Listed Companies](#) dated 22 November 2016.

⁴ Pursuant to Commission Resolution dated 11 February 2025, the following functions were transferred to the Financial Analysis and Audit Department: processing and approval applications for corporate reorganization, such as capital stock changes, mergers and consolidations, equity restructurings, and the creation of bonded indebtedness, acknowledgment or approval of dividend declarations, confirmation and certification of paid-up capital, capital structure, ownership interests, and partners' contributions, and resolution of petitions related to approved applications of the Department.

4.3.1. The Human Resource and Administrative Department is responsible for all activities relating to personnel and human resource management, including benefits, training and development.

4.3.2. The Economic Research and Training Department coordinates the conduct of strategic and operational plans of the Commission; undertakes relevant economic researches and publishes investment and financial statistics and analytics; conducts certification examinations and undertakes periodic training needs assessment for the participants of the Philippine financial and capital markets recommends programs for career growth and human resource development of the internal public for implementation by the Human Resource and Administrative Department.

4.3.3. Information and Communications Technology Department is responsible for the implementation of SEC's information systems, deployment of all ICT resources to promote an efficient and comprehensive management information system. It also assists the Commission in ensuring that all the information systems are aligned with the mandate of SEC and its major final outputs (MFOs) and are geared towards the attainment of the SEC mission and vision.

4.3.4. The Financial Management Department manages the internal finances of the Commission which includes budgeting, accounting and cash management.

4.4. The Commission shall have special offices, namely the Office of the Commission Secretary, Office of the General Counsel, Office of the General Accountant.

4.4.1. The Office of the Commission Secretary, headed by the Commission Secretary, prepares minutes and maintains official records of Commission meetings and Executive Sessions, decisions and resolutions for the approval of the En Banc. It also develops the rules of practice that guide the Commission, Departments, Offices, staff and the public in the Commission's processes and procedures, and performs such other functions as may be directed by the Chair and the Commissioners.

4.4.2. The Office of the General Counsel, headed by the General Counsel, shall serve as the lead legal adviser to the Commission. It also serves as legal liaison for the Commission with other government agencies, self-regulatory organizations and foreign government regulators and agencies. It oversees non-enforcement litigations and appeals to the Commission en banc. It likewise oversees the office of the Commission Secretary.⁵

4.4.3. The Office of the General Accountant, headed by the General Accountant, advises the Commission and the private sector in the area of accounting standards and on issues of accounting treatment for public offerings and disclosures. It also coordinates with any board or council in the development of accounting standards for the Philippines and its capital market.

4.5. The Commission shall have Extension Offices in key cities, each to be headed by a Director. The Extension Offices shall perform company registration, supervision, monitoring and other delegated functions of the Commission within its geographical jurisdiction. The Directors shall execute the programs of the Commission in their respective geographical jurisdictions, subject to the supervision of the Commission.

4.6. The Commission shall hold regular meetings at least once a week on a day and time fixed by it. Special meetings may also be called as often as may be necessary by the Chairperson or upon the request of three (3) Commissioners. In such cases, the Commissioners shall be given notice of the meeting, and the presence of three (3) Commissioners shall constitute a quorum. In the absence of the Chairperson, the most senior Commissioner present shall act as the presiding officer of the meeting.

4.7. The Commission may, for purposes of efficiency, delegate any of its functions to an individual Commissioner, any department or office of the Commission or any staff member of the Commission except its review or appellate authority and its power to adopt, alter and supplement any rule or regulation.

⁵ See MC 15-2003 Re: Guidelines on Requests for the Issuance of Legal Opinions dated 16 December 2003.

4.8. The Commission, *motu proprio* or upon a petition filed by an interested party, may review any order, resolution, decision or action of any of its departments, offices, individual Commissioner, or staff member of the Commission.

The petition for review shall be filed with the Office of the General Counsel within fifteen (15) days from receipt of the order, resolution, decision or any document evidencing the action taken which is the subject of the review. The petition shall contain, among other things, its factual and legal basis and shall be signed by the petitioner or counsel.

RULE 5 - Powers and Functions of the Commission

5.1. The Commission shall act with transparency and shall have the powers and functions provided by the Code, Presidential Decree No. 902-A, the Corporation Code,⁶ the Investment Houses Law, the Financing Company Act and other existing laws. Pursuant thereto the Commission shall have, among others, the following powers and functions:

- 5.1.1.** Have jurisdiction and supervision over all corporations, partnerships or associations who are the grantees of primary franchises and/or a license or permit issued by the Government;
- 5.1.2.** Formulate policies and recommendations on issues concerning the securities market, advise Congress and other government agencies on all aspects of the securities market and propose legislation and amendments thereto;
- 5.1.3.** Approve, reject, suspend, revoke or require amendments to registration statements, and registration and licensing applications;
- 5.1.4.** Regulate, investigate or supervise the activities of persons to ensure compliance;
- 5.1.5.** Supervise, monitor, suspend or take over the activities of exchanges, clearing agencies and other SROs;
- 5.1.6.** Impose sanctions for the violation of laws and the rules, regulations and orders issued pursuant thereto;
- 5.1.7.** Prepare, approve, amend or repeal rules, regulations and orders, and issue opinions⁷ and provide guidance on and supervise compliance with such rules, regulations and orders;
- 5.1.8.** Enlist the aid and support of and/or deputize any and all enforcement agencies of the Government, civil or military as well as any private institution, corporation, firm, association or person in the implementation of its powers and functions under the Code;
- 5.1.9.** Issue cease and desist orders to prevent fraud or injury to the investing public;⁸
- 5.1.10.** Punish for contempt of the Commission, both direct and indirect, in accordance with the pertinent provisions of and penalties prescribed by the Rules of Court;⁹
- 5.1.11.** Compel the officers of any registered corporation or association to call meetings of stockholders or members thereof under its supervision;¹⁰
- 5.1.12.** Issue *subpoena duces tecum* and summon witnesses to appear in any proceedings of the Commission and in appropriate cases, order the

⁶ Now Revised Corporation Code.

⁷ See MC 15-2003, *supra* note 5.

⁸ See MC 8-2026 Re: 2026 Rules of Procedure of the Securities and Exchange Commission (the 2026 Rules of Procedure of the Securities and Exchange Commission") dated 11 February 2026.

⁹ *Id.*

¹⁰ *Id.*

examination, search and seizure of all documents, papers, files and records, tax returns, and books of accounts of any entity or person under investigation as may be necessary for the proper disposition of the cases before it, subject to the provisions of existing laws;¹¹

5.1.13. Suspend, or revoke, after proper notice and hearing the franchise or certificate of registration of corporations, partnerships or associations, upon any of the grounds provided by law;¹² and

5.1.14. Exercise such other powers as may be provided by law as well as those which may be implied from, or which are necessary or incidental to the carrying out of, the express powers granted the Commission to achieve the objectives and purposes of these laws.

5.2. The Commission's jurisdiction over all cases enumerated under Section 5 of Presidential Decree No. 902-A is hereby transferred to the Courts of general jurisdiction or the appropriate Regional Trial Court: *Provided*, that the Supreme Court in the exercise of its authority may designate the Regional Trial Court branches that shall exercise jurisdiction over these cases. The Commission shall retain jurisdiction over pending cases involving intra-corporate disputes submitted for final resolution which should be resolved within one (1) year from the enactment of the Code. The Commission shall retain jurisdiction over pending suspension of payments/rehabilitation cases filed as of 30 June 2000 until finally disposed.¹³

RULE 6 - Indemnification and Responsibilities of the Commissioners

6.1. The Commission shall indemnify each Commissioner and other officials of the Commission, including personnel performing supervision and examination functions for all costs and expenses reasonably incurred by such persons in connection with any civil or criminal actions, suits or proceedings to which they may be or made a party by reason of the performance of their functions or duties, unless they are finally adjudged in such actions or proceedings to be liable for gross negligence or misconduct.

In the event of settlement or compromise, indemnification shall be provided only in connection with such matters covered by the settlement as to which the Commission is advised by external counsel that the persons to be indemnified did not commit any gross negligence or misconduct.

The costs and expenses incurred in defending the aforementioned action, suit or proceeding may be paid by the Commission in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of the Commissioner, officer or employee to repay the amount advanced should it ultimately be determined by the Commission that he/she is not entitled to be indemnified as provided in this subsection.

6.2. The Commissioners, including the Chairperson, officers and employees of the Commission (hereinafter collectively referred to as officers or officer), in the execution of their duties owe their undivided loyalty to the Commission. They shall observe the highest standards of honesty, integrity and good faith in the performance of their duties.

Officers shall not pursue private activities in any manner which may conflict with their duties. They shall subordinate those activities which, although not in conflict with their duties, will require time and effort to the prejudice of their duties at the Commission. Every officer who has discretionary authority shall be free from any conflicting interest or influence of such nature and importance which would make it difficult for him to provide his best efforts and loyalty to the Commission.

¹¹ *Id.*

¹² *Id.*

¹³ See Guidelines on Intra-Corporate Cases Pending Before the SICD and the Commission En Banc of the Securities and Exchange Commission (1 Aug. 2020); MC 8-2022 Re: Guidelines on Arbitration of Intra-Corporate Disputes for Corporations.

The interest of officers shall include the interest of his or her spouse, children under the age of eighteen (18) and trusts for the benefit of himself, his or her spouse or children.

Officers shall provide the Commission with complete information with respect to any actual or conflicting interest by completing SEC Form 6 and submitting such form to the Commission Secretary no later than thirty (30) days from the effective date of this Rule. New officers shall fill up this form and submit the same to the Commission Secretary thirty (30) days prior to the first day of their employment.

Even if not specifically required to be disclosed in SEC Form 6, officers shall report any other circumstances which, in their judgment, are regarded as being of possible concern to the Commission. It is to such officer's advantage, as well as the Commission's, that any unclear situation be reported in order that a policy judgment can be made. Questions of conflict will be referred to the Office of the General Counsel. If the Office of the General Counsel determines that such officer cannot properly retain his outside interest or relationship while employed by the Commission, the Office of the General Counsel (after advising those to whom the officer reports to of the circumstances) shall require action to eliminate the conflict, such as the disposition by the officer of his conflicting interest or relationship, or the narrowing of responsibilities of the officer.

SEC Form 6 shall be kept current and accurate. Any change in the information contained therein shall be reported and filed with the Commission Secretary on SEC Form 6- A no later than ten (10) days from the date of such change.

6.2.1. Set forth below is a description of some types of activities which may give rise to a conflict of interest in violation of this Rule:

- 6.2.1.1. All officerships, directorships, trusteeships or partnership interests in any organization or association, whether registered with the Commission or not, except in charitable or civic organizations;
- 6.2.1.2. Meaningful interest in any security or investment in any corporation, partnership or association registered under the Code, except in sports club, social, charitable or civic organization;
- 6.2.1.3. The receipt of compensation, wages, bonuses, benefits or privileges with monetary value from any corporation, partnership, or association registered with the Commission or from any person or enterprise which, though not registered with the Commission, does business with the Commission as a supplier, contractor or the like;
- 6.2.1.4. During their term of office or employment with the Commission and for a period of one year after resignation, retirement or separation from such office or employment:
 - 6.2.1.4.1. Accept employment as an officer, employee, consultant, counsel, broker, agent, trustee or nominee by any person or in any enterprise regulated by the Commission under the Code;
 - 6.2.1.4.2. Engage in private practice of their profession where such practice conflicts or tends to conflict with their official function (e.g. when such practice is in connection with any matter before the office of the Commission where such officer works or used to work);
 - 6.2.1.4.3. Recommend any person to any position in a private enterprise which has a regular or pending official transaction with the office where such officer works or used to work.
- 6.2.1.5. Solicitation or acceptance of any gift, loan, or other benefit from any corporation, partnership or association registered, applying or

contemplating registration with the Commission, including any person or firm, though not so registered, applying or contemplating registration and/or having current or prospective dealings with the Commission as a supplier or contractor or the like, if the acceptance would influence or would create the appearance of influencing him to act other than solely in the best interest of the Commission.

- 6.2.1.5.1. Any gift having more than a nominal value, even if given on occasions of rejoicing or celebration such as birthdays, anniversaries or Christmas, shall not be permitted.
- 6.2.1.5.2. Each officer should not borrow money from subordinates and from those entities which he directly regulates, except from financial institutions at prevailing market rates.
- 6.2.1.5.3. No entertainment should be accepted by any officer of a kind or amount which would influence or would create the appearance of influencing him to act other than solely in the best interest of the Commission.

6.3. The Commissioners, officers and employees of the Commission who willfully violate the Code or who are guilty of negligence, abuse or acts of malfeasance or fail to exercise extraordinary diligence in the performance of their duties shall be held liable for any loss or injury suffered by the Commission or other institutions as a result of such violation, negligence, abuse, malfeasance, or failure to exercise extraordinary diligence.

Similar responsibility shall apply to the Commissioners, officers and employees of the Commission for (1) the disclosure of any information, discussion or resolution of the Commission of a confidential nature, or about the confidential operations of the Commission, unless the disclosure is in connection with the performance of official functions with the Commission or with prior authorization of the Commissioners; or (2) the use of such information for personal gain or to the detriment of the government, the Commission or third parties: *Provided, however,* That any data or information required to be submitted to the President and/or Congress or its appropriate committee, or to be published under the provisions of the Code shall not be considered confidential.

RULE 7 - Reorganization

7.1. To achieve the goals of the Code, consistent with Civil Service laws, the Commission is hereby authorized to provide for its reorganization, to streamline its structure and operations, upgrade its human resource component and enable it to more efficiently and effectively perform its functions and exercise its powers under the Code and these Rules.

All positions of the Commission shall be governed by a compensation and position classification systems and qualification standards approved by the Commission based on a comprehensive job analysis and audit of actual duties and responsibilities. The compensation plan shall be comparable with the prevailing compensation plan in the BSP and other government financial institutions and shall be subject to periodic review by the Commission no more than once every two (2) years without prejudice to yearly merit reviews or increases based on productivity and efficiency. The Commission shall, therefore, be exempt from laws, rules, and regulations on compensation, position classification and qualification standards. The Commission shall, however, endeavor to make its system conform as closely as possible with the principles under the Compensation and Position Classification Act of 1989 (Republic Act No. 6758, as amended).

TITLE III Registration of Securities

RULE 8.1 - Filing of Registration Statement

8.1.1. Filing of Registration Statement ("RS") and Effectivity of Offering¹⁴

8.1.1.1. No securities shall be sold or offered for sale, or distributed by any person or entity within the Philippines unless such securities are duly registered with the Commission through Form 12-1,¹⁵ and the registration statement has been declared effective by the Commission except of a class exempt under Section 9 of the Code or unless sold in any transaction exempt under Section 10 thereof and these Rules. No information relating to an offering of securities shall be disseminated unless a registration statement has been filed with the Commission and the written communication proposed to be released contains the required information under SRC Rule 8.3.

8.1.1.2. All outstanding shares of the following corporations shall be registered with the Commission:

8.1.1.2.1. Corporations that will conduct Initial Public Offerings:¹⁶

8.1.1.2.2. Corporations that will apply for listing on an Exchange by way of introduction.

8.1.1.3. No registration shall be required for the outstanding shares of reporting corporations with shares already listed on an Exchange that were not registered with the Commission pursuant to Section 5 (a) (3) of the Revised Securities Act, now Section 9.1 (e) of the Code.

8.1.1.4. If the securities subject of a registration statement are intended to be listed on an Exchange, a copy of the registration statement and all other pertinent documents, including any amendments, shall be filed with that Exchange. Two (2) copies of the application for listing shall also be filed with the Commission.

8.1.1.5. The sale of the securities subject of the registration statement shall commence within ten (10) business days from the date of the effectivity of the registration statement¹⁷ and shall continue until the end of the offering period or until the sale is terminated by the Issuer. If the sale is not commenced within ten (10) business days, the RS shall be cancelled and all fees paid thereon forfeited.

8.1.1.6. A written notification of completion or termination of the offering shall be filed by the Issuer with the Commission within three (3) business days from such completion or termination, and the notice shall state the number of securities sold.

¹⁴ See MC 7-2023 Re: Guidelines on Application for the Allocation of ISIN, CFI, and FISN Codes for Financial Instruments on Mandatory Allocation of ISIN, CFI, and FISN Codes dated 25 April 2023.

¹⁵ See Special Forms for Specific Sectors in MC 4-2024 Re: Securing & Expanding Capital for PowerGen Operators & Wholesale Electricity & Retail Services [SEC POWERS] dated 15 February 2024; MC 12-2024 Re: Securing & Expanding Capital in Real Estate Non-Traditional Securities [SEC RENT] dated 16 July 2024; MC 8-2023 Re: Securing & Expanding Capital for Farms & Agri-business Related Modernization Schemes [SEC FARMS] dated 15 June 2023; and MC 11-2017 Re: SEC Form 12-1 Simplified Registration Statement for Hospitals [SEC Form 12-1 SRS] dated 19 September 2017; and Thematic Bonds (Social & Sustainability) under MC 3-2023 Re: Guidelines on the Issuance of Sustainability-Linked Bonds under the ASEAN Sustainability-Linked Bond Standards in the Philippines dated 30 March 2023; MC 9-2019 Re: Guidelines on the Issuance of Social Bonds under the ASEAN Social Bonds Standards in the Philippines dated 25 April 2019; MC 12-2018 Re: Guidelines on the Issuance of Green Bonds Under the ASEAN Green Bonds Standards in the Philippines dated 31 August 2018; MC 8-2019 Re: Guidelines on the Issuance of Sustainability Bonds Under the ASEAN Sustainability Bonds Standards in the Philippines dated 25 April 2019; MC 12-2026 Re: Guidelines on the Issuance and Disclosure of Sukuk, dated 25 February 2026; and MC 14-2026 Re: Rules on Umbrella Funds, dated 08 April 2026.

¹⁶ See MC 13-2025 Re: SEC Guidelines on Philippine Green Equity; MC 13-2017 Re: Rules and Regulations on Minimum Public Ownership [MPO] on Initial Public Offerings on MPO Requirement for IPOs dated 23 September 2025; and MC 11-2026 Re: Minimum Public Ownership Rules for Issuers of Shares of Stock to be Listed on an Exchange dated 24 February 2026.

¹⁷ In case the Commission renders the RS effective sooner than forty-five (45) days, the Commission can determine a later RS effectivity date to accommodate the book-building or other price setting mechanism that the Issuer might have.

8.1.2. Delayed and Continuous Offering and Sale of Securities (Enhanced Shelf Registration)¹⁸

Securities, which are intended to be issued in tranches at more than one instance after the RS has been rendered effective by the Commission, may be registered for an offering to be made on a continuous or delayed basis in the future, for a period not exceeding five (5) years from the effective date of the RS under which they are being offered and sold.¹⁹

8.1.2.1. Securities offered after the initial tranche shall comply with the following requirements:²⁰

- 8.1.2.1.1. For each subsequent tranche after the initial offering, the issuer shall apply for a Permit to Sell (PTS) by filing the following documentary requirements, which shall be significantly less and more simplified than those submitted during the initial registration:²¹
 - 8.1.2.1.1.1. Signed and notarized SEC Form 12-1-SR and annexes, as applicable;²²
 - 8.1.2.1.1.2. Updated Offering Supplement/Prospectus, which shall include only the updates from the previously filed and approved Offer Supplement and/or Prospectus. For items with no material change(s), the issuer shall state this expressly and refer to the corresponding pages of the approved Offer Supplement and/or Prospectus covering the immediately preceding tranche; and²³
 - 8.1.2.1.1.3. Sworn Certificate of No Material Change for items that remained unchanged from the previously filed and approved Offer Supplement and/or Prospectus.²⁴
- 8.1.2.1.2. For tranche(s) after the initial offering, the issuer shall observe the following timelines:²⁵
 - 8.1.2.1.2.a. For each subsequent tranche(s) to be offered within one (1) year from the initial tranche or the last issued tranche, as the case may be, provided that the requirement to submit new financial statements under Rule 68 of the SRC is not triggered or the Company does not file a new updated financial statement as part of the RS, the application for a PTS shall be filed not later than seven (7) calendar days prior to the commencement of the offer or sale of the said securities. Otherwise, the same application shall be filed not later than thirty (30) calendar days prior to the commencement of the offer or sale of the said securities;²⁶
 - 8.1.2.1.2.b. For each subsequent tranche(s) to be offered more than one (1) year after the initial tranche or the last issued tranche, as the case may be, the application for a PTS shall be filed not later than thirty (30) calendar days

¹⁸ MC 12-2025 Re: Amendments to Rule 8.1.2 of the 2015 Implementing Rules and Regulations of the Securities Regulation Code - Delayed and Continuous Offering and Sale of Securities [Enhanced Shelf Registration] dated 19 September 2025.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ MC 12-2025, *supra* note 18.

²⁵ *Id.*

²⁶ *Id.*

prior to the commencement of the offer or sale of the said securities.²⁷

- 8.1.2.1.3. In all cases, the review period shall be reckoned from the date of complete submission of the required documents and payment of the corresponding registration fees.²⁸

8.1.2.2. Registration Fee(s)²⁹

8.1.2.2.1. Upon filing of an RS, the total registration fee shall be computed based on Section 12.5 (a) of the SRC, payable per tranche of issuance and proportional to the issued value.³⁰

8.1.2.2.2. The registration fees of the subsequent tranches shall be payable within the validity of the Payment Assessment Form.³¹

8.1.2.3. The registrant shall execute an Undertaking to pay the remaining registration fees covering the securities intended to be issued in subsequent tranche(s) after the initial RS no later than thirty (30) business days prior to the expiry of the shelf reckoned from the date of effectivity of the RS.³²

8.1.3. Prospectus Delivery Requirements

8.1.3.1. The prospectus shall be submitted to the Commission as part of the registration statement.³³

8.1.3.2. Securities required to be registered pursuant to Sections 8 and 12 of the Code shall not be offered for sale or sold unless the prospectus, or any information material which has been filed with the registration statement in the form and containing the information described below, has been widely disseminated and sufficient copies have been made available to interested parties. Further, the prospectus contains the following statement in bold face print, at least 12 point type prominently displayed:

A REGISTRATION STATEMENT RELATING TO THESE SECURITIES HAS BEEN FILED WITH THE SECURITIES AND EXCHANGE COMMISSION, BUT HAS NOT YET BEEN DECLARED EFFECTIVE. NO OFFER TO BUY THE SECURITIES CAN BE ACCEPTED AND NO PART OF THE PURCHASE PRICE CAN BE RECEIVED UNTIL THE REGISTRATION STATEMENT HAS BECOME EFFECTIVE THEREBY, AND ANY SUCH OFFER MAY BE WITHDRAWN OR REVOKED, WITHOUT OBLIGATION OR COMMITMENT OF ANY KIND, AT ANY TIME PRIOR TO THE NOTICE OF ITS ACCEPTANCE. AN INDICATION OF INTEREST IN RESPONSE HERETO INVOLVES NO OBLIGATION OR COMMITMENT OF ANY KIND. THIS PROSPECTUS SHALL NOT CONSTITUTE AN OFFER TO SELL OR BE CONSIDERED A SOLICITATION OF AN OFFER TO BUY.

8.1.3.3. In addition to the requirements of this Rule, the prospectus shall contain the information required by SRC Rule 12.1 and Form 12-1 and shall be prepared in accordance with the requirements of SRC Rule 72.1. The contents of the prospectus shall be worded in a language that can be understood by an ordinary person.

8.1.3.4. The prospectus is presumed to have been widely disseminated or circulated if copies were distributed initially and additional copies were furnished promptly, upon request, to the following:

- 8.1.3.4.1. All the participants in the distribution (*e.g.*, underwriters and brokers);
- 8.1.3.4.2. The principal office of the Commission;

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ MC 12-2025, *supra* note 18.

³¹ *Id.*

³² *Id.*

³³ See MC 8-2024 Re: Guidelines for Cornerstone Investors in Initial Public Offerings dated 11 April 2024, requiring disclosure of information pertaining to cornerstone investors in the final prospectus.

8.1.3.4.3. An Exchange, if the securities will be listed; and

8.1.3.4.4. Twenty (20) or more persons who are not qualified buyers under Section 10.1 (1) of the Code.

8.1.3.5. Notice of Availability of the Prospectus

8.1.3.5.1. All participants in the distribution of an offering of securities to the public shall, when inquiries are made about it, inform the interested parties about the availability of the prospectus and shall, if requested, provide them copies.

8.1.3.5.2. A notice shall be placed on the front cover of the subscription agreement distributed in connection with the offering informing interested persons that they are entitled to a copy of the prospectus if they so desire and how and where it can be obtained.

8.1.3.5.3. The information referred to in SRC Rules 8.1.3.5.1 and 8.1.3.5.2 above on where the prospectus may be obtained shall include the address of the principal office and email address of the Commission, the Exchange where the securities may be listed, the Issuer company, and the telephone number, address and email address of the Issuer's contact person. A statement shall also be made to the effect that the prospectus is available from all underwriters and brokers participating in the distribution.

8.1.3.6. The use of selling documents other than the prospectus during the offering period is prohibited, provided, that the information described in SRC Rule 8.3 may be disseminated in whole or in part to summarize the offering.

8.1.3.7. The prospectus shall not be used unless all the information it contains are up to date and accurately reflect the terms of the offering and the financial condition of the Issuer. Accordingly, until all appropriate amendments have been made and filed with the Commission under SRC Rule 14, the use of the prospectus and the right to sell and offer for sale may be suspended under Section 15 of the Code if any of the following events occurs:

8.1.3.7.1. There is a material change in any of the information provided (including, but not limited to, the occurrence of a material event that is required to be reported in Form 17-C);

8.1.3.7.2. The accompanying financial statements are more than two hundred twenty five (225) days old.

8.1.3.8. Format of the Prospectus

8.1.3.8.1. The information required in the prospectus shall follow the order of the items or other requirements in Part I of Form 12-1. The information should be complete and should not mislead its reader or render its contents incomprehensible.

8.1.3.8.2. All information in the prospectus should be properly captioned or labeled to indicate the subject matters covered. The information shall be divided into short paragraphs or sections, except the financial statements and tabular data.

8.1.3.8.3. The information in the prospectus shall not be condensed or summarized. References may be made to information in other parts of the prospectus instead of repeating them.

8.1.3.8.4. All information required to be included in the prospectus should be clearly understandable without the need to refer to Form 12-1 or to outside sources.

RULE 8.2 - Conditional Approval

The Commission may conditionally render the RS effective under such terms as it may deem necessary.

RULE 8.3 - Written Communications Not Deemed Offers for Sale

8.3.1. A notice, circular, advertisement, letter or other forms of communication do not constitute an offer for sale that violates Section 8 of the Code if it is published or transmitted to any person after a registration statement has been filed and contains the following information:

- 8.3.1.1. The name of the issuer of the security;
- 8.3.1.2. The full title of the security and the amount being offered;
- 8.3.1.3. A brief indication of the general type of business of the issuer;
- 8.3.1.4. The price of the security or, if the price is not known, the method of its determination or the probable price range as specified by the issuer or the managing underwriter;
- 8.3.1.5. In the case of a debt security with a fixed (non-contingent) interest provision, the yield or, if the yield is not known, the probable yield range, as specified by the issuer or the managing underwriter;
- 8.3.1.6. The name and address of the sender of the communication and the fact that he is participating, or expects to participate, in the distribution of the security;
- 8.3.1.7. The names of the underwriters;
- 8.3.1.8. The approximate date upon which the proposed sale to the public is anticipated to commence;
- 8.3.1.9. Whether the security is being offered through rights issued to existing security holders, and, if so, the class of securities the holders of which will be entitled to subscribe, the subscription ratio, the actual or proposed record date, the date upon which the rights were issued or are expected to be issued, the actual or anticipated date upon which they will expire, and the approximate subscription price, or any of the foregoing;
- 8.3.1.10. With respect to any class of debt securities, any class of convertible debt securities or any class of preferred stock, the security rating or ratings assigned to the class of securities by any credit rating agency recognized or accredited by the Commission and the name of such rating agency/ies which assigned such rating/s;
- 8.3.1.11. For preliminary prospectuses, the following statement in bold face:

A REGISTRATION STATEMENT RELATING TO THESE SECURITIES HAS BEEN FILED WITH THE SECURITIES AND EXCHANGE COMMISSION, BUT HAS NOT YET BECOME EFFECTIVE. THESE SECURITIES MAY NOT BE SOLD NOR OFFERS TO BUY THEM BE ACCEPTED PRIOR TO THE TIME THE REGISTRATION STATEMENT IS RENDERED EFFECTIVE. THIS COMMUNICATION SHALL NOT CONSTITUTE AN OFFER TO SELL OR BE CONSIDERED A SOLICITATION TO BUY.
- 8.3.1.12. A statement whether the security is being offered in connection with a distribution by the Issuer or a security holder, or both, and whether the issue represents new financing or refinancing, or both;
- 8.3.1.13. The name/s and addresses of the person/s from whom a prospectus that meets the requirements of Section 12 of the Code may be obtained.

RULE 8.4 - Register of Securities

A record of the registration of securities shall be kept in a Register of Securities in which shall be recorded orders entered by the Commission with respect to such securities. Such register and all documents or information with respect to the securities registered therein shall be open to public inspection at reasonable hours on business days.

RULE 8.5 - Audit by the Commission

The Commission may audit the financial statements, assets and other information of a firm applying for registration of its securities whenever it deems the same necessary to insure full disclosure or to protect the interest of the investors and the public in general.

RULE 9.1 - Exempt Securities³⁴

9.1.1. The requirements and procedures for registration under Sections 8 and 12 shall not as a general rule apply to any of the following classes of securities:

- (a) Any security issued or guaranteed by the Government of the Philippines, or by any political subdivision or agency thereof, or by any person controlled or supervised by, and acting as an instrumentality of said Government.
- (b) Any security issued or guaranteed by the government of any country with which the Philippines maintains diplomatic relations, or by any state, province or political subdivision thereof on the basis of reciprocity: Provided, That the Commission may require compliance with the form and content for disclosures the Commission may prescribe.
- (c) Certificates issued by a receiver or by a trustee in bankruptcy duly approved by the proper adjudicatory body.
- (d) Any security or its derivatives the sale or transfer of which, by law, is under the supervision and regulation of the Office of the Insurance Commission, Housing and Land Use Rule Regulatory Board, or the Bureau of Internal Revenue.
- (e) Any security issued by a bank except its own shares of stock.³⁵

9.1.2. The registration requirements shall not likewise apply to the following:

- 9.1.2.1. Any evidence of indebtedness issued by a financial institution that has been licensed by the BSP to engage in banking or quasi-banking shall be exempt from registration under Section 8.1 of the Code.³⁶
- 9.1.2.2. Evidence of indebtedness issued to the BSP under its open market and/or rediscounting operations;³⁷
- 9.1.2.3. Bills of exchange arising from a *bona fide* sale of goods and services that are distributed and/or traded by banks or investment houses duly licensed by the Commission and BSP through an organized market that is operated under the rules approved by the Commission;³⁸
- 9.1.2.4. Any security issued or guaranteed by multilateral financial entities established through a treaty or any other binding agreement to which the Philippines is a party or subsequently becomes a member (hereinafter referred as Multilateral Financial Entities or MFE), *e.g.*,

³⁴ See MC 7-2023, *supra* note 14.

³⁵ MC 06-2021 Re: Amendments on the SRC Rules 9 and 10, dated 20 April 2021.

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

international financial institutions, multilateral development banks, development finance institutions or any other similar entities; or by facilities or funds established, administered, and supported by MFEs; Provided, that the issuer shall file an offering circular/memorandum in a format prescribed by the Commission and containing among others; (1) information about the issuer and the security to be issued, (2) information about the MFE, and (3) information about the guarantee.³⁹

9.1.2.5. The registration requirements shall not likewise apply to evidence of indebtedness, e.g., commercial papers, that meet the following conditions:⁴⁰

- 9.1.2.5.1. Issued to not more than nineteen (19) non-institutional lenders;
- 9.1.2.5.2. Payable to a specific person;
- 9.1.2.5.3. Neither negotiable nor assignable and held on to maturity; and
- 9.1.2.5.4. In an amount not exceeding One Hundred Fifty Million Pesos (PhP150,000,000.00) or such higher amount as the Commission may prescribe.

9.1.3. Notwithstanding that a particular class of securities is exempt from registration, the conduct by any person in the purchase, sale, distribution of such securities, settlement and other post-trade activities shall comply with the provisions of the Code and the rules issued thereunder. Moreover, the purchase and sale of such security shall not be exempt from the coverage of the provisions of the Code on civil and other related liabilities, and other applicable provisions of the Code on fraud.

9.1.4. Consistent with public interest and for the protection of investors, the Commission, may require an Issuer of a class of securities exempted from registration, to make available to investors and file with the Commission periodic disclosures regarding the Issuer, its business operations, its financial condition, its governance principles and practices, its use of investor funds, and other appropriate matters, and may also provide for suspension and termination of such requirement with respect to such Issuer.

RULE 9.2 - Other Exempt Securities

9.2.1. The Commission may, by rule or regulation after public hearing, add to the foregoing any class of securities if it finds that the enforcement of the Code with respect to such securities is not necessary in the public interest and for the protection of investors.

RULE 10.1 - Exempt Transactions⁴¹

10.1.1. Disclosure to Investors

Any person claiming exemption under Section 10.1 of the Code shall provide to any party to whom it offers or sells securities in reliance on such exemption a written disclosure containing the following information:

- 10.1.1.1. The specific provision of Section 10.1 of the Code on which the exemption from registration is claimed; and

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ Amended by MC 11-2025 Re: Providing Further Guidelines on Exempt Transactions Under Section 10 of Republic Act [RA] No. 8799 or the "Securities Regulation Code" [SRC]. Amending for the Purpose Rule 10 of the 2015 Implementing Rules and Regulations of the SRC dated 09 September 2025; MC 7-2023, *supra* note 14, on ISIN, CFI, and FISN Eligibility.

10.1.1.2. The following statement in bold face:

THE SECURITIES BEING OFFERED OR SOLD HEREIN HAVE NOT BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION UNDER THE SECURITIES REGULATION CODE. ANY FUTURE OFFER OR SALE OF THE SECURITIES IS SUBJECT TO THE REGISTRATION REQUIREMENTS UNDER THE CODE UNLESS SUCH OFFER OR SALE QUALIFIES AS AN EXEMPT TRANSACTION.

10.1.2. Optional Application for Confirmation of Exempt Transaction⁴²

10.1.2.1. No notice or payment of fee is necessary for exempt transactions under Section 10.1 of the Code. However, if the Issuer deems it necessary to seek confirmation on the nature of the transaction as being exempt under Section 10.1 of the Code or for other reasons, it shall file an Application for Confirmation of Exempt Transaction and shall pay to the Commission a fee equivalent to one-tenth (1/10) of one percent (1%) of the maximum aggregate price or issued value, pursuant to Section 10.3 of the Code.

10.1.3. Restrictions for Transactions under Section 10.1 (k) of the Code⁴³

10.1.3.1. Sections 8 and 12 of the Code are violated if (a) the number of persons holding the security that is subject of an exempt transaction under Section 10.1 (k) exceeds nineteen (19) within a twelve (12) month period or (b) the sale, offer for sale, or distribution of a security, which is not exempt or which does not fall under an exempt transaction, is actively solicited from or marketed indiscriminately to the public in the Philippines by any person or entity, including its agents, representatives, employees or any person acting on its behalf.

In proper cases, the issuer of the security and its directors and officers shall be held liable.

10.1.3.2. A *prima facie* presumption of circumvention of Sections 8 and 12 of the Code shall arise when the number of non-qualified investors shall exceed nineteen (19) within one (1) year. The issuer shall be liable for penalty in accordance with the Scale of Fines of the Commission, without prejudice to other actions which may be taken against the issuer.

If the original purchaser/s shall resell said securities resulting in more than nineteen (19) holders, Sections 8 and 12 of the SRC shall apply, notwithstanding the exemption of their issuances, unless such succeeding sale shall qualify as an exempt transaction.

10.1.3.3. Debt instruments issued by companies without quasi-banking licenses in excess of One Hundred Fifty Million Pesos (PhP150,000,000) or such higher amount as the Commission may prescribe shall require prior approval by the Commission.

10.1.3.4. An exempt transaction made under Section 10.1 (k), shall be subject to the following terms and conditions:

10.1.3.4.1. The Issuer or seller shall not engage in any form of general solicitation or advertising in that connection;

10.1.3.4.2. Securities sold in any such transaction may only be sold to persons purchasing for their own account;

10.1.3.4.3. The sale may be made to not more than nineteen (19) buyers. A corporation, partnership or other entity shall be counted as one buyer; Provided, that if the entity is organized for the specific purpose of acquiring the securities offered and is not a qualified buyer under Section 10.1 (1) of the Code, or under these rules, then each beneficial owner of equity securities in the entity shall be counted as a separate buyer under this Rule;

⁴² MC 11-2025, *supra* note 41.

⁴³ *Id.*

- 10.1.3.4.4. The issuer or seller provides any person to whom it offers for sale or sells securities the following information in writing:
- 10.1.3.4.4.1. Name of the Issuer or seller and its or his predecessor, if any;
 - 10.1.3.4.4.2. Address of its principal executive office;
 - 10.1.3.4.4.3. Place of incorporation;
 - 10.1.3.4.4.4. Title and class of the security;
 - 10.1.3.4.4.5. Par or issue value of the security;
 - 10.1.3.4.4.6. Number of shares or total amount of securities outstanding as of the end of the issuer's most recent fiscal year;
 - 10.1.3.4.4.7. Name and address of the transfer agent;
 - 10.1.3.4.4.8. Nature of the Issuer's business;
 - 10.1.3.4.4.9. Nature of products or services offered;
 - 10.1.3.4.4.10. Nature and extent of the Issuer's facilities;
 - 10.1.3.4.4.11. Name of the chief executive officer and members of the board of directors;
 - 10.1.3.4.4.12. The Issuer's most recent financial statement for the two preceding fiscal years or such shorter period of existence;
 - 10.1.3.4.4.13. Whether the person offering or selling the securities is affiliated, directly or indirectly, with the Issuer;
 - 10.1.3.4.4.14. Whether the offering is being made directly or indirectly on behalf of the Issuer, or any director, officer or person who owns directly or indirectly more than ten percent (10%) of the outstanding shares of any equity security of the Issuer and, if so, the name of such person; and
 - 10.1.3.4.4.15. Information required under SRC Rule 10.1.1; Provided, however, that if the Issuer is a reporting company under Section 17 of the Code, a copy of its most recent annual report may be used to provide the required information.

10.1.4. Offer or Sale of Securities to Qualified Buyers under Section 10.1 (I) of the Code.⁴⁴

Sections 8 and 12 shall not likewise apply to securities issued and sold to the following qualified buyers:

- 10.1.4.1. Bank;
- 10.1.4.2. Registered investment house;
- 10.1.4.3. Insurance company;
- 10.1.4.4. Pension fund or retirement plan maintained by the Government of the Philippines or any political subdivision thereof or managed by a

⁴⁴ This list is maintained as the standing enumeration of qualified buyers (MC 06-2021, *supra* note 35, in relation to MC 11-2025, *supra* note 41).

- bank or other persons authorized by the BSP to engage in trust functions;
- 10.1.4.5. Registered Securities Dealer;
 - 10.1.4.6. An account managed by a Registered Broker under a discretionary arrangement as provided for in the other relevant provisions in these SRC 2015 Rules;
 - 10.1.4.7. Registered Investment Company (e.g., mutual fund companies);
 - 10.1.4.8. Provident fund or pension fund maintained by a government agency or by a government or private corporation and managed by an entity authorized accordingly by the BSP or the SEC to engage in trust function or in fund management;
 - 10.1.4.9. A trust corporation that is authorized by the BSP to perform the acts of a trustee;
 - 10.1.4.10. Unit investment trust funds that are established in accordance with rules and regulations of the BSP;⁴⁵
 - 10.1.4.11. A fund established and covered by a trust or IMA agreement under a discretionary arrangement in accordance with rules and regulations of the BSP, A discretionary arrangement means that the entity managing the fund is granted authority to decide on the investment of the trust funds or IMA funds;⁴⁶
 - 10.1.4.12. A fund established and covered by a trust or IMA agreement under a nondiscretionary arrangement in accordance with rules and regulations of the BSP, provided that the beneficial owner/s or principal/s of such fund possess the qualifications on financial capacity and sophistication as specified in 2015 SRC Rules 10.1.11.1 for natural persons, and 10.1.11.2 for juridical persons; and provided also, that the treatment of such fund as qualified buyer does not contravene the trust or IMA agreement;⁴⁷
 - 10.1.4.13. A fund established and covered by a trust or IMA agreement wherein the beneficial owner or principal of the fund has been deemed or conferred as a qualified buyer under SRC Sec. 10.1 (I) or SRC Rule 10.1.11; and⁴⁸
 - 10.1.4.14. An entity with quasi bank license issued by BSP;
 - 10.1.4.15. Pre-need company authorized by the Insurance Commission;
 - 10.1.4.16. Collective Investment Scheme authorized by the relevant regulatory authority pursuant to existing laws and regulations;
 - 10.1.4.17. A listed entity on the Philippine Stock Exchange, or a related body corporate of a Philippine Stock Exchange listed entity provided that it engages the service of a professional fund manager, through direct hire or via outsourcing to an authorized fund management entity.
 - 10.1.4.18. A foreign entity not being established or incorporated in the Philippines that, if established or incorporated in the Philippines, would be covered by one of the preceding paragraphs; and⁴⁹
 - 10.1.4.19. Such other person as the Commission may by rule or order determine as qualified buyers, on the basis of such factors as

⁴⁵ See MC 10-2018 Re: Rules and Regulations on Determination of Trust Fund as a Qualified Buyer dated 06 August 2018.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ MC 06-2021, *supra* note 35, items 10.1.4.5 to 10.1.4.18 were introduced, but were not included in MC 11-2025, *supra* note 41.

financial sophistication, net worth, knowledge, and experience in financial and business matters, or amount of assets under management.⁵⁰

10.1.5. Qualified Buyers Under Section 10.1 (I)(vi) of the Code⁵¹

10.1.5.1. For purposes of Section 10 of the Code, a natural person shall be considered a qualified individual buyer if he has registered as such with entities that are authorized by the Commission to act as registrar of qualified buyers pursuant to the rules provided under SRC Rule 39.1.4.

A natural person must possess the following qualifications:

10.1.5.1.1. Has an annual gross income of at least Ten Million Pesos (Php10,000,000.00) at least two (2) years prior to registration, or a total portfolio investment in securities registered with the Commission of at least Ten Million Pesos (Php10,000,000.00), or a personal net worth of not less than Thirty Million Pesos (Php30,000,000.00); and

10.1.5.1.2. Has been engaged in securities trading personally or through a fund manager for a minimum period of one (1) year, or has held for at least two (2) years a position of responsibility in any professional business entity that requires knowledge or expertise in securities trading, such as, legal consultant, financial adviser, sales person, or associated person of a broker-dealer, bank finance or treasury officer, trust officer or other similar executive officers.

10.1.5.2. If the buyer is a juridical person, it shall, at the time of registration with an authorized registrar, (i) have gross assets of at least One Hundred Million Pesos (Php100,000,000.00) or (ii) a total portfolio investment in securities registered with the Commission or financial instruments issued by the government of at least Sixty Million Pesos (Php60,000,000.00).

10.1.5.3. All persons registering as qualified buyers shall, in addition, show proof that they possess the above-enumerated qualifications and submit under oath certified copies of the documents or their equivalent that show the following matters:

10.1.5.3.1. Total portfolio of securities;

10.1.5.3.2. Annual gross income;

10.1.5.3.3. Their net worth; and

10.1.5.3.4. Threshold risk (low, medium, high risk).

10.1.5.4. The registration as qualified buyers shall be valid for 3 years if the qualifications provided for in 10.1.5.1 and 10.1.5.2 above are continuously complied with. Any application for renewal shall be subject to new evaluation by the registrar and accompanied by updated information sheets. For this purpose, the registrar shall maintain a registry book of qualified buyers that shall be open for inspection by the Commission.

10.1.6. Issuance of evidence of indebtedness to primary institutional lenders⁵²

Sections 8 and 12 shall not likewise apply to issuance of evidence of indebtedness to the following primary institutional lenders: banks, including their trust accounts wherein the bank-trustee is granted discretionary powers in the investment disposition of the trust funds, investment houses including their trust accounts wherein the investment house-trustee is granted discretionary powers in the investment disposition of the trust funds, trust companies, financing companies, investment companies, pre-need companies, non-stock savings and loan associations, building and loan associations,

⁵⁰ MC 06-2021, *supra* note 35, MC 11-2025, *supra* note 41.

⁵¹ MC 11-2025, *supra* note 41.

⁵² *Id.*

venture capital corporations, insurance companies, government financial institutions, pawnshops, pension and retirement funds approved by the BIR, educational assistance funds established by the national government, and other entities that may be classified as primary institutional lenders by the BSP, in consultation with the SEC; *Provided* all such evidence of indebtedness shall only be negotiated or assigned to any of the aforementioned primary institutional lenders or the Development Bank of the Philippines with respect to private development banks in relation with their rediscounting privileges; *Provided* further that in case of non-banks without underwriting licenses, such negotiation or assignment shall be through banks or non-banks licensed to be an underwriter or a securities dealer; *Provided* finally, that in no case shall said instrument be negotiated or assigned to non-qualified investors.

10.1.7. Burden of Proof on the Availability of Exemption⁵³

Unless a Confirmation of Exempt Transaction is issued under this Rule, any person claiming exemption under Section 10 of the Code has the burden of proof, if challenged, of showing that it is entitled to the exemption. The Commission may challenge such exemption any time.

10.1.8. Exempt from Registration, But Not from Other Requirements and Liabilities⁵⁴

Notwithstanding that a particular class of securities issued under Section 10.1 is exempt from registration, the conduct by any person in the purchase, sale, distribution of such securities, settlement and other post-trade activities shall comply with the provisions of the Code and the rules issued thereunder.

Moreover, the sale or offer for sale of a security in an exempt transaction under Section 10 of the Code shall not be exempt from civil liability and other related liabilities and other applicable provisions of the Code on fraud, among others.

Consistent with public interest and for the protection of investors, the Commission, may require an Issuer of a class of securities falling under exempt transactions, to make available to investors and file with the Commission periodic disclosures regarding the Issuer, its business operations, its financial condition, its governance principles and practices, its use of investor funds, and other appropriate matters, and may also provide for suspension and termination of such requirement with respect to such Issuer.

RULE 10.2 - Limited Public Offerings and Other Exempt Transactions⁵⁵

10.2.1. The Commission may exempt other transactions, not covered under Section 10.1. of the Code, if it finds that the requirement of registration under the Code is not necessary in the public interest or for the protection of the investors such as by reason of the small amount involved or the limited character of the public offering.⁵⁶ In such cases, an Application for Confirmation of Exempt Transaction must be filed with the Markets and Securities Regulation Department, pursuant to Section 10.3 of the Code.⁵⁷

10.2.2. For a public offering to be considered of limited character, the covered securities should be available only to the parties or persons named in the Application for Confirmation of Exempt Transaction for a specified period.⁵⁸

10.2.3. The following documents shall be submitted in support of an Application for Confirmation of Exempt Transaction under Section 10.2 of the Code:

10.2.3.1. Letter-request which shall contain the following information:

10.2.3.1.1. Registered name of the applicant;

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ See MC 13-2017 and MC 11-2026, *supra* note 16.

⁵⁶ See MC 9-2024 Re: SEC Strathbox [Regulatory Sandbox] dated 25 April 2024.

⁵⁷ MC 11-2025, *supra* note 41.

⁵⁸ *Id.*

- 10.2.3.1.2. Primary purpose of the applicant;
 - 10.2.3.1.3. Number of option shares to be issued;
 - 10.2.3.1.4. Corresponding position of the optionees or persons to whom the offer shall be made;
 - 10.2.3.1.5. Latest audited financial statements of the applicant;
 - 10.2.3.1.6. If applicable, the names and addresses of the applicant's subsidiaries and affiliate companies and their dates of registration with the Commission; issue price or exchange rate, including its source or basis, of the option shares at the time of filing; and last quoted price of the option shares and such other relevant features, terms and conditions of the plan.
- 10.2.3.2. Notarized certificate of the Corporate Secretary of the applicant Issuer attesting to the following:⁵⁹
- 10.2.3.2.1. Approval by the applicant's Board of Directors and required stockholders' approval of the stock offering plan ("the Plan");
 - 10.2.3.2.2. Genuineness and due execution of the Plan, a copy of which shall be attached to the certificate; and
 - 10.2.3.2.3. If applicable, a breakdown of the number of shares earlier exempted from registration (citing SEC Resolution and date of approval), the shares subscribed by the optionees, and the remaining unissued shares computed on a year-to-year basis, and an explanation on why the applicant has renewed its application in spite of the availability of unissued shares.
 - 10.2.3.2.4. A Certification of the Human Resource Head or any position of equivalent nature that the optionee-employees were given a copy of the Plan to enable them to make an intelligent judgment on the advantages and disadvantages of the Plan.
 - 10.2.3.2.5. If the issuer is a foreign corporation, it should state whether the terms and conditions of the Plan in the Philippines are the same as that in other jurisdictions and an undertaking that the optionees of the plan will have continuous access on the key performance indicators of the company;
 - 10.2.3.2.6. All documents executed abroad shall be in English and authenticated by the Philippine Embassy or Consulate where the documents were executed.
 - 10.2.3.2.7. A listing of persons and their corresponding position(s) in whose favor such grant or issuance of options is to be made, indicating the number of shares to be given to each, or if this could not yet be ascertained, the formula to be used in determining such number of shares, and issue price.

10.2.4. Issuers, as well as the participating subsidiary, affiliate, branch office or any other entity-optionee, granted exemption under this Rule shall submit to the Commission, on or before the 10th of January of each year following the date of the grant

⁵⁹ According to MC 5-2012 Re: Participation of Independent Directors in Employees' Stock Option Plan dated 13 July 2012, Independent Directors are allowed to participate in Employee's Stock Option Plan, provided that their shareholdings in the company do not exceed 2% of the outstanding shares of the corporation.

until full issuance, a report containing the necessary details of the grant, such as but not limited to, the names of actual optionees and the number of shares subscribed by them, or such other reports and for such period as the Commission may from time to time require.

10.2.5. Any person applying for confirmation of an exemption under Section 10.2 of the Code shall file with the Commission an Application for Confirmation of Exempt Transaction and shall pay a fee equivalent to one-tenth (1/10) of one percent (1%) of the maximum aggregate price or issued value of the securities, pursuant to Section 10.3 of the Code. The Corporate Secretary of the Issuer shall submit a sworn undertaking to pay the additional filing fee should there be an increase in price of the securities at the time of grant.⁶⁰

RULE 10.3 - General Rules on Exempt Transactions and Application for Confirmation of Exempt Transaction⁶¹

10.3.1. No securities sold under exempt transactions pursuant to Section 10.1 or granted exemption under Section 10.2 hereof shall be subsequently offered for sale or sold to the public without prior registration, unless such subsequent offer or sale likewise qualifies or has been confirmed as an exempt transaction, pursuant to Section 10 of the Code.⁶²

10.3.2. Exempt Commercial Paper Transactions⁶³

An Issuer of commercial papers applying for a Confirmation of Exempt Transaction under these Rules shall:

10.3.2.1. Attach to the Application for Confirmation of Exempt Transaction a disclosure of the following financial ratios:

Current Ratio	=	$\frac{\text{Current Assets}}{\text{Current Liabilities}}$
Debt to Equity Ratio	=	$\frac{\text{Total Liabilities}}{\text{Stockholders' Equity}}$

10.3.2.2. Indicate in bold letters on the face of the instrument the words:

NON-NEGOTIABLE/NON-ASSIGNABLE

10.3.3. Application for Confirmation of Exempt Transaction⁶⁴

10.3.3.1. In cases where the Issuer avails of the option to apply for a Confirmation of Exempt Transaction under Section 10.1 of the Code or files a mandatory Application for Confirmation of Exempt Transaction under Section 10.2 of the Code, the following rules shall apply:

10.3.3.1.1. In cases involving the distribution of securities through stock dividends, the Commission shall determine the sufficiency of the retained earnings of the Issuer prior to issuing a Confirmation of Exempt Transaction:

10.3.3.1.2. If the consideration for the offered securities is other than cash, except in the case of issuance of shares by way of stock dividends, an Application for Confirmation of Exempt Transaction shall be filed with the Markets and Securities Regulation Department and the approval of valuation required under Section 61 of the Revised

⁶⁰ MC 11-2025, *supra* note 41.

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.*

Corporation Code shall be processed by the Financial Analysis and Audit Department, subject to the payment of corresponding fees.

10.3.4. Exemption Not Available for Scheme to Evade Compliance⁶⁵

An Application for Confirmation of Exempt Transaction under Section 10 of the Code shall not be available to any Issuer or other persons to any transaction or chain of transactions that, although it may appear to be in compliance with the Code and these Rules, is a part of a plan or scheme to evade compliance with the registration requirements of the Code. In such cases, registration shall be mandatory.

10.3.5. The Commission may take any action it may deem appropriate in an application for Confirmation of Exempt Transaction even if it is filed after the offer or sale of the securities without prejudice to the imposition of penalties if warranted.⁶⁶

RULE 11 - Commodity Futures Contracts

11.1. No person shall offer, sell or enter into commodity futures contracts except in accordance with rules, regulations and orders the Commission may prescribe in the public interest. The Commission shall promulgate rules and regulations involving commodity futures contracts to protect investors to ensure the development of a fair and transparent commodities market.

11.1.1. Commodity futures contract means a contract providing for the making or taking delivery at a prescribed time in the future of a specific quantity and quality of a commodity or the cash value thereof, which is customarily offset prior to the delivery date, and includes standardized contracts having the indicia of commodities futures, commodity options and commodity leverage, or margin contracts.

11.1.2. Commodity means any goods, articles, agricultural and mineral products, services, rights and interests, financial instruments, foreign currencies, including any group or index of any of the foregoing, in which commodity interest contracts are presently or in the future dealt in.

11.1.3. Forward means a contract between a buyer and a seller whereby the buyer is obligated to take delivery and the seller is obliged to deliver a fixed amount of an underlying commodity at a pre-determined price and date. Payment in full is due at the time of delivery.

11.2. The public trading of commodity futures contracts and pertinent Commission rules on futures trading shall remain suspended until further ordered otherwise by the Commission, without prejudice to applicable Bangko Sentral ng Pilipinas rules and circulars on commodity futures contracts of entities and persons under BSP's jurisdiction.

RULE 12.1 - Filing Requirements under the Code⁶⁷

12.1.1. Underwriting Requirement for Registered Securities

Issuers of Registered Securities shall enter into an underwriting agreement with a universal bank, investment house or any other financial institution duly licensed under the Investment Houses Law; Provided, that if the underwriter is part of a group composed

⁶⁵ MC 11-2025, *supra* note 41.

⁶⁶ *Id.*

⁶⁷ See MC 9-2025 Re: Further Streamlining the 45-Day Registration Statement Review Process under the Markets and Securities Regulation Department of the Securities and Exchange Commission, and Providing a Discounted Rate for the Registration Fee dated 24 July 2025. In addition to the standard SEC Form 12-1, the Commission has prescribed specific forms and streamlined procedures for certain sectors and offering types: MC 13-2025, *supra* note 16; MC 12-2025, *supra* note 18; MC 12-2024, *supra* note 15; MC 5-2024 Re: Guidelines on the Philippine Sustainable Finance Taxonomy, dated 23 February 2024; MC 4-2024, *supra* note 15; MC 15-2023 Re: Guidelines on Eligible Blue Projects and Activities for the Issuance of Blue Bonds in the Philippines dated 21 September 2023; MC 8-2023, *supra* note 15; MC 3-2023, *supra* note 15; MC 9-2019, *supra* note 15; MC 8-2019, *supra* note 15; MC 12-2018, *supra* note 15; and MC 11-2017, *supra* note 15; see also MC 24-2019 and MC 19-2016, *supra* note 3; MC 7-2023, *supra* note 14; MC 13-2017 and MC 11-2026, *supra* note 16; MC 15-2025, *supra* note 1 on Beneficial Ownership Disclosure.

of such institutions, the group shall agree on a syndicate manager that shall act on behalf of, and be responsible to, the group and whose actions shall be binding on the members of the group.

No underwriting agreement shall be required for issuers of proprietary/non-proprietary securities and timeshares.

12.1.2. Requirements for Registration of Commercial Papers and Bonds

12.1.2.1. No commercial papers or bonds shall be offered for sale to the public unless the following registration requirements are complied with:

- 12.1.2.1.1. A registration statement shall be filed in accordance with SRC Rule 8.1 and this Rule;⁶⁸
- 12.1.2.1.2. The Commission may grant exemptive relief with respect to the requirement of an underwriting agreement provided the Issuer can show sufficient proof that it has the ability to sell all or substantially all of its debt securities to the public;
- 12.1.2.1.3. Except for an issuance that amounts to not more than twenty five percent (25%) of the Issuer's net worth both on the basis of its stand-alone Audited Financial Statements and Consolidated Audited Financial Statements, if applicable, or where there is an irrevocable committed credit line with a bank covering one hundred percent (100%) of the proposed issuance, an issuer of commercial papers shall be rated by a Credit Rating Agency ("CRA") accredited by the Commission.

12.1.2.2. The CRA which will provide the rating required under these rules shall comply with the requirements for accreditation, operations and reporting of CRA under SEC Memorandum Circular No. 7, Series of 2014 and SRC Rule 39.1.

12.1.2.3. The Issuer shall comply with such other terms and conditions that the Commission may impose from time to time in the exercise of its mandate to protect the investors.

12.1.2.4. The Issuer shall comply with the conditions imposed for the registration of its commercial papers during the effectivity of the registration statement covering the said securities. The failure to comply with the conditions shall be sufficient ground, after notice and hearing, for the suspension or revocation of the registration.

12.1.2.5. Term of Registration and Reissuance

The registration of commercial papers shall be valid for three (3)-years or a longer period as may be prescribed by the Commission; Provided, that the Issuer shall include in its quarterly report the amount of commercial papers actually sold.

12.1.2.6. Default

12.1.2.6.1. If an Issuer of commercial papers defaults or fails to pay in full upon demand at its maturity date, the Issuer shall, within the next business day after such failure, notify in writing its underwriter or selling agent and the Commission of such failure and the latter shall forthwith issue a Cease and Desist Order enjoining the Issuer and underwriter or selling agent from further offering for sale the subject commercial papers.

⁶⁸ Annex C of SRC Rules (Non-Financial Disclosure Requirements) of Rule 12 has been amended by MC 14-2023 Re: Amendments to Annex C of Rule 12 of the Securities Regulation Code. See MC 13-2023 Re: Guidelines on Annex C of Rule 12 of the Securities Regulation Code Interpreting the Comparative Periods Required in the Management's Discussion and Analysis dated 12 September 2023; MC 14-2004 Re: Amendments to Annex "C" of Rule 12 on Financial Information, Certain Relationships, and Related Transactions dated 29 October 2004; and MC 8-2024, *supra* note 33 on disclosure for cornerstone investors. See also Annexes to SRC.

12.1.3. Requirements for Registration of Derivatives

12.1.3.1. Warrants

12.1.3.1.1. Definitions. For purposes of this Rule, the following terms shall be construed as follows:

- 12.1.3.1.1.1. Warrant Certificate — means the certificate representing the right to a Warrant, which may or may not be detachable, that is issued by an Issuer to a Warrant holder.
- 12.1.3.1.1.2. Warrant Instrument — means the written document or deed containing the terms and conditions of the issue and exercise of a Warrant whose terms and conditions shall include (i) the maximum underlying shares that can be purchased upon exercise, (ii) the exercise period, and (iii) such other terms and conditions as the Commission may require.
- 12.1.3.1.1.3. Detachable Warrant — means a Warrant that may be sold, transferred or assigned to any person by the Warrant holder separate from, and independent of, the corresponding Beneficiary Securities.
- 12.1.3.1.1.4. Non-detachable Warrant — means a Warrant that may not be sold, transferred or assigned to any person by the Warrant holder separate from, and independent of, the Beneficiary Securities.
- 12.1.3.1.1.5. Beneficiary Securities — means the shares of stock and other securities of the Issuer which form the basis of entitlement in a Warrant.
- 12.1.3.1.1.6. Underlying Shares — means the unissued shares of a corporation that may be purchased by the Warrant holder upon the exercise of the right granted under the Warrant.

12.1.3.1.2. Registration

12.1.3.1.2.1. Upon registration of its warrants under Sections 8 and 12 of the Code and SRC Rules 8.1 and 12.1, a corporation may offer and issue such securities to the public.

12.1.3.1.2.2. The Issuer shall disclose in its registration statement the terms and conditions of the warrant plan, including its related computational data.

12.1.3.1.2.3. An Issuer proposing to offer Warrants to the public shall file SEC Form 12-1 and pay the filing fees in such amounts as the Commission may determine.

12.1.3.1.3. Form, Content and Other Requirements of Warrant Certificates

12.1.3.1.3.1. All Warrants authorized for issuance by the Commission shall be evidenced by Warrant Certificates which shall be signed by the president (or such other officer as may be duly authorized by the board of directors) and corporate secretary of the Issuer.

12.1.3.1.3.2. For Detachable Warrants, the Warrant Certificate shall state the following on its face: "This Warrant does not represent any share of stock, but only a right to purchase shares of stock of the Issuer under the terms and conditions contained in the certificate."

A Warrant Certificate shall also state (whether on its face or on its reverse side) the warrant certificate number; par or issue value, class and number of the corresponding underlying shares; exercise price, or formula for computing the same, or any adjustments; exercise period and expiry date of the Warrant; procedure for the exercise; summary of the provisions contained in the Warrant Instrument; and exchange ratio or the number of underlying shares that may be purchased by each Warrant holder.

12.1.3.1.3.3. For Non-detachable Warrants, the right granted under the Warrant shall be described in the stock transfer or instrument evidencing the Beneficial Securities. A Warrant Certificate or the stock certificate or instrument evidencing the Beneficial Securities where the non-detachable Warrant is described shall also state (whether on its face or on its reverse side) the warrant certificate number; par or issue value, class and number of the corresponding underlying shares; exercise price, or formula for computing the same, or any adjustments; exercise period and expiry date of the Warrant; procedure for the exercise; summary of the provisions contained in the Warrant Instrument; and exchange ratio or the number of underlying shares that may be purchased by each Warrant holder.

12.1.3.1.4. Exercise Period

Warrant holders may exercise the right granted under a Warrant within the period set by the Issuer as disclosed in its registration statement. Such set period shall hereinafter be referred to as the "Exercise Period". No extension of such period shall be allowed without the written consent of the Warrant Holders representing a majority of the total number of warrants held.

12.1.3.1.5. Exercise Price

12.1.3.1.5.1. The Exercise Price shall be a price fixed at the time of the registration, or computed using the stated formula, and disclosed by the Issuer in its registration statement.

12.1.3.1.5.2. The Exercise Price shall be paid in full upon the exercise of the right, and shall not be less than the par value of the underlying shares nor less than Five Pesos (PhP5.00) per share, if the underlying shares have no par value.

12.1.3.1.5.3. The Exercise Price shall be adjusted only if the Warrant Instrument provides for (i) the conditions under which adjustments in Exercise Price can be made; (ii) the formula under which the adjusted Exercise Price can be determined; and (iii) under any of the following circumstances that may occur after the issuance of the Warrant:

- 12.1.3.1.5.3.1. Change in the par value of the underlying shares;
- 12.1.3.1.5.3.2. Declaration of stock dividends;
- 12.1.3.1.5.3.3. Offering of additional shares at a price different from the original exercise price;
- 12.1.3.1.5.3.4. Merger, consolidation or quasi- reorganization;
- 12.1.3.1.5.3.5. Disposition of a substantial portion of the assets of the corporation; and
- 12.1.3.1.5.3.6. Such other similar instances as may be approved by the Commission.

12.1.3.1.6. Warrants Registry Book

Any corporation authorized to issue Warrants shall have a Warrants Registry Book or equivalent scripless record system maintained by a designated Warrants Registrar who shall preferably be the Stock and Transfer Agent of the Issuer. Upon the exercise of the right granted under a Warrant, a notation to this effect shall be duly recorded in the Warrants Registry Book and the purchase of the Underlying Shares shall be recorded in the Stock and Transfer Book of the Issuer. Any sale, transfer, or assignment of a Warrant must be recorded in the Warrants Registry Book, including the names of the transferor and transferee, the number of Warrants transferred and the number of Underlying Shares covered by the said transfer. Unless recorded in the Warrants Registry Book, the transfer of Warrants shall not be binding on the Issuer.

12.1.3.1.7. Transferability of Warrants

All registered Warrants shall be transferable without need of approval from the Commission; Provided, that Non-detachable Warrants shall be transferred only together with the Beneficial Securities.

12.1.3.1.8. Listing Requirements

Warrants authorized for issuance by the Commission may be listed in an Exchange together with the Beneficiary Securities in accordance with existing rules for the listing of securities, and under such other rules as the Exchange may adopt and approved by the Commission; Provided, that the Warrants shall be automatically delisted upon the lapse of the Exercise Period.

12.1.3.1.9. Structured and other types of Warrants

The registration and trading of structured and other warrants shall be governed by special rules that may be issued by the Commission.

12.1.3.2. Options

12.1.3.2.1. No corporation shall grant or offer any Option to the public unless it is registered in accordance with Sections 8 and 12 of the Code and Rules 8.1 and 12.1, except when the security is exempt from registration under Sections 9 and 10 of the Code or under these Rules.

12.1.3.2.2. A person proposing to offer any Option to the public shall file SEC Form 12-1. Notwithstanding that the Option has no issue value, it shall pay the filing fees in such amounts as the Commission may determine.

12.1.3.2.3. The Issuer shall disclose in its registration statement the terms and conditions of the Option plan, including its related computational data. The plan shall be submitted as an exhibit to the registration statement.

12.1.3.2.4. In evaluating the registration of stock Options, the Commission shall be guided by the following considerations:

12.1.3.2.4.1. Stocks granted to stockholders proportionate to their shareholdings may be allowed.

12.1.3.2.4.2. Stock Options may be granted to employees or officials who are not members of the board of directors, subject, however, to a review of the scheme by the board and approval by the stockholders in order to widen the corporate base and distribute corporate profits more equitably.

12.1.3.2.4.3. Stock Options may be granted to non- stockholders if the board has been authorized to grant that benefit by the corporation's articles of incorporation, by-laws or by a resolution of the stockholders representing at least two-thirds (2/3) of the outstanding voting and non-voting capital stock.

12.1.3.2.4.4. Stock Options granted to directors and officers must be approved in a meeting of the stockholders representing at least two-thirds (2/3) of the outstanding voting and non-voting capital stock.

12.1.3.2.4.5. The exercise of Options must be done within the period set by the Issuer as disclosed in its registration statement.

12.1.3.2.4.6. Corporations that grant Options shall maintain an Option Registry Book or equivalent scripless record system where all Options granted, including transfers, shall be recorded with the entries showing the name of the person to whom the Option has been granted, the basis or authority for such grant, the date of the grant, the number of shares, the price per share, the exercise date, the total cost and official receipt number.

12.1.3.3. Other Types of Derivatives

12.1.3.3.1. All companies that plan to offer to sell derivatives to the public shall file a registration statement under SEC Form 12-1 in accordance with SRC Rules 8.1 and 12.1.

12.1.3.3.2. The registration statement shall include financial statements prepared in accordance with the Philippine Financial Reporting Standards and applicable International Accounting Standards on Financial Instruments, enumeration of attendant risks and a description of the company's financial risk management policies, including its policies for hedging.

12.1.4. Additional registration requirements for Proprietary and Non-Proprietary Shares or Certificates

12.1.4.1. The Issuer shall clearly indicate in its articles of incorporation, by-laws and prospectus the following:

- 12.1.4.1.1. A description of the nature and type of the shares or certificates, rights and privileges of their holders, in particular, their right over the use of the facilities of the Issuer;
- 12.1.4.1.2. The undertaking that the certificates or shares shall be issued within sixty (60) business days from the date of their full payment, and that the Issuer shall qualify the prospective members before the actual sale or transfer of the share or certificate.

12.1.4.2. The Issuer shall also include in the prospectus an undertaking that, if the project or underlying asset for which the securities are sold is, for any reason, not completed within the periods stated in the prospectus, it shall refund the amount of the investment of the purchaser of the securities within ten (10) business days from receipt of a written demand, and which undertaking shall be covered by a surety bond under such terms and conditions as may be approved by the Commission.

12.1.4.3. The Issuer shall also state in the prospectus that it shall:

- 12.1.4.3.1. Not collect membership dues unless the project is fifty percent (50%) usable as indicated in the prospectus, unless the Issuer provides for a higher percentage of usability;
- 12.1.4.3.2. Submit to the Commission a report under oath of any increase in fees and the rationale for such increase within thirty (30) business days from the approval by its board of directors of such increase;
- 12.1.4.3.3. Notify the members of any increase in fees upon the board's approval of the increase; and
- 12.1.4.3.4. Cause the posting of proper notices and other communications on the charging of fees on bulletin boards situated at conspicuous place/s at the site of the Issuer for the benefit of the secondary market.

12.1.4.4. The following documents shall be submitted as annexes to the registration statement:

- 12.1.4.4.1. Copy of Subscription Agreement containing the required undertaking under SRC Rule 12.1.4.2 above;
- 12.1.4.4.2. Copy of a Credit Line Agreement with a reputable domestic bank covering the cost of the entire or unfinished portion of the project. The credit line shall be availed of in the event of insufficiency of funds for the completion of the project arises. The terms of the agreement shall be disclosed in the prospectus;
- 12.1.4.4.3. Copy of a Custodianship or Escrow Agreement with a reputable bank covering the proceeds from the sale of the shares or certificates, which provides, among others, that the said proceeds shall be

withdrawn only upon the presentation of the company's work progress report; and

- 12.1.4.4.4. Copy of the Environmental Compliance Certificate from the Department of Environment and Natural Resources covering the project.
- 12.1.4.4.5. Copy of the Original/Transfer Certificate of Title of the property to be developed in the name of the Issuer.

RULE 12.2 - Incorporation by Reference

12.2.1. Except for information filed as an exhibit, as provided for in SRC Rule 12.2.3, or is required to be contained in the prospectus subject of SRC Rule 12.2.4, information may be incorporated by reference to fully or partially answer any item of a registration statement filed pursuant to SRC Rule 8 or a report filed pursuant to SRC Rule 17.1 subject to the following provisions:

- 12.2.1.1.** Financial statements incorporated by reference shall satisfy the requirements of the form or report in which they are incorporated. Financial statements or other financial data required to be given in comparative form for two (2) or more fiscal years or periods shall not be incorporated by reference unless the material incorporated by reference includes the entire period for which the comparative data are given;
- 12.2.1.2.** Information in any part of the registration statement or other reports may be incorporated by reference to fully or partially answer any other item of the registration statement or other report; and
- 12.2.1.3.** Copies of any information or financial statements incorporated into a registration statement or other report by reference, or copies of the pertinent pages of the document containing such information or statements, shall be filed as an exhibit to the statement or report.

12.2.2. All materials incorporated by reference shall be clearly identified by page, paragraph, caption or other means of identification. If only certain pages of a document are incorporated by reference and filed as an exhibit, the document from which the material was taken shall be clearly identified in the reference. An express statement that the specified matter is incorporated by reference shall be made at the particular place in the statement or report where the information is required. A matter shall not be incorporated by reference in any case if such incorporation would render the statement or report incomplete, unclear or confusing.

12.2.3. Incorporation of Exhibits by Reference

12.2.3.1. Any document or parts of it that have been filed with the Commission pursuant to the Code may be incorporated by reference as an exhibit to any statement or report filed with the Commission by the same or any other person. Any document or parts of it that are filed with an Exchange pursuant to the Code may be incorporated by reference as an exhibit to any statement or report filed with that Exchange by the same or any other person.

12.2.3.2. If any modification has been made in the text of any document incorporated by reference since its filing, the Issuer shall file with the reference a statement containing the text of any such modification and its date.

12.2.4. Information shall not be incorporated by reference in a prospectus.

RULE 12.5 (B) - Publication and Posting of Notice of Filing

12.5(b).1. The Issuer shall prepare and file with its registration statement a notification of such filing which shall state that (a) a registration statement for the sale of

the subject security has been filed with the Commission; (b) that the registration statement is open for inspection by interested parties during business hours at the Commission; and (c) that copies shall be furnished to anyone requesting them for a reasonable cost. The notice shall be signed by the Director of the department concerned or any officer designated by the Commission. The Issuer shall, upon or before filing, publish the notice, at its own expense, in two (2) national newspapers of general circulation once a week for two (2) consecutive weeks and post the said notice and updated prospectus in its website. The required format for this notice is shown in "Annex A."⁶⁹

12.5(b).1.1. In the choice of the newspaper where the notice shall be published, the Issuer shall take into account the following considerations:

- 12.5(b).1.1.1. The notice shall likely be read by the persons who may be interested in or whose interests would be affected by the registration statement;
- 12.5(b).1.1.2. The national newspaper of general circulation is published at regular intervals, preferably five (5) times a week;
- 12.5(b).1.1.3. The newspaper must not be devoted to the interests of or published for the entertainment of a particular class, profession, trade, calling, race or religious denomination.

12.5(b).1.2. The burden of proof of showing satisfactory compliance with the notice requirement shall rest with the Issuer and the Commission may order a republication and/or re-posting of the notice if, in its judgment, the objective of the notice requirement has not been met.

12.5(b).2. As part of its registration statement, the Issuer shall submit to the Commission an affidavit of publication with a copy of the notice that was published or a copy of the pro-forma notice to be published, with the attestation that the publication has been or will be immediately undertaken.

12.5(b).3. The order of the Commission rendering effective the registration statement shall, at the expense of the Issuer, be published in a national newspaper of general circulation and uploaded in its website within two (2) business days from its issuance.

RULE 13 - Suspension or Revocation of Registration of Securities

13.1. If the Commission, after due notice and hearing, revokes or suspends the effectivity of a registration statement under Sections 13 and 15 of the Code respectively:

- 13.1.1.** The Commission shall publish a notice of the order of revocation or suspension in a national newspaper of general circulation in the Philippines and/or post at the Commission's website, along with a statement that the offering in its current form has been cancelled.
- 13.1.2.** Upon receipt of a notice under SRC Rule 13.1.1, the Issuer and all persons acting on its behalf in the distribution of the subject securities shall immediately terminate the offering and return any and all payments received from purchasers within ten (10) business days after the notice was first published.

13.2. Voluntary Revocation

13.2.1. An Application for Voluntary Revocation of Registration of Securities shall include the following documents:

- 13.2.1.1. Verified Petition for Revocation of Registration;

⁶⁹ Annex A of SRC Rules; see Annexes to SRC.

- 13.2.1.2. Board Resolution approving the revocation, certified under oath by the corporate secretary and attested to by the president or anyone performing a similar function;
- 13.2.1.3. List of stockholders indicating their respective shareholdings as of the latest date;
- 13.2.1.4. All relevant books and papers of the Issuer, as may be determined by the Commission;
- 13.2.1.5. Proposed Notice of Filing of Petition for Voluntary Revocation of Registration of Securities, reciting the facts supporting the said petition which shall be subject to the approval of the Commission; and
- 13.2.1.6. Copy of the official receipt representing payment of the prescribed filing fees.

13.2.2. The Commission may impose such other requirements or conditions it may deem necessary.

13.2.3. Procedures

- 13.2.3.1. Upon the presentation of the documents required for voluntary revocation of registration of securities, the Notice of Filing of Petition for Voluntary Revocation shall be immediately published by the Issuer at its own expense, once in a national newspaper of general circulation.
- 13.2.3.2. If, after fifteen (15) business days from the said publication, the Commission finds that the petition together with all other papers and documents attached to it, is on its face complete and that no party stands to suffer any damage from the revocation, it shall prepare an order revoking the registration.
- 13.2.3.3. The Order of Revocation shall be published once in a national newspaper of general circulation at the expense of the company, and/or uploaded at the Commission's website.

13.3. The Order of Revocation shall exempt the Issuer from its reporting obligations under Section 17.2 of the Code unless it still qualifies as a public company.

RULE 14 - Amendments on the Registration Statement and Prospectus

14.1. For purposes of this Rule, material information shall include, but not be limited to, the following:

- 14.1.1.** Any event or transaction which increases or creates a risk on the investments or on the securities covered by the registration;
- 14.1.2.** Increase or decrease in the volume of the securities being offered at an issue price higher or lower than the range set and disclosed in the registration statement and which results to a derogation of the rights of existing security holders, as may be determined by the Commission;
- 14.1.3.** Major change in the primary business of the Issuer;
- 14.1.4.** Reorganization of the company;
- 14.1.5.** Loss, deterioration or substitution of the property underlying the securities;
- 14.1.6.** Ten percent (10%) or more change in the financial condition or results of operation of the Issuer unless a report to that effect has

been filed with the Commission and furnished the prospective purchaser;

- 14.1.7.** Classification, de-classification or re-classification of securities which results to the derogation of the rights of existing security holders, as may be determined by the Commission.

14.2. If a registration statement or prospectus on file with the Commission becomes incomplete or inaccurate in any material respect or if the Issuer wants to change any material information therein after a current report or SEC Form 17-C has been filed, the Issuer shall:

- 14.2.1.** File an amendment to the registration statement with the Commission explaining in detail all proposed changes which shall be reviewed by the Commission in accordance with Section 14 of the Code;
- 14.2.2.** If the registration statement has been declared effective by the Commission, publish a notice of the proposed amendment/s, including the reasons for the amendments, in two (2) national newspapers of general circulation in the Philippines stating that the offering in its current form has been amended;
- 14.2.3.** If the changes shall result in a derogation of the rights of existing security holders or purchasers of securities or, membership certificates who have paid a portion of the selling price, the Issuer may include in the above- mentioned publication an offer to rescind all transactions that have been completed for sale to date, without making any deduction pursuant to SRC Rule 14.2.4 and wait for thirty (30) days for the purchasers to respond to the rescission offer before initiating the amended offering;
- 14.2.4.** If the conditions under SRC Rule 14.2.3 are present, the purchasers may, within thirty (30) days from the date of such notification, renounce their purchase of the said securities. Upon such renunciation, the Issuer, or any person acting on behalf of the Issuer in connection with the distribution of the said securities, shall, within ten (10) days from receipt of notification of such election, return the payments made by security holders or purchasers of securities, or membership certificates. Purchasers who decide not to renounce their purchase of securities shall be subject to the terms of the amended offering; and
- 14.2.5.** In case of an increase in the volume or offering price of the securities to a level higher than the range previously disclosed by the Issuer, the amended registration statement or prospectus shall be accompanied by a filing fee based on the difference between the highest aggregate amount in relation to the previous range and the total amount based on the new volume or price. For amendments other than the offering price, the filing fee for the amended registration statement or prospectus shall be in such amount as the Commission may determine.

14.3. If the Commission learns that the prospectus is on its face incomplete or inaccurate in any material respect, or there is a material omission in it, it may require Issuer to comply with SRC Rule 14.2, or suspend or revoke its registration under Section 13 or 15 of the Code.

14.4. If non-material information stated in the prospectus changes, the Issuer shall file a report on SEC Form 17-C on the said changes prior to making any amendments in the registration statement. The proposed amendments shall be considered part of the original disclosure unless the Commission, within twenty (20) business days from receipt of such report, requires the Issuer to explain such changes.

14.5. Every amendment of a registration statement shall be signed by the persons specified in Section 12.4 of the Code or by any executive officer duly authorized by the board of directors. The final registration statement and prospectus shall, however, be signed by all the required signatories under Section 12.4 of the Code.

14.6. The Issuer shall file with the Commission one (1) complete, unmarked copy of every amendment, including exhibits and other papers and documents filed as part of the amendment and one (1) additional copy, marked to indicate clearly and precisely, by underlining or in some other appropriate manner, the changes effected in the registration statement by the amendment. Four (4) copies of the amended registration statement and prospectus shall be signed by the required signatories and filed with the Commission.

14.7. A copy of every amendment relating to a certified financial statements shall include the consent of the certifying accountant on the use of his certificate in the amended financial statements in the registration statement or prospectus and to being named as having certified such financial statements.

14.8. The date on which the amendments are received by the Commission shall be considered their date of filing if all the requirements of the Code and these Rules have been complied with.

14.9. The Commission may, taking into consideration the interests of the investors, order the publication in a national newspaper of general circulation of its order rendering effective the amended registration statement.

RULE 15 - Grounds and Procedure for Suspension of Registration

15.1. If, at any time, the information contained in the registration statement filed is or has become misleading, incorrect, inadequate or incomplete in any material respect, or the sale or offering for sale of the security registered thereunder may work or tend to work a fraud, the Commission may require from the issuer such further information as may in its judgment be necessary to enable the Commission to ascertain whether the registration of such security should be revoked on any ground specified in the Code. The Commission may also suspend the right to sell and offer for sale such security pending further investigation, by entering an order specifying the grounds for such action, and by notifying the issuer, underwriter, dealer or broker known as participating in such offering.

15.2. The refusal to furnish information required by the Commission may be a ground for the issuance of an order of suspension pursuant to Subsection 15.1. Upon the issuance of any such order and notification to the issuer, underwriter, dealer or broker known as participating in such offering, no further offer or sale of any such security shall be made until the same is lifted or set aside by the Commission. Otherwise, such sale shall be void.

15.3. Upon issuance of an order of suspension, the Commission shall conduct a hearing. If the Commission determines that the sale of any security should be revoked, it shall issue an order prohibiting sale of such security.

Until the issuance of a final order, the suspension of the right to sell, though binding upon the persons notified thereof, shall be deemed confidential, and shall not be published, unless it shall appear that the order of suspension has been violated after notice. If, however, the Commission finds that the sale of the security will neither be fraudulent nor result in fraud, it shall forthwith issue an order revoking the order of suspension, and such security shall be restored to its status as a registered security as of the date of such order of suspension.

TITLE V Reportorial Requirement

RULE 17.1 - Reportorial Requirements⁷⁰

17.1.1. Public and Reporting Companies

This SRC Rule shall apply to all public and reporting companies as defined in SRC Rule 3. However, the obligation of a company which has sold a class of its securities pursuant to a registration under Section 12 of the Code shall be suspended for any fiscal year if, as of the first day of any such fiscal year, it has less than one hundred (100) holders of such class of securities and the Commission is notified of that fact. The suspension shall be availed of only after the year the registration became effective.

17.1.1.1. The public and reporting companies shall file with the Commission:

- 17.1.1.1.1. An **annual report** on SEC Form 17-A for the fiscal year in which the registration statement was rendered effective by the Commission, and for each fiscal year thereafter, within one hundred five (105) calendar days after the end of the fiscal year.
- 17.1.1.1.2. A **quarterly report** on SEC Form 17-Q within forty five (45) calendar days after the end of each of the first three quarters of each fiscal year. The first quarterly report of the Issuer shall be filed either within forty five (45) calendar days after the effective date of the registration statement or on or before the date on which such report would have been required to be filed if the Issuer had been required previously to file reports on SEC Form 17- Q, whichever is later.
- 17.1.1.1.3(a). A **current report** on SEC Form 17-C, as may be necessary, to make a full, fair and accurate disclosure to the public of every material fact or event that occurs which would reasonably be expected to affect the investors' decisions in relation to those securities. In the event a news report appears in the media involving an alleged material event, a current report shall be made within the period prescribed herein in order to clarify the said news item which may create public speculation if not officially denied or clarified by the concerned company.
- 17.1.1.1.3(b). The disclosure required by SRC Rule 17.1.1.1.3 (a) shall be made by the company in accordance with the following guidelines:
 - 17.1.1.1.3(b).1. **Promptly** to the public through the news media;
 - 17.1.1.1.3(b).2. If the Issuer is listed on an Exchange, to that Exchange and to the Commission **within ten (10) minutes** after the occurrence of the event and prior to its release to the public through the news media; Provided that, disclosure by the Issuer to the Exchange may be deemed as filing with the Commission pursuant to a Memorandum of Agreement between the Exchange and the Commission; Provided

⁷⁰ See MC 15-2025, *supra* note 1; MC 12-2014 Re: Clarification for Changes and Updates in the Annual Corporate Governance Scorecard [ACGR] dated 26 May 2014; MC 1-2014 Re: Guidelines for Changes and Updates in the Annual Corporate Governance Report [ACGR] dated 10 January 2014; MC 11-2014 Re: Template for Publicly-Listed Companies' Websites dated 26 May 2014; MC 5-2013 Re: Annual Corporate Governance Report [ACGR] on Annual Corporate Governance Scorecard dated 20 May 2013; MC 18-2013; Posting of the Annual Corporate Governance Report (ACGR) in Company Websites; MC 9-2013; Extension of the Deadline to Submit Annual Corporate Governance Report for Listed Companies Pursuant to SEC Memorandum Circular No. 5, series of 2013 dated 20 May 2013, provided a thirty (30)-day extension for the submission of the ACGR (i.e., until 30 June 2013); MC 12-2026, *supra* note 15; and MC 14-2026, *supra* note 15.

further that, the Memorandum of Agreement shall provide for the ability of the Commission to download and upload the same information made available to the Exchange;

- 17.1.1.1.3(b).3. If the issuer is not listed on an Exchange, to the Commission through SEC Form 17-C **within five (5) calendar days** after the occurrence of the event reported, unless substantially similar information as that required by Form 17-C has been previously reported to the Commission by the Issuer.

17.1.1.2. Any disclosure signed and filed with the Commission and the Exchange where the securities of the Issuer are listed, or released to the news media by any director, executive officer or a principal (as defined under Section 23 of the Code) of an Issuer shall be considered as part of any report mentioned in SRC Rule 17.1.1.3(a) and deemed as an official filing of such company if it does not deny the subject information within two (2) days from the filing or release of the disclosure. Any misleading statement, misrepresentation or omission of a material fact therein shall be considered the joint responsibility of the Issuer and the reporting director, officer or principal.

17.1.1.3. An owner of more than five percent (5%) of the voting rights of a public and reporting company that meets the requirements of Section 17.2 of the Code who holds material information which may materially affect such company may be required by the Commission to disclose such information within the period prescribed under SRC Rule 17.1.1.3. Failure to provide the required information shall subject the said stockholder to the sanctions applicable to violations of this Rule.

17.1.1.4. Issuers of securities registered with the Commission shall file an annual report on SEC Form 17-A for its predecessors that registered securities with the Commission during the last full fiscal year of the predecessor prior to the Issuer's succession, unless such report has already been filed by the predecessor. The annual report shall contain the information required if it were filed by the predecessor.

17.1.1.5. In the event a non-reporting Issuer (in connection with succession by merger, consolidation, exchange of securities or acquisition of assets) issues equity securities to holders of equity securities issued by a reporting Issuer, the non-reporting Issuer shall assume the same obligation as the reporting Issuer to file reports pursuant to Section 17 of the Code, and the non-reporting Issuer shall file such reports on the same forms as the reporting Issuer.

17.1.1.6. Notification of Inability to File on Time All or Any Required Portion of SEC Form 17-A or 17-Q.

17.1.1.6.1. If all or any required portion of an annual report (SEC Form 17-A) or quarterly report (SEC Form 17-Q) required to be filed pursuant to Section 17 of the Code and SRC Rule 17.1 is not filed within the period prescribed for such report, the Issuer shall, not later than the due date for such report, file with the Commission and, if applicable, with the Exchange where any class of its securities is listed, SEC Form 17-L which shall contain a disclosure in reasonable detail of its inability to timely file the report and the reasons for such failure. All information available on the date of the required filing shall be filed.

17.1.1.6.2. If any report or portion of any report described in SRC Rule 17.1.1.1 is not timely filed because the Issuer is unable to do so without unreasonable effort or expense, such report shall be deemed to be filed on the prescribed due date for such report if:

17.1.1.6.2.1. The Issuer files SEC Form 17-L in compliance with paragraph 17.1.1.6.1 hereof and, if applicable, furnishes the document required by SRC Rule 17.1.1.6.3;

17.1.1.6.2.2. The Issuer states in SEC Form 17-L that: (i) the reason(s) that caused the inability to timely file could not be eliminated by the Issuer

without unreasonable effort or expense; (ii) either the subject annual report on SEC Form 17-A, or portion thereof, will be filed not later than the fifteenth (15th) calendar day following the prescribed due date, or the subject quarterly report on SEC Form 17-Q, or portion thereof, will be filed not later than the fifth (5th) calendar day following the prescribed due date; and (iii) the report or portion thereof is actually filed within the period specified by SRC Rule 17.1.1.1.

17.1.1.6.3. If SRC Rule 17.1.1.6.2 is applicable and the reason the subject report or portion thereof cannot be timely filed without unreasonable effort or expense relates to the inability of any person, other than the Issuer, to furnish any required opinion, report or certification, a statement signed by such person stating the specific reasons why that person is unable to furnish the required opinion, report or certification on or before the date must be filed with SEC Form 17-L.

17.1.1.6.4. Notwithstanding SRC Rule 17.1.1.6.2, a registration statement filed on SEC Form 12-1 pursuant to SRC Rule 8.1, the use of which is predicated on timely filed reports, shall not be declared effective until the subject report is actually filed pursuant to SRC Rule 17.1.1.1.

17.1.1.6.5. If the SEC Form 17-L filed pursuant to SRC Rule 17.1.1.6.2 relates only to a portion of a subject report, the Issuer shall:

17.1.1.6.5.1. File the balance of such report and indicate on its cover page which disclosure items are omitted; and

17.1.1.6.5.2. Include at the upper right corner of the amendment to the report which includes the previously omitted information the following statement:

"The following items were the subject of SEC Form 17-L and are included herein: (List Item Numbers)"

17.1.2. Issuers of Commercial Papers in Exempt Transactions

Underwriters or Issuers of commercial papers ("CP") shall file an information statement (SEC Form CP-IS) within seven (7) days prior to issuance thereof. An annual CP report on outstanding issuance shall likewise be filed on or before the 10th of January every year.

RULE 17.2 - Subjects of the Reportorial Requirements⁷¹

The reportorial requirements of Subsection 17.1 shall apply to the following:

17.2.1. An issuer which has sold a class of its securities pursuant to a registration under Section 12 hereof: *Provided, however,* That the obligation of such issuer to file reports shall be suspended for any fiscal year after the year such registration became effective if such issuer, as of the first day of any such fiscal year, has less than one hundred (100) holders of such class of securities or such other number as the Commission shall prescribe and it notifies the Commission of such

17.2.2. An issuer with a class of securities listed for trading on an Exchange

17.2.3. An issuer with assets of at least Fifty million pesos (P50,000,000.00) or such other amount as the Commission shall prescribe, and having Two hundred (200) or more holders each holding at least One hundred (100) shares of a class of its equity securities: *Provided, however* That the obligation of such issuer to file reports shall be terminated ninety (90) days after notification to the Commission by the issuer that the number

⁷¹ See MC 5-2005 Re: All Corporate Secretaries of Philippine Corporations on Notification of Status as a Public Company, dated 19 September 2005.

of its holders holding at least one hundred (100) shares is reduced to less than One hundred (100).

RULE 17.3

Every issuer of a security listed for trading on an Exchange shall file with the Exchange a copy of any report filed with the Commission under Subsection 17.1 hereof.

RULE 17.4

All reports (including financial statements) required to be filed with the Commission pursuant to Subsection 17.1 hereof shall be in such form, contain such information and be filed at such times as the Commission shall prescribe, and shall be in lieu of any periodical or current reports or financial statements otherwise required to be filed under the Corporation Code.⁷²

RULE 17.5

Every issuer which has a class of equity securities satisfying any of the requirements in Subsection 17.2 shall furnish to each holder of such equity security an annual report in such form and containing such information as the Commission shall prescribe.

RULE 17.6

Within such period as the Commission may prescribe preceding the annual meeting of the holders of any equity security of a class entitled to vote at such meeting, the issuer shall transmit to such holders an annual report in conformity with Subsection 17.5.

RULE 18.1 - Reports to be Filed by Certain Beneficial Owners

18.1.1. This Rule shall apply to any person who acquires in any manner the beneficial ownership of five percent (5%) of any class of equity securities of a company that satisfies the requirements of Section 17.2 of the Code.

18.1.2. If the equity securities under the name of the legal owner are beneficially owned by another person/s, the legal owner and beneficial owner shall individually or jointly, within five (5) business days after such acquisition, submit to the Issuer, the Exchange where the security is traded, and to the Commission a sworn statement containing the information required by SEC Form 18-A.

18.1.3(a). A person required to file a report on SEC Form 18-A may, in lieu of such report, file with the Commission within forty five (45) days after the end of the year in which such person became obligated, copies of a short form report on SEC Form 18-AS including all exhibits, and send one copy of such report to the Issuer at its principal office and to each Exchange where the security is listed for trading; provided, that the percentage of the class of equity security beneficially owned as of the end of the calendar year is more than five percent (5%), and that:

- 18.1.3(a).1. Such person has acquired such securities in the ordinary course of business and not for the purpose of changing or influencing the control of the Issuer, nor in connection with or as a participant in any transaction having such purpose or effect;
- 18.1.3(a).2. Such person is: [a] a broker or dealer registered under the Code; [b] a bank authorized to operate as such by the BSP; [c] an insurance company subject to the supervision of the Insurance Commission;

⁷² Now the Revised Corporation Code of the Philippines.

[d] an investment house registered under the Investment Houses Law; [e] an investment company registered under the Investment Company Act; [f] a pension plan subject to the regulation and supervision by the BIR and/or the Insurance Commission; or [g] a group where all its members are persons specified above, and

- 18.1.3(a).3. Such person has promptly notified any other person on whose behalf it holds, on a discretionary basis, securities exceeding five percent (5%) of the class of any acquisition or transaction on behalf of such other person which might be reportable by that person under Section 18.1 (a) of the Code.

18.1.3(b). Any person who has reported an acquisition of securities on SEC Form 18-AS who later ceases to be a person specified in SRC Rule 18.13(a).1 or 18.1.3(a).2 (a) through (g) shall file within three (3) business days thereafter a sworn statement on SEC Form 18-A in the event such person is a beneficial owner at that time of more than five percent (5%) of the class of equity securities.

18.1.4. In determining the amount of outstanding securities of a class of equity securities, a person may rely upon information set forth in the Issuer's most recent quarterly or annual report, and any subsequent current report unless he knows or has reason to believe that the information contained therein is inaccurate.

18.1.5. For purposes of Section 18 of the Code, "beneficial owner" shall have the same definition as that stated in SRC Rule 3, provided that:

- 18.1.5.1. A person who, in the ordinary course of business, is a pledgee of securities under a written agreement shall not be deemed to be the beneficial owner of such pledged securities until the pledgee has taken all the steps required to declare a default and has determined that the power to vote or to dispose or to direct the disposition of such pledged securities will be exercised;
- 18.1.5.2. A person engaged in the business of an investment house who acquires his securities through his participation in good faith in a firm commitment underwriting shall not be deemed to be the beneficial owner of such securities until the expiration of six (6) months from the date of such acquisition; and
- 18.1.5.3. When two (2) or more persons agree to act together for the purpose of acquiring, holding, voting or disposing of the equity securities of an Issuer, the group formed in the process shall be deemed to have acquired beneficial ownership for purposes of Section 18 of the Code, as of the date of such agreement, of all equity securities of that Issuer that are beneficially owned by such persons.

RULE 18.2

If any change occurs in the facts set forth in the statements, an amendment shall be transmitted to the issuer, the Exchange and the Commission.

RULE 18.3

The Commission, may permit any person to file in lieu of the statement required by Subsection 17.1 of the Code, a notice stating the name of such person, the shares of any equity securities subject to Subsection 17.1 of the Code which are owned by him, the date of their acquisition and such other information as the Commission may specify, if it appears to the Commission that such securities were acquired by such person in the ordinary course of his business and were not acquired for the purpose of and do not have the effect of changing or influencing the control of the issuer nor in connection with any transaction having such purpose or effect.

TITLE VI Protection of Shareholder Interests

RULE 19 - Tender Offers

19.1. Definitions

- 19.1.1. **“Beneficial owner”** shall have the same meaning as defined in SRC Rule 3.
- 19.1.2. **“Offeror”** means any person who makes a tender offer or on whose behalf a tender offer is made.
- 19.1.3. **“Commencement”** means the date a tender offer is first published, sent or given to security holders.
- 19.1.4. **“Issuer”** means any person or entity subject to reporting obligations under Section 17.2 of the Code.
- 19.1.5. **“Issuer Tender Offer”** means a publicly announced intention by an Issuer to reacquire any of its own class of equity securities, or by an associate of such Issuer to acquire such securities.
- 19.1.6. **“Security holders”** mean holders of record and beneficial owners of securities that are the subject of a tender offer.
- 19.1.7. **“Target company”** means any Issuer whose equity securities are sought by an Offeror pursuant to a tender offer.
- 19.1.8. **“Tender offer”** means a publicly announced intention by a person acting alone or in concert with other persons (hereinafter referred to as "person") to acquire outstanding equity securities of a public company as defined in SRC Rule 3, or outstanding equity securities of an associate or related company of such public company which controls the said public company.
- 19.1.9. **“Tender offer materials”** mean: (i) the Offeror's formal offer, including all the material terms and conditions of the tender offer and all their amendments; (ii) the related transmittal letter (whereby equity securities of the target company that are sought in the tender offer may be transmitted to the Offeror or its depository) and all their amendments; and (iii) press releases, advertisements, letters and other documents published by the Offeror or sent or given by the Offeror to security holders which, directly or indirectly, solicit, invite or request tenders of the equity securities being sought in the tender offer.
- 19.1.10. **“Termination”** means the date after which equity securities may not be tendered pursuant to the tender offer.

19.2. Mandatory tender offers

19.2.1. Any person or group of persons acting in concert, who intends to acquire fifteen percent (15%) of equity securities in a public company in one or more transactions within a period of twelve (12) months, shall file a declaration to that effect with the Commission.

19.2.2. Any person or group of persons acting in concert, who intends to acquire thirty five percent (35%) of the outstanding voting shares or such outstanding voting shares that are sufficient to gain control of the board in a public company in one or more transactions within a period of twelve (12) months, shall disclose such intention and contemporaneously make a tender offer for the percentage sought to all holders of such securities within the said period.

If the tender offer is oversubscribed, the aggregate amount of securities to be acquired at the close of such tender offer shall be proportionately distributed across

selling shareholders with whom the acquirer may have been in private negotiations and other shareholders. For purposes of SRC Rule 19.2.2, the last sale that meets the threshold shall not be consummated until the closing and completion of the tender offer.⁷³

19.2.3. Any person or group of persons acting in concert, who intends to acquire thirty five percent (35%) of the outstanding voting shares or such outstanding voting shares that are sufficient to gain control of the board in a public company through the Exchange trading system shall not be required to make a tender offer even if such person or group of persons acting in concert acquire the remainder through a block sale if, after acquisition through the Exchange trading system, they fail to acquire their target of thirty five percent (35%) or such outstanding voting shares that is sufficient to gain control of the board.⁷⁴

19.2.4. Any person or group of persons acting in concert, who intends to acquire thirty five percent (35%) of the outstanding voting shares or such outstanding voting shares that are sufficient to gain control of the board in a public company directly from one or more stockholders shall be required to make a tender offer for all the outstanding voting shares. The sale of shares pursuant to the private transaction or block sale shall not be completed prior to the closing and completion of the tender offer.

19.2.5. If any acquisition that would result in ownership of over fifty percent (50%) of the total outstanding equity securities of a public company, the acquirer shall be required to make a tender offer under this Rule for all the outstanding equity securities to all remaining stockholders of the said company at a price supported by a fairness opinion provided by an independent financial advisor or equivalent third party. The acquirer in such a tender offer shall be required to accept all securities tendered.

19.2.6. Guidelines on the Conduct of Valuation and Issuance of a Fairness Opinion.

19.2.6.1. Only independent firms that are compliant with the qualifications prescribed in these Rules and Regulations Circular may conduct valuation and issue fairness opinion to comply with the above-quoted provisions of SRC Rule 19.

"Independence" shall mean absence of any business interest or family relationship with any party to the transaction or of any of its directors, officers, or major stockholders, that could, or could reasonably be perceived to, materially interfere with the exercise of the professional judgment of the firm, its representative or any member of the engagement team, in carrying out their responsibilities in assessing the fairness of the issuer's securities;

19.2.6.2. The following requirements must be observed in the conduct of the valuation and issuance of fairness opinion by an accredited firm:

- 19.2.6.2.1. The individual who acts on behalf of the accredited firm shall be a licensed professional who has at least ten (10) years experience in the field of accounting, finance or economics and holds a relevant advanced degree;
- 19.2.6.2.2. The firm shall use in its assessment relevant and current data or those that are not more than three months from date of valuation;
- 19.2.6.2.3. The firm shall adopt more than one valuation methodology and compare the values derived from using different methodologies to minimize the risk that the opinion is unreliable. In addition to referencing the quoted price of the subject equity securities, valuation methodologies shall include balance sheet valuation or book value, dividend discount model, price/earnings ratio, and free cash flow approach;
- 19.2.6.2.4. If the firm's valuation of a company materially differs from the market price of the company's securities prior to the announcement

⁷³ Item 19.2.2 is in compliance with the SRC and Item 19.2.3 is in cases of change of control in a public company.

⁷⁴ Item 19.2.3 is a voluntary tender offer.

of a proposed transaction, the firm shall comment on the difference and the factors underlying it;

- 19.2.6.2.5. The firm shall not include prospective financial information (including forecasts and projections) unless it has made sufficient inquiries to satisfy itself that the information on which it relied was prepared on a reasonable basis. It shall also disclose how and why it finds such inquiries sufficient and utilize several of the methodologies in 19.2.6.2.3 above. Discounted cash flow methodology which invariably uses forward looking information may only be used if the firm has reasonable grounds for doing so. If the firm considered the use of prospective information, the reasons shall be indicated in the report;
- 19.2.6.2.6. The firm shall notify the party commissioning the report within two (2) days from date of its knowledge of a significant change which may affect the contents of the report or from the date of its conclusion that a material statement in the report is misleading or deceptive. A copy of such a report shall be furnished to the Commission within the same period;
- 19.2.6.2.7. The following information shall be provided in the firm's Fairness Opinion Report:
 - 19.2.6.2.7.1. All material assumptions and reasons for the opinion;
 - 19.2.6.2.7.2. Justification of the choice of methodologies and description of the methods used by the firm;
 - 19.2.6.2.7.3. Whether or not the opinion was approved by a committee created within the firm;
 - 19.2.6.2.7.4. Whether or not the opinion expresses a judgment about the fairness of the transaction's compensation to any of the company's directors, officers or employees to the company's shareholders;
 - 19.2.6.2.7.5. Whether or not the firm acted as a financial advisor to any party to the transaction, and whether or not it will receive compensation and/or other significant payments that is contingent on the successful completion of the transaction, for rendering the fairness opinion and/or serving as advisor;
 - 19.2.6.2.7.6. Material relationships during the prior two (2) years or those contemplated between the firm and any party to the transaction in which any compensation was received or intended to be received. A relationship shall be considered material if it would affect the independence of the firm, as defined under SRC Rule 19.2.6.1, assuming that it is currently present;
 - 19.2.6.2.7.7. Whether or not the firm independently verified any information that formed a substantial basis for the opinion, and whether or not such information was supplied to the firm by the company requesting the opinion. The information or the categories of information that were verified and not verified must be discussed and described;

- 19.2.6.2.7.8. The firm's discussion on any material difference between the valuation set and the market price of the company's securities prior to the announcement of the proposed transaction;
- 19.2.6.2.7.9. A written declaration of compliance by the firm's representative with the Code of Ethics applicable to his or her profession;
- 19.2.6.2.7.10. A brief description of the firm and the education and professional qualifications of its representative who conducted the valuation.
- 19.2.6.2.8. The Fairness Opinion Report shall be signed by the firm's representative of a rank not lower than a partner or a Vice-President or their equivalent respectively. He shall indicate his complete name, Professional License Number, Tax Identification Number, firm name and address, PSE Accreditation Number of the firm (if any) and other technical information.

19.3. Exemptions from the Mandatory Tender Offer Requirement

19.3.1. Unless the acquisition of equity securities is intended to circumvent or defeat the objectives of the tender offer rules, the mandatory tender offer requirement shall not apply to the following:

- 19.3.1.1. Any purchase of securities from the unissued capital stock; Provided, the acquisition will not result to a fifty percent (50%) or more ownership of securities by the purchaser or such percentage that is sufficient to gain control of the board;
- 19.3.1.2. Any purchase of securities from an increase in authorized capital stock;
- 19.3.1.3. Purchase in connection with foreclosure proceedings involving a duly constituted pledge or security arrangement where the acquisition is made by the debtor or creditor;
- 19.3.1.4. Purchases in connection with a privatization undertaken by the government of the Philippines;
- 19.3.1.5. Purchases in connection with corporate rehabilitation under court supervision;
- 19.3.1.6. Purchases in the open market at the prevailing market price; and
- 19.3.1.7. Merger or consolidation.

19.3.2. Purchasers of securities in the foregoing transactions shall, however, comply with the disclosure and other obligations under SRC Rules 18.1 and 23.

19.4. Tender Offer by an Issuer or Buy Back

19.4.1. A reacquisition or repurchase by an Issuer of its own securities shall only be made if such Issuer has unrestricted retained earnings in its books to cover the amount of shares to be purchased, and is undertaken for any of the following purposes:

- 19.4.1.1. To implement a stock option or stock purchase plan;
- 19.4.1.2. To meet short-term obligations which can be settled by the re-issuance of the repurchased shares;
- 19.4.1.3. To pay dissenting or withdrawing stockholders entitled to payment for their securities under the Corporation Code;⁷⁵ and

⁷⁵ Now the Revised Corporation Code. "SEC. 40. *Power to Acquire Own Shares.* – Provided that the corporation has unrestricted retained earnings in its books to cover the shares to be purchased or acquired, a stock

19.4.1.4. Such other legitimate corporate purpose/s.

19.4.2. An Issuer that intends to reacquire its own securities through active and widespread solicitation from the stockholders in general and in substantial amounts as the Commission may determine shall comply with the disclosure and procedural requirements provided for in SRC Rules 19.4.3 and 19.4.4, and the preceding provisions of this Rule.

19.4.3. If an Issuer publishes, sends or disseminates its tender offer to security holders by means of summary publication in the manner prescribed in this Rule, the summary publication shall disclose only the following information:

- 19.4.3.1. The identity of the Issuer making the tender offer;
- 19.4.3.2. The amount and class of securities being sought and the price being offered;
- 19.4.3.3. The information required by SRC Rule 19.7;
- 19.4.3.4. A statement of the purpose of the tender offer; and
- 19.4.3.5. The appropriate instruction for security holders on how to obtain promptly, at the expense of the Issuer making the tender offer, the information required in SRC Rule 19.7.

19.4.4. Until the expiration of at least ten (10) business days from the date of termination of the tender offer, the Issuer shall not make any repurchase, otherwise than pursuant to the tender offer, of:

- 19.4.4.1. Any security which is the subject of the tender offer, or any security of the same class and series, or any right to repurchase such securities; and
- 19.4.4.2. In the case of a tender offer which is an exchange offer, any security being offered pursuant to the exchange offer, or any security of the same class and series, or any right to repurchase any such security.

19.4.5. This rule shall not apply to —

- 19.4.5.1. Calls or redemption of any security in accordance with the terms and conditions of its governing instruments;
- 19.4.5.2. Offers to repurchase securities evidenced by a certificate, order form or similar document which represents a fractional interest in a share of stock or similar security.

19.5. Any person making a tender offer shall make an announcement of its intention in a national newspaper of general circulation within five (5) business days from either the company's board approval authorizing negotiations relative to the purchase of shares that may result to a mandatory tender offer or thirty (30) business days prior to the commencement of the offer; Provided, that such announcement shall not be made until the Offeror has the resources to implement the offer in full. A copy of the said notice shall be submitted to the Commission on the date of its publication.

19.6. Filing Requirements

19.6.1. No Offeror shall make a tender offer unless the Offeror:

- 19.6.1.1. Has filed with the Commission SEC Form 19-1, including all its exhibits, and
- 19.6.1.2. Has hand delivered a copy of the SEC Form 19-1, including all its exhibits, to the target company at its principal

corporation shall have the power to purchase or acquire its own shares for a legitimate corporate purpose or purposes, including the following cases: ..."

executive office and to each Exchange where such class of the target company's securities is listed for trading.

19.6.2. The Offeror shall file with the Commission copies of any additional tender offer materials as exhibit to SEC Form 19-1 and, if a material change occurs in the information set forth in such SEC Form, copies of an amendment to such form. Copies of the additional tender offer materials and amendments shall be hand delivered to the target company and to any Exchange as required above.

19.6.3. The Offeror shall report the results of the tender offer to the Commission by filing, not later than ten (10) business days after the termination of the tender offer, copies of the final amendments to SEC Form 19-1.

19.7. Disclosure Requirements in Tender Offers

19.7.1. The Offeror shall publish, send or give to security holders in the manner prescribed by SRC Rule 19.9, a report containing the following information:

- 19.7.1.1. The identity of the Offeror including his or its present principal occupation or business;
- 19.7.1.2. The identity of the target company;
- 19.7.1.3. The amount of class of securities being sought and the type and amount of consideration being offered;
- 19.7.1.4. The scheduled expiration date of the tender offer, whether the tender offer may be extended and, if so, the procedures for extension of the tender offer;
- 19.7.1.5. The exact dates when security holders who deposit their securities shall have the right to withdraw their securities pursuant to this Rule and the manner by which shares will be accepted for payment and which withdrawal may be effected;
- 19.7.1.6. If the tender offer is for less than all of the securities of the class and the Offeror is not obligated to purchase all securities tendered, the exact date of the period during which securities will be accepted on a pro rata basis under this Rule and the present intention or plan of the Offeror with respect to the tender offer in the event of an oversubscription by security holders;
- 19.7.1.7. The confirmation by the Offeror's financial adviser or another appropriate third party that the resources available to the Offeror are sufficient to satisfy full acceptance of the offer; and
- 19.7.1.8. The information required in SEC Form 19-1.

19.7.2. If a material change occurs in the information previously disclosed to security holders, the Offeror shall disclose promptly such change in the manner prescribed by this Rule.

19.8. Dissemination Requirements

19.8.1. An Offeror or Issuer shall publish the terms and conditions of the tender offering in two (2) national newspapers of general circulation in the Philippines on the date of commencement of the tender offer and for two (2) consecutive days after compliance with SRC Rule 19.7.1.

19.8.2. If a material change occurs in the information published, sent or given to security holders, the Offeror shall disseminate promptly a disclosure of such change in a manner reasonably calculated to inform security holders of such change.

19.9. Period and Manner of Making Tender Offers

19.9.1. A tender offer shall, unless withdrawn, remain open until the expiration of:

- 19.9.1.1. At least twenty (20) business days from its commencement; Provided, that an offer should as much as possible be completed within sixty (60) business days from the date the intention to make such offer is publicly announced; or
- 19.9.1.2. At least ten (10) business days from the date the notice of a change in the percentage of the class of securities being sought or in the consideration offered is first published, sent or given to security holders.

19.9.2. In a mandatory tender offer, the Offeror shall be compelled to offer the highest price paid by him for such securities during the preceding six (6) months. If the offer involves payment by transfer or allotment of securities, such securities must be valued on an equitable basis.

19.9.3. In case of a tender offer other than by an Issuer, the subject of the tender offer ("the target company") shall not engage in any of the following transactions during the course of a tender offer, or before its commencement if its board has reason to believe that an offer might be imminent, except if such transaction is pursuant to a contract entered into earlier, or with the approval of the shareholders in a general meeting or, where special circumstances exist, the Commission's approval has been obtained:

- 19.9.3.1. Issue any authorized but unissued shares;
- 19.9.3.2. Issue or grant options in respect to any unissued shares;
- 19.9.3.3. Create or issue, or permit the creation or issuance of, any securities carrying rights of conversion into, or subscription to, shares;
- 19.9.3.4. Sell, dispose of or acquire, or agree to acquire, any asset whose value amounts to five percent (5%) or more of the total value of the assets prior to acquisition; or
- 19.9.3.5. Enter into contracts that are not in the ordinary course of business.

19.9.4. The Offeror in a tender offer shall permit the securities tendered to be withdrawn (i) at any time during the period such tender offer remains open; and (ii) if not yet accepted for payment, after the expiration of sixty (60) business days from the commencement of the tender offer.

19.9.5. If the tender offer shall be for less than the total outstanding securities of a class, but a greater number of securities is tendered, the Offeror shall be obliged to accept and pay the securities on a pro rata basis, disregarding fractions, according to the number of securities tendered by each security holder during the period the offer was open.

19.9.6. In the event the Offeror in a tender offer increases the consideration offered after the tender offer has commenced, the Offeror shall pay such increased consideration to all security holders whose tendered securities have been accepted for payment by such Offeror, whether or not the securities were tendered prior to the variation of the tender offer's terms.

19.9.7. The Offeror in a tender offer shall either pay the consideration offered, or return the tendered securities, not later than ten (10) business days after the termination or the withdrawal of the tender offer.

19.9.8. No tender offer shall be made unless:

- 19.9.8.1. It is open to all security holders of the class of securities subject to the tender offer; and
- 19.9.8.2. The consideration paid to any security holder pursuant to the tender offer shall be the highest consideration paid to any other security holder during such tender offer.

19.9.9. The Offeror shall not extend the period of a tender offer without prior clearance from the Commission and without issuing a notice of such extension by

publication in a national newspaper of general circulation. The notice shall include a disclosure of the number of securities deposited to date and shall be made public not later than the scheduled original expiration date of the offer.

19.10. Transactions Based on Material, Non-Public Information

If a person shall become aware of a potential tender offer before the tender offer has been publicly announced, such person shall not buy or sell, directly or indirectly, the securities of the target company until the tender offer shall have been publicly announced. Such buying or selling shall constitute insider trading under Section 27.4 of the Code.

19.11. Withdrawal or Lapse of the Tender Offer

Unless with the prior approval of the Commission, if an offer has been announced but has not become unconditional in all respects and has been withdrawn or has lapsed, neither the Offeror nor any person who acted in concert with it in the course of the offer may, within six (6) months from the date on which such offer has been withdrawn or has lapsed, announce an offer for the target company nor acquire any securities of the target company which would require such person to make a mandatory tender offer under this Rule and Section 19.1 of the Code.

19.12. Prohibited practices

The following acts are prohibited in any tender offer:

- 19.12.1.** To employ any device, scheme or artifice to defraud any person;
- 19.12.2.** To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or
- 19.12.3.** To engage in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person.

19.13. Violation

If equity securities of a public company are purchased at threshold amounts provided for in this Rule without complying with the tender offer requirements under this Rule, the Commission may, upon complaint, nullify such purchase and order the conduct of a tender offer, without prejudice to the imposition of other sanctions under the Code.

RULE 20 - Disclosures to Stockholders Prior to Meetings

20.1. Applicability

This Rule shall apply to all corporations covered by the reporting requirements of Section 17 of the Code and to any person who shall solicit votes for any stockholders' meeting or securing the written assent of stockholders in lieu of such meeting pursuant to Section 16 of the Corporation Code.⁷⁶

20.2. Definitions

20.2.1. As used in this Rule and SEC Form 20-IS, the following terms shall have the following meanings:

- 20.2.1.1. Employee Benefit Plan** means any purchase, savings, option, profit sharing, bonus, incentive, pension or similar plan primarily for the benefit of employees, directors, trustees or officers.

⁷⁶ Now the Section 15 of the Revised Corporation Code. "SEC. 15. *Amendment of Articles of Incorporation.* – Unless otherwise prescribed by this Code or by special law, and for legitimate purposes, any provision or matter stated in the articles of incorporation may be amended by a majority vote of the board of directors or trustees and the vote or written assent of the stockholders representing at least two-thirds (2/3) of the outstanding capital stock, without prejudice to the appraisal right of dissenting stockholders in accordance with the provisions of this Code. The articles of incorporation of a nonstock corporation may be amended by the vote or written assent of majority of the trustees and at least two-thirds (2/3) of the members. ..."

- 20.2.1.2. **Entity that exercises fiduciary powers** means any entity that holds securities in a nominee's name or on behalf of a beneficial owner.
- 20.2.1.3. **Information statement** means the statement required by this Rule.
- 20.2.1.4. **Proxy** refers to the proxy, consent or authorization referred to in Section 20 of the Code.
- 20.2.1.5. **Record date** means the date on which the holders of securities entitled to vote at the meeting in person or by written consent or authorization shall be determined.

20.2.2. Solicitation

20.2.2.1. The terms solicit and solicitation shall include:

- 20.2.2.1.1. Any request for a proxy or authorization;
- 20.2.2.1.2. Any request to execute or not to execute, or to revoke, a proxy or authorization; or
- 20.2.2.1.3. The furnishing of a form of proxy or other communication to security holders under circumstances reasonably calculated to result in the procurement, withholding or revocation of a proxy.

20.2.2.2. The terms shall not apply to:

- 20.2.2.2.1. The performance by any person of ministerial acts on behalf of a person soliciting a proxy; or
- 20.2.2.2.2. Any solicitation made otherwise than on behalf of the Issuer where the total number of persons solicited is not more than nineteen (19).

20.3. Obligations of an Issuer Proposing Approval through a Stockholders' Meeting or by Written Assent

20.3.1. In the conduct of annual or other stockholders' meetings, the Issuer shall transmit either a written or verifiable soft copy of the information statement and proxy form (in case of a proxy solicitation) containing the information specified under SEC Form 20-IS, and a management report under SRC Rule 20.4, if applicable, to every security holder of the class entitled to vote.

20.3.2. The proxy form shall be prepared in accordance with SRC Rule 20.5.

20.3.3. Filing Requirements

20.3.3.1. Preliminary copies of the information statement and proxy form shall be filed with the Commission at least ten (10) business days prior to the date definitive copies of such material shall be first sent or given to security holders.

20.3.3.2. Upon filing the preliminary information material, the Issuer shall pay a filing fee in such amount that the Commission may determine.

20.3.3.3. Copies of the definitive information statement, proxy form and all other materials, if any, shall be filed with the Commission prior to the date such material/s shall be first sent or given to security holders. One (1) copy of the material/s shall at the same time be filed with, or mailed for filing to, any Exchange in which any class of securities of the Issuer is listed for trading.

20.3.3.4. The information statement, proxy form and management report referred to in SRC Rule 20.4, if applicable, shall be distributed to security holders at least fifteen (15) business days prior to the date of the stockholders' meeting; Provided, that in case any changes are made within the said fifteen (15) business days, the company shall comply with the following requirements:

- 20.3.3.4.1. Publish in a national newspaper of general circulation the order of the Commission granting the request of the company to make such changes within the said period;
- 20.3.3.4.2. Submit its updated Definitive Information Statement, proxy form and Management Report within five (5) business days from the approval by the Commission of the said changes; and
- 20.3.3.4.3. Distribute relevant portions of the Definitive Information Statement, proxy form and Management Report which have been updated pursuant to the changes made at least five (5) business days before the date of the stockholders' meeting.

20.3.3.5. Copies of the information statement and management report shall likewise be uploaded in the Issuer's website for downloading by interested parties.

20.3.4. If the solicitation or distribution shall be made personally in whole or in part, copies of all written instructions or other materials which (i) discuss, review or comment on the merits of any matter to be acted upon and (ii) which shall be furnished by the persons making the solicitation in connection with the solicitation shall be filed with, or mailed for filing to, the Commission by the person on whose behalf the solicitation shall be made not later than the date any such material is first sent or given to such individuals.

20.3.5. If any information statement, proxy form or other materials (if applicable) filed pursuant to this Rule is amended or revised, copies of such amended or revised material shall be filed in accordance with this Rule and marked to indicate clearly and precisely the changes made.

20.4. Report to be Furnished to Stockholders

20.4.1. If the information statement shall relate to an annual (or special meeting in lieu of the annual) meeting of stockholders at which directors shall be elected, it shall be accompanied or preceded by a management report to such stockholders containing the following:

- 20.4.1.1. Consolidated audited financial statements and interim unaudited financial statements (if applicable), as required by SRC Rule 68, as amended;
- 20.4.1.2. Information concerning disagreements with accountants on accounting and financial disclosures;
- 20.4.1.3. Management's discussion and analysis or plan of operation;
- 20.4.1.4. Brief description of the general nature and scope of the business of the Issuer and its subsidiaries;
- 20.4.1.5. Identity of each of the Issuer's directors and executive officers, including their principal occupation or employment, name and principal business of any organization in which such persons are employed;
- 20.4.1.6. Market price of and dividends on the Issuer's common shares;
- 20.4.1.7. Discussion on compliance with leading practices on corporate governance; and
- 20.4.1.8. Undertaking in bold face prominent type to provide without charge to each person solicited, upon written request of any such person, a copy of the Issuer's annual report on SEC Form 17-A and the name and address of the person to whom such written request is to be directed. At the discretion of management, a charge may be made for exhibits, provided the charge is limited to reasonable expenses incurred by the Issuer in furnishing the exhibits.

20.4.2. Any information required to be disclosed in the information statement, which is also contained in the Issuer's annual report, need not be provided in the said statement. Reference to the page of the annual report shall, however, be made.

20.4.3. In case of a special meeting where the Issuer has already distributed to its stockholders its annual report on SEC Form 17-A for the fiscal year preceding the date of its annual stockholders' meeting, it shall no longer be required to comply with SRC Rule 20.4.1 except with respect to the disclosure of updated financial and non-financial information.

20.4.4. Copies of the management report for distribution to security holders shall be filed with the Commission prior to the date on which such report shall be first sent or given to security holders.

20.4.5. The distribution of the management report to security holders shall be considered as compliance with Section 75 of the Corporation Code⁷⁷ in regard to the presentation of a financial report of operations, including financial statements, to the stockholders at their regular meeting.

20.5. Requirements as to Form of Proxy and Delivery of Information to Security Holders

20.5.1. The form of proxy shall:

- 20.5.1.1. Indicate in bold face on whose behalf the solicitation is being made;
- 20.5.1.2. Provide a specifically designated blank space for dating the proxy form;
- 20.5.1.3. Identify clearly and impartially each separate matter intended to be acted upon;
- 20.5.1.4. Be in writing, signed by the stockholder or his duly authorized representative; and
- 20.5.1.5. Be filed with the corporate secretary before the scheduled meeting.

20.5.2. Appropriate means shall be provided in the proxy form to give the person solicited the opportunity to specify his choice between approval or disapproval of, or abstention with respect to, each separate matter referred to therein intended to be acted upon, other than election to office. A proxy may confer discretionary authority with respect to matters as to which a choice is not specified by the security holder provided the form of proxy states in bold face how it is intended to vote the shares represented by the proxy in each such case.

20.5.3. A proxy form that provides for the election of directors shall state the names of persons nominated for election as directors. The form shall clearly provide any of the following means for security holders to withhold authority to vote for each nominee:

- 20.5.3.1. A box opposite the name of each nominee which may be marked to indicate that the authority to vote for such nominee is withheld;
- 20.5.3.2. An instruction in bold face which indicates that the security holder may withhold the authority to vote for any nominee by lining through or otherwise striking out the name of the nominee; or
- 20.5.3.3. Designate blank spaces in which the shareholder may enter the names of nominees to whom the shareholder chooses to withhold the authority to vote.

⁷⁷ Now Section 74 of the Revised Corporation Code. "SEC. 74. *Right to Financial Statements.* – A corporation shall furnish a stockholder or member, within ten (10) days from receipt of their written request, its most recent financial statement, in the form and substance of the financial reporting required by the Commission. ..."

20.5.4. Any proxy form executed by the security holder in such manner as not to withhold the authority to vote for the election of any nominee shall be deemed to grant such authority, provided the form so states in prominent bold face.

20.5.5. A proxy may confer discretionary authority to vote with respect to any of the following:

- 20.5.5.1. Matters that are to be presented at the meeting but which, at a reasonable time before the solicitation, are not known to the persons making the solicitation; Provided, that a specific statement to that effect is made in the information statement or proxy form;
- 20.5.5.2. Approval of the minutes of the prior meeting;
- 20.5.5.3. Election of any person to any office for which a bona fide nominee is named in the information statement and such nominee is unable to serve or for good cause will not be able to serve; or
- 20.5.5.4. Matters incidental to the conduct of the meeting.

20.5.6. No proxy shall confer authority:

- 20.5.6.1. To vote for any person to any office for which a bona fide nominee is not named in the information statement or any material attached to it;
- 20.5.6.2. To vote with respect to more than one meeting (and any of its adjournment), unless a specific statement is made in the information statement and proxy form that the proxy is valid for more than one meeting; Provided, that no proxy shall be valid and effective for a period longer than five (5) years from the date of the proxy; or
- 20.5.6.3. To consent to or authorize any action other than the action proposed to be taken in the information statement or matters referred to above.

20.5.7. The proxy form shall provide, subject to reasonable specific conditions, that the shares represented by the proxy will be voted and that, where the person solicited specifies by means of a ballot provided pursuant to this Rule a choice with respect to any matter to be acted upon, the shares will be voted in accordance with the stated specifications made.

20.5.8. No person making a solicitation covered by this Rule shall solicit:

- 20.5.8.1. Any undated or post-dated proxy; or
- 20.5.8.2. Any proxy which provides that it shall be deemed to be dated as of any date after the date on which it is signed by the security holder.

20.6. Obligations of an Issuer to Provide a List of, or Mail Meeting Material/s to Security Holders

20.6.1. If a record or beneficial holder of securities of the class entitled to vote at the meeting makes a written request to be provided with a list of stockholders or to mail the meeting materials, the Issuer shall grant the request either by providing the list or mailing the materials to the requesting stockholder.

20.6.2. If the Issuer opts to mail the materials for the requesting stockholder, the Issuer shall:

- 20.6.2.1. Promptly advise the requesting stockholder of the number of record holders and beneficial holders to whom the materials will be sent;
- 20.6.2.2. Inform the requesting stockholder of the estimated cost of mailing an information statement, proxy form or other materials to such holders; and
- 20.6.2.3. Promptly mail the materials to the stockholders.

20.7. Providing Copies of Material to Beneficial Owners

20.7.1. If the Issuer or solicitor knows that the securities of any class entitled to vote at a meeting for which SEC Form 20-IS is furnished are held of record by a broker, dealer, investment house, voting trustee, bank, association, or other entity that exercises fiduciary powers in a nominee's name or otherwise, the Issuer or solicitor shall, by first class mail, electronic mail, facsimile, or other equally prompt means, inquire from such record holders at least twenty (20) business days prior to the record date of the meeting:

- 20.7.1.1. Whether other persons are the beneficial owners of such securities and, if so, the number of copies of the information statement necessary to supply such material to such beneficial owners; and
- 20.7.1.2. In the case of an annual (or special meeting in lieu of the annual) meeting at which directors are to be elected, the number of copies of the management report to security holders necessary to supply such report to beneficial owners to whom such reports are to be distributed by such record holder.

20.7.2. The Issuer or solicitor shall supply, in a timely manner, each record holder for whom the inquiries required by SRC Rule 20.7.1 are made with copies of the information statement and/or the management report to security holders in such quantities, assembled in such form and at such place(s), as the record holder may reasonably request in order to send such material to each beneficial owner of securities to be furnished with such material by the record holder.

20.7.3. At the request of any record holder that is supplied with the information statement and/or annual reports to security holders pursuant to SRC Rule 20.7.1, the Issuer shall reimburse the record holder for its reasonable expenses for the mailing of such material to the beneficial owners.

20.8. Special Provisions Applicable to Solicitation of Votes Other Than by the Issuer

20.8.1. This Rule applies to solicitations by any person or group of persons other than the Issuer in regard to any item/s to be taken up in an annual or special stockholders' meeting.

20.8.2. Notwithstanding the provisions of SRC Rule 20.3, a solicitation subject to this Rule may be made without furnishing the security holders an information statement on SEC Form 20-IS, provided that:

- 20.8.2.1. The following information are stated in the communication that shall be attached to and distributed with the proxy form prepared in accordance with SRC Rule 20.5:
 - 20.8.2.1.1. The name of the solicitor and person who shall shoulder the expenses, and the mode of solicitation;
 - 20.8.2.1.2. In case of election of directors, the name/s of the nominee/s, including his business experience for the past five (5) years, involvement in legal proceedings, family relationship with any other nominee, incumbent director or officer, and his interest, direct or indirect, in security holdings or related businesses;
 - 20.8.2.1.3. A discussion of the reason/s for the solicitation of votes against the proposed action/s by the Issuer;
 - 20.8.2.1.4. A brief description of any substantial interest, direct or indirect, in security holdings or related businesses of each solicitor or participant to the solicitation in any matter to be acted upon at the meeting, and with respect to each solicitor the following information or its fair and accurate summary:

20.8.2.1.4.1. Name and business address of the solicitor;

20.8.2.1.4.2. Present principal occupation or employment and the name, principal business and address of any corporation or other organization in which such employment is carried on;

20.8.2.1.4.3. Amount of each class of securities of the Issuer which the solicitor owns beneficially, directly or indirectly;

20.8.2.1.4.4. Amount of each class of securities of the Issuer which the solicitor owns of record but not beneficially;

20.8.2.1.4.5. All securities of the Issuer purchased or sold by the solicitor within the past two (2) years, the dates on which they were purchased or sold and the amount purchased or sold on each date;

20.8.2.1.4.6. If the solicitor is, or was within the past year, a party to any contract, arrangement or understanding with any person with respect to any security of the Issuer, including, but not limited to, joint ventures, loan or option arrangements, puts or calls, guarantees against loss or of profit, division of losses or profits, or the giving or withholding of proxies. If so, name the parties to such contracts, arrangements or understandings and give their details; and

20.8.2.1.4.7. Amount of each class of securities of any parent or subsidiary of the Issuer which the solicitor owns beneficially, directly or indirectly.

20.8.2.1.5. If specially engaged employees, representatives or other persons have been or are to be employed to solicit security holders, the [i] material features of any contract or arrangement for such solicitation and the identity of the parties, [ii] their cost or anticipated cost, and [iii] approximate number of such employees or employees of any other person (naming such other person) who will solicit security holders; and

20.8.2.1.6. The total amount estimated to be spent and the total expenditures in furtherance of, or in connection with, the solicitation of security holders.

20.8.2.2. All matters to be taken up in the meeting shall be described and reflected in the proxy form and its attachments.

20.8.3. Copies of the proxy form with its attachments shall be filed with the Commission at least fifteen (15) business days prior to the date such materials shall be distributed, sent or given to any security holder.

20.8.4. The prescribed filing fees for each proxy solicitation other than by the Issuer shall be paid to the Commission.

20.9. False or Misleading Statements

20.9.1. No information subject to this Rule shall be made containing any statement which, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or which omits to state any material fact necessary in order to make the statements therein not false or misleading or necessary to correct any statement in any earlier communication with respect to the

solicitation of a proxy for the same meeting or subject matter which has become false or misleading.

20.9.2. The fact that a statement or other material has been filed with or examined by the Commission shall not be considered a finding by the Commission that such material is accurate or complete, or not false or misleading, or that the Commission has passed upon the merits of or approved any statement contained therein or any matter to be acted upon by security holders. No representation contrary to the foregoing shall be made.

20.10. Obligation of Issuers in Communicating with Beneficial Owners

20.10.1. If the Issuer knows that securities of any class entitled to vote at a meeting with respect to which the Issuer intends to solicit proxies, consents or authorizations are held of record by a broker, dealer, investment house, voting trustee, bank, association, or other entity that exercises fiduciary powers in nominee name or otherwise, the Issuer shall by first class mail, electronic mail, facsimile, or other equally prompt means, inquire of such record holders at least twenty (20) business days prior to the record date of the meeting:

- 20.10.1.1. Whether other persons are the beneficial owners of such securities and if so, the number of copies of the proxy and other soliciting material necessary to supply such material to such beneficial owners; and
- 20.10.1.2. In the case of an annual (or special meeting in lieu of the annual) meeting at which directors are to be elected, the number of copies of the management report to security holders necessary to supply such report to beneficial owners to whom such reports are to be distributed by such record holder.

20.10.2. The Issuer shall supply, in a timely manner, each record holder of whom the inquiries required by SRC Rule 20.10.1 are made with copies of the information statement, proxy form (if applicable), other proxy soliciting material, and/or the management report to security holders, in such quantities, assembled in such form and at such place(s), as the record holder may reasonably request in order to send such material to each beneficial owner of securities who is to be furnished with such material by the record holder.

20.10.3. Upon the request of any record holder that is supplied with the said documents pursuant to SRC Rule 20.10.2, the Issuer shall reimburse the record holder for its reasonable expenses in completing the mailing of such material to beneficial owners.

20.11. Other Procedural Requirements

20.11.1. Annual Meeting

20.11.1.1. Regular meeting of stockholders for the election of Directors and Officers of the corporation shall be held annually on the date fixed in the by-laws, or if not so fixed, on any date in April as determined by the Board of Directors. If the date of the annual meeting falls on a legal holiday, the annual meeting shall be held in the next succeeding business day which is not a legal holiday.

20.11.1.2. The annual stockholders' meeting shall be held in the city or municipality where the principal office of the corporation is located, and if practicable in the principal office of the corporation. Metro Manila shall, for purposes of said meeting, be considered a city or municipality.

20.11.1.3. Written notice, stating the date, time and place of the annual meeting shall be sent to all stockholders of record at least two (2) weeks prior to the scheduled annual stockholders' meeting, unless a different period is required by the by-laws. The distribution to stockholders of information statement (SEC Form 20-IS) within the prescribed period under this Rule shall be sufficient compliance with the notice requirement.

20.11.1.4. If for any justifiable and valid reason, the annual stockholders' meeting has to be postponed, the corporation shall notify the Commission in writing of such postponement within ten (10) days from the date of such postponement.

20.11.1.5. No postponement of annual stockholders' meeting shall be allowed except for justifiable reasons to be stated in writing signed under oath by the President or Secretary of the corporation.

20.11.1.6. The Commission en banc may, motu proprio, or upon the written request of any stockholder, direct the calling of an annual stockholders' meeting under its supervision, if the corporation fails or refuses to call said meeting for any justifiable reason.

20.11.1.7. The Commission may send its representatives/observers to stockholders' meetings, under such terms and conditions it deems appropriate.

20.11.1.8. Unless otherwise provided by the by-laws, the stock and transfer book shall be closed at least twenty (20) days before the scheduled date of the annual stockholders' meeting to enable the corporation to prepare a list of stockholders entitled to vote.

20.11.1.9. A copy of the list of stockholders entitled to vote shall be made available at the company's principal office at least fifteen (15) days prior to the date of the annual stockholders' meeting and the corporation shall furnish a copy thereof to any stockholder who may request the same at the expense of said stockholder.

20.11.2. Proxy

20.11.2.1. The corporate by-laws shall be controlling in determining the proper procedure to be followed in the execution and acceptance of proxies, provided that the minimum required formalities prescribed under Section 58 of the Corporation Code⁷⁸ and SRC Rule 20 shall be complied with.

20.11.2.2. The notice of stockholders' meeting shall also set the date, time and place of the validation of proxies, which in no case shall be less than five (5) days prior to the annual stockholders' meeting to be held. The presence of any stockholder who may wish to be present in person or through counsel shall be allowed.

20.11.2.3. Failure to affix documentary stamps shall not affect the validity of the proxy. The only adverse effect of such failure is that the same cannot be recorded as a public document and cannot be admitted or used as evidence in Court until the required documentary stamp is affixed and cancelled.

20.11.2.4. Unless required by the corporate by-laws, a proxy need not be notarized.

20.11.2.5. If the name of the proxy is left in blank, the person to whom it is given or the issuer corporation receiving the proxy is at liberty to fill in any name he/it chooses.

20.11.2.6. If a duly accomplished and executed proxy is undated, the postmark or, if not mailed, its actual date of presentation shall be considered.

20.11.2.7. A proxy executed by a corporation shall be in the form of a board resolution duly certified by the Corporate Secretary or in a proxy form executed by a duly authorized corporate officer accompanied by a Corporate Secretary's certificate quoting the board resolution authorizing the said corporate officer to execute the said proxy.

20.11.2.8. If the by-laws provide for a cut-off date for the submission of proxies the same should be strictly followed. In the absence of a provision in the by-laws fixing a

⁷⁸ Now Section 57 of the Revised Corporation Code. "SEC. 57. *Manner of Voting; Proxies.* – ... Proxies shall be in writing, signed and filed, by the stockholder or member, in any form authorized in the bylaws and received by the corporate secretary within a reasonable time before the scheduled meeting. Unless otherwise provided in the proxy form, it shall be valid only for the meeting for which it is intended. No proxy shall be valid and effective for a period longer than five (5) years at any one time."

deadline, proxies shall be submitted not later than ten (10) days prior to the date of the stockholders meeting.

20.11.2.9. Where the corporation receives more than one (1) proxy from the same stockholder and they are all undated, the postmark dates shall be considered. If the proxies are mailed on the same date, the one bearing the latest time of day of postmark is counted. If the proxies are not mailed, then the time of their actual presentation is considered. That which is presented last will be recognized.

20.11.2.10. Where a proxy is given to two (2) or more persons in the alternative in one instrument, the proxy designated as an alternate can only act as proxy in the event of non- attendance of the other designated person.

20.11.2.11. Where the same stockholder gives two (2) or more proxies, the latest one given is to be deemed to revoke all former proxies.

20.11.2.12. A proxy shall be valid only for the meeting for which it is intended.

20.11.2.13. Executors, administrators, receivers and other legal representatives duly appointed by the court may attend and vote on behalf of the stockholders without a need of any written proxy.

20.11.2.14. If the stockholder intends to designate several proxies, the number of shares of stock to be represented by each proxy shall be specifically indicated in the proxy form. If some of the proxy forms do not indicate the number of shares, the total shareholdings of the stockholder shall be tallied and the balance thereof, if any, shall be allotted to the holder of the proxy form without the number of shares. If all are in blank, the stocks shall be distributed equally among the proxies. The number of persons to be designated as proxies may be limited by the By-laws.

20.11.2.15. In case of shares of stock owned jointly by two (2) or more persons, the consent of all co-owners shall be necessary to appoint or revoke a proxy.

20.11.2.16. For persons owning shares in an "and/or" capacity, any one of them may appoint and revoke a proxy.

20.11.2.17. Proxies executed abroad shall be duly authenticated by the Philippine Embassy or Consular Office.

20.11.2.18. No member of the Stock Exchange and no broker/dealer shall give any proxy, consent or authorization, in respect of any security carried for the account of a customer to a person other than the customer, without the express written authorization of such customer. The proxy executed by the broker shall be accompanied by a certification under oath stating that before the proxy was given to the broker, he had duly obtained the written consent of the persons in whose account the shares are held.

20.11.2.19. A proxy shall not be invalidated on the ground that the stockholder who executed the same has no signature card on file with the Corporate Secretary or Transfer Agent, unless it can be shown that he/she had refused to submit the signature card despite written demand to that effect duly received by the said stockholder at least ten (10) days before the annual stockholders' meeting and election.

20.11.2.20. There shall be a presumption of regularity in the execution of proxies and shall be accepted if they have the appearance of prima facie authenticity in the absence of a timely and valid challenge.

20.11.2.21. In the validation of proxies, a special committee of inspectors shall be designated or appointed by the Board of Directors which shall be empowered to pass on the validity of proxies.

20.11.2.22. Any violation of this Rule on Proxy shall be subject to the administrative sanctions provided for under Section 144 of the Corporation Code⁷⁹ and Section 54 of the Code, and shall render the proceedings null and void.

⁷⁹ Now Section 158 of the Revised Corporation Code. "SEC. 158. *Administrative Sanctions.* – If, after due notice and hearing, the Commission finds that any provision of this Code, rules or regulations, or any of the

RULE 21 - Fees for Tender Offers and Certain Proxy Solicitations

At the time of filing with the Commission of any statement required under Section 19 for any tender offer or Section 72.2 of the Code for issuer repurchases, or Section 20 for proxy or consent solicitation, the Commission may require that the person making such filing pay a fee of not more than one-tenth (1/10) of one percentum (1%) of:

- 21.1. The proposed aggregate purchase price in the case of a transaction under Sections 20 or 72 of the Code.
- 21.2. The proposed payment in cash, and the value of any securities or property to be transferred in the acquisition, merger or consolidation, or the cash and value of any securities proposed to be received upon the sale or disposition of such assets in the case of a solicitation under Section 20 of the Code. The Commission shall prescribe by rule diminishing fees in inverse proportion to the value of the aggregate price of the offering.

RULE 22 - Internal Record Keeping and Accounting Controls

Every issuer which has a class of securities that satisfies the requirements of Subsection 17.2 shall:

- 22.1. Make and keep books, records, and accounts which, in reasonable detail accurately and fairly reflect the transactions and dispositions of assets of the issuer.
- 22.2. Devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that:
 - 22.2.1. Transactions and access to assets are pursuant to management authorization
 - 22.2.2. Financial statements are prepared in conformity with generally accepted accounting principles that are adopted by the Accounting Standards Council and the rules promulgated by the Commission with regard to the preparation of financial statements
 - 22.2.3. Recorded assets are compared with existing assets at reasonable intervals and differences are reconciled

RULE 23 - Reports to be Filed by Directors, Officers and Principal Stockholders

23.1. Every person who is, directly or indirectly, the beneficial owner of ten percent (10%) or more of any class of any security of a company which satisfies the requirements of Subsection 17.2 of the Code, or who is a director or an officer of the issuer of such security, shall:

- 23.1.1.** Within ten (10) calendar days after the effective date of the registration statement for that security, or within ten (10) calendar days after he becomes such beneficial owner, director or officer, subsequent to the effective date of the registration statement, whichever is earlier, file a statement with the Commission, and with the Exchange, if the security is

Commission's orders has been violated, the Commission may impose any or all of the following sanctions, taking into consideration the extent of participation, nature, effects, frequency and seriousness of the violation:

- (a) Imposition of a fine ranging from Five thousand pesos (P5,000.00) to Two million pesos (P2,000,000.00), and not more than One thousand pesos (P1,000.00) for each day of continuing violation but in no case to exceed Two million pesos (P2,000,000.00);
- (b) Issuance of a permanent cease and desist order;
- (c) Suspension or revocation of the certificate of incorporation; and
- (d) Dissolution of the corporation and forfeiture of its assets under the conditions in Title XIV of this Code."

listed on an Exchange, on Form 23- A indicating the amount of securities of such issuer of which he is the beneficial owner;

23.1.2. Within ten (10) calendar days after the close of each calendar month thereafter, if there has been any change in such ownership during the month, file a statement with the Commission and with the Exchange, if the security is listed on an Exchange, on Form 23-B indicating his ownership at the close of the calendar month and such changes in his ownership as have occurred during that calendar month;

23.1.3. Notify the Commission if his direct or indirect beneficial ownership of securities falls below ten percent (10%), or if he ceases to be an officer or director of the Issuer. After filing such notification, he shall no longer be required to file Form 23-B.

However, a newly appointed officer, who has no beneficial ownership over the shares of the company, shall notify the Commission of such fact within ten (10) calendar days from such appointment.

23.1.4. If the security is listed on an Exchange, the report shall be filed on that Exchange in accordance with the rules of the Exchange, but not more than five (5) calendar days after such person became beneficial owner. The filing with the Exchange may be deemed as filing with the Commission pursuant to a Memorandum of Agreement between the Exchange and the Commission; Provided that, the Memorandum of Agreement shall provide for the ability of the Commission to download and upload the same information made available to the Exchange.

23.2. In determining whether a person is the beneficial owner, directly or indirectly, of more than ten percent (10%) of any class of any registered security, such class shall be deemed to consist of the amount of such class which has been issued.

For the purpose of determining the percentage of ownership of voting trust certificates or certificates of deposit for securities, the class of voting trust certificate or certificates of deposit shall consist of the entire amount of issuable voting trust certificates or certificates of deposit.

23.3. A person filing a statement pursuant to this Rule otherwise than as the direct beneficial owner of any security shall specify the nature of his beneficial ownership in such security.

23.4. A partner who is required under this Rule to report in respect to any security owned by the partnership may include in his statement the entire amount of such security owned by the partnership and state that he has an interest in such security by reason of his membership in the partnership without disclosing the extent of such interest; or such partner may file a statement only as to the amount of such security which represents his proportionate interest in the partnership, indicating that the statement covers only such interest.

TITLE VII
Prohibitions on Fraud, Manipulation and Insider Trading

RULE 24.1 (a and b) - Manipulative Practices

24.1.1. It shall be unlawful for any person acting for himself or through a dealer or broker, directly or indirectly:

24.1.1.1. To create a false or misleading appearance of active trading in any listed security traded in an Exchange or any other trading market (hereafter referred to purposes of this Chapter as "Exchange"):

24.1.1.1.1. By effecting any transaction in such security which involves no change in the beneficial ownership thereof;

24.1.1.1.2. By entering an order or orders for the purchase or sale of such security with the knowledge that a simultaneous order or orders of substantially the same size, time and price, for the sale or purchase of any such security, has or will be entered by or for the same or different parties; or

24.1.1.1.3. By performing similar act where there is no change in beneficial ownership.

24.1.2. It shall be unlawful for any person to make a bid or offer, or deal in securities which has the effect or is likely to have the effect of creating a false or misleading appearance of active trading in any security or with respect to the market for, or the price of, any security.

24.1.3. It shall be unlawful for any Broker Dealer, Associated Person or salesman of a Broker Dealer (hereinafter collectively referred to as "registered person") to make a bid or offer for, or deal in securities, on account of any other person, where the registered person creates, or is aware that the other person creates, or taking into account the circumstances of the order, reasonably suspects that the order creates or will create, a false or misleading appearance of active trading in any security or with respect to the market for, or the price of, any security.

24.1.4. In considering whether an order violates Section 24 of the Code, a Broker Dealer shall consider:

24.1.4.1. Whether the order or execution of the order, would materially alter the market for, and/or the price of, the securities;

24.1.4.2. The date and time the order is entered or any instructions concerning the date and time of entry of the order;

24.1.4.3. Whether the person on whose behalf the order is placed, or another person who the Broker Dealer knows to be a related party of that person, may have an interest in creating a false or misleading appearance of active trading in any security or with respect to the market for, or the price of, any security;

24.1.4.4. Whether the order is accompanied by settlement, delivery or security arrangements which are unusual;

24.1.4.5. Whether the order appears to be part of a series of orders, which when put together with the other orders which appear to make up the series, the order or the series is unusual having regard to the matters referred to in SRC Rule 24.1.3; and

24.1.4.6. Whether there appears to be a legitimate commercial reason or basis in placing the order, unrelated to an intention to create a false or misleading appearance of active trading in or with respect to the market for, or price of, any security.

Failure to consider these factors shall raise a presumption that the transaction/s is/are manipulative.

24.1.5. Set forth below are examples of prohibited conduct:

- 24.1.5.1.** Engaging in a series of transactions in securities that are reported publicly to give the impression of activity or price movement in a security (*e.g.*, **painting the tape**);
- 24.1.5.2.** Buying and selling securities at the close of the market in an effort to alter the closing price of the security (**marking the close**);
- 24.1.5.3.** Engaging in transactions where both the buy and sell orders are entered at the same time with the same price and quantity by different but colluding parties (**improper matched orders**);
- 24.1.5.4.** Engaging in buying activity at increasingly higher prices and then selling securities in the market at the higher prices (**hype and dump**) or vice versa (*i.e.*, selling activity at lower prices and then buying at such lower prices);
- 24.1.5.5.** Engaging in transactions in which there is no change in beneficial ownership of a security (**wash sales**).
- 24.1.5.6.** Taking advantage of a shortage of securities in the market by controlling the demand side and exploiting market congestion during such shortages in a way as to create artificial prices (**squeezing the float**);
- 24.1.5.7.** Disseminating false or misleading market information through media, including the internet, or any other means to move the price of a security in a direction that is favorable to a position held or a transaction; and
- 24.1.5.8.** Other types of prohibited conduct and/or manipulative practices which include, among others, the creation of temporary funds for the purpose of engaging in other manipulative practices.

24.1.6. Obligations imposed on registered persons under this rule apply in respect of all orders, irrespective of the trading system used and whether executed or not.

RULE 24.1(C) - Manipulation of Security Prices — Circulating Information to Affect the Price of a Security

It shall be unlawful for any person acting for himself or through a dealer or broker, directly or indirectly, to circulate or disseminate information that the price of any security listed in an Exchange will or is likely to rise or fall because of manipulative market operations of any one or more persons conducted for the purpose of raising or depressing the price of the security for the purpose of inducing the purpose of sale of such security.

RULE 24.1(D) - Manipulation of Security Prices — Advertisements and Communications with the Public; False and Misleading Statements

24.1(d).1. All communications by Broker Dealers or associated persons or salesmen of Broker Dealers (hereinafter "registered persons"), with the public shall be based on principles of fair dealing and good faith and should provide a sound basis for evaluating the facts in regard to any particular security or securities or type of security, industry discussed, or service offered. No material fact or qualification shall be omitted if the omission, in the light of the context of the material presented, would cause the advertising or sales literature to be misleading.

24.1(d).2. Exaggerated, unwarranted or misleading statements or claims are prohibited in all public communications of registered persons. In preparing such literature, it must be borne in mind by registered persons that inherent in investment are the risks of fluctuating prices and the uncertainty of dividends, rates of return and yield, and no registered person shall, directly or indirectly, publish, circulate or distribute any public communication that he knows, or had reason to know, contains any untrue statement of a material fact or is otherwise false or misleading.

24.1(d).3. Communications with the public shall not contain promises of specific results, exaggerated or unwarranted claims, or unwarranted superlatives, unfounded opinions for which there is no basis, or forecasts of future events which are unwarranted, or which are not clearly labeled as forecasts.

24.1(d).4. In judging whether a communication or a particular element of a communication may be misleading, several factors should be considered, including but not limited to:

- 24.1(d).4.1. The overall context in which the statement/s is/are made. A statement made in one context may be misleading even though such a statement could be perfectly appropriate in another context. An essential test in this regard is the balance of treatment of risks and potential benefits;
- 24.1(d).4.2. The audience to which the communication is directed. Different levels of explanation or detail may be necessary depending on the audience to which a communication is directed and the ability of the registered person given the nature of the media used, to restrict the audience appropriately. If the statements made in a communication would be applicable only to a limited audience, or if additional information might be necessary for other audiences, it should be kept in mind that it is not always possible to restrict the readership of a particular communication; and/or
- 24.1(d).4.3. The clarity of the communication. A statement or disclosure made in an unclear manner can result in a failure to understand the statement, or in a serious misunderstanding. A complex or overly technical explanation may worse cause even greater misunderstanding than too scant information. Likewise material disclosure relegated to legends or footnotes

RULE 24.1(e) - Manipulation of Security Prices — Price Fixing

It shall be unlawful for any person acting for himself or through a dealer or broker, directly or indirectly, to effect, either alone or others, any series of transactions for the purchase and/or sale of any security traded in an Exchange for the purpose of pegging, fixing or stabilizing the price of such security unless otherwise allowed by the SRC or these Rules.

RULE 24.2-2 - Short Sales

24.2-2.1. Definition of Short Sale

The term "short sale" shall mean any sale of a security which the seller does not own or any sale which is consummated by the delivery of a security borrowed by, or for the account of the seller with the commitment of the seller or securities borrower to return or deliver said securities or their equivalent to the lender on a determined or determinable future date. A person shall be deemed to own a security if: (1) he or his agent has title to it; (2) he has purchased, or has entered into an unconditional contract, binding on both parties thereto, to purchase it and has not yet received it; (3) he owns a security convertible into or exchangeable for it and has tendered such security for conversion or exchange; (4) he has an option to purchase or acquire it and has exercised such option; or (5) he has rights or warrants to subscribe to it and has exercised such

rights or warrants provided, however, that a person shall be deemed to own securities only to the extent he has a net long position in such securities.

24.2-2.2. Determination of Good Delivery

No Broker or Dealer shall accept a long sale order from a customer unless he has made a determination that the customer owns the security and will deliver in good deliverable form within the settlement period provided by exchange or clearing agency, or as may be prescribed by the Commission. The determination must include a notation on the order ticket at the time the order is taken which reflects the conversation with the customer regarding the present location of the securities, whether they are in good deliverable form, and the customer's ability to make delivery.

24.2-2.3. Order for Short Sale

Upon receiving an order to sell short a qualified security, the order should be indicated on the selling order and throughout all the records pertinent to the sale. Prior to acceptance of any short sale order, the broker dealer shall make a determination that the customer has already borrowed the security and such will be delivered in good deliverable form within the prescribed settlement period.

24.2-2.4. Definition of Qualified Security

For purposes of this rule, the term qualified security shall mean a listed security that is eligible for short selling in accordance with the following standards: (1) market capitalization; (2) tradability; (3) liquidity; and (4) with other applicable guidelines as may be prescribed by the Commission.

24.2-2.5. Execution of Short Sale/Uptick Rule

No broker or dealer shall use any facility of a securities exchange to effect a short sale of any security unless (1) at a price higher than the last sale or (2) at the price of the sale if that price is above the next preceding different sale price on such day.

Unless otherwise provided by the Commission, this price requirement shall not apply to a sale due to a *bona fide* market-making or arbitrage activity executed by a broker dealer authorized to engage in such activities.

24.2-2.6. Failure to Deliver

No person shall, directly or indirectly, by the use of any facility of a securities exchange, effect a short sale in a security registered or listed on any securities exchange, where the seller does not intend or is unable to make delivery of the securities within the prescribed settlement period. Failure on the part of the seller to make delivery on such date will be construed by the Commission as *prima facie* evidence of the lack of intention on his part to make such delivery.

24.2-2.7. Mandatory Close-Out

A contract involving a short sale which has not resulted in a delivery by the Broker Dealer within the settlement period must be closed by the Broker Dealer either by purchasing for cash or guaranteed delivery, securities of like kind and quantity on the next business day after settlement date, unless such purchase cannot be effected within said period for justifiable reasons in which case, notification in writing shall be made with the Exchange and the Commission, or in accordance with rules of the clearing agency that shall clear and settle the transactions.

Directors, Officers or Principal Stockholders

No director, officer or principal stockholder of a corporation shall make a short sale in securities of the corporation in which he is a director, officer or principal stockholder.

24.2-2.8. Record Keeping

A Broker Dealer who engages in short selling activities is required to maintain and keep up-to-date ledgers, whether in manual or preferably in electronic form, to record the complete details of all short selling transactions whether for its account or for the

account of its customers. Such ledgers shall be kept in accordance with the Records Retention Rule and be made available to the Commission.

24.2-2.9. Prohibition on Short Selling

The Commission may, *motu proprio* or upon recommendation of the Exchange, prohibit short selling in the Exchange indefinitely or for such period as it may deem proper for the protection of the investors. The Commission may also prohibit short selling in any Exchange as an emergency measure or whenever such short selling is necessary or appropriate in the public interest.

RULE 25 - Option Trading

No member of an Exchange shall, directly or indirectly endorse or guarantee the performance of any put, call, straddle, option or privilege in relation to any security registered on a securities exchange. The terms "put", "call", "straddle", "option", or "privilege" shall not include any registered warrant, right or convertible security.

RULE 26 - Fraudulent Transactions

26.1. It shall be unlawful for any person, directly or indirectly, in connection with the purchase or sale of any securities to: (i) employ any device, scheme, or artifice to defraud; (ii) obtain money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or (iii) engage in any act, transaction, practice or course of business which operates or would operate as a fraud or deceit upon any person.

26.2. Use of Information Obtained in Fiduciary Capacity

A Broker Dealer, Associated Person or salesman of a Broker Dealer, a paying agent, transfer agent, trustee, or any other person acting in a similar fiduciary capacity, who has received information as to the ownership of securities, shall not make use of such information for the purpose of soliciting or making purchases, sales or exchanges of securities or, except as provided in SRC Rule 30.2.9, provide such information to any person who does not need such information to fulfill his responsibilities under the Code.

26.3. Prohibited Representations, Dealings and Solicitations⁸⁰

It shall be unlawful for any:

- 26.3.1. Person to represent that he has been registered as a securities intermediary with the Commission unless such person is registered under the Code. Registration under the Corporation Code⁸¹ shall not be deemed to be registration under the Code;
- 26.3.2. Broker Dealer to represent that the registration of the Broker Dealer under the Code, or the failure of the Commission to deny, suspend, or revoke such registration, indicates in any way that the Commission has passed upon or approved the financial standing, business, or conduct of such Broker Dealer, or the merits of any security or any transaction/s conducted thereby;
- 26.3.3. Person to represent that a security is a particular type of security when such representation is inconsistent with a stated definition under the Code or rules or regulations adopted thereunder.
- 26.3.4. Person to represent that a security to be sold, transferred, pledged, mortgaged, encumbered, used for delivery, or any other purpose to

⁸⁰ MC 04-2018 Re: Transitory implementation of the SEC Certification Requirement for Salesmen of Brokers/Issuers of Proprietary/Non-Proprietary Shares, provides the guidelines for the transitory implementation of the SEC Certification Requirement for Salesmen of Brokers/Issuers of Proprietary/Non-Proprietary Shares for the period 2 March 2018 to 28 February 2019.

⁸¹ Now the Revised Corporation Code.

another entity or itself has been legally authorized by the registered owner when such representation is not true and documented in writing at the time and date it was used.

- 26.3.5. Person, whether as principal or agent, to buy, sell or deal in securities or solicit investments in securities and other investment contracts, unless he is a registered broker, dealer or licensed salesman of a broker dealer and the securities are registered under the Code or exempt from registration pursuant to Sections 9 and 10 thereof.

Dealing in securities includes making or offering to make with any person, or inducing or attempting to induce any person to enter into or to offer to enter into any agreement for or with a view to acquiring, disposing of, subscribing for securities.

Solicitation is the act of seeking or asking for business or information and including the act of providing information about a security or investment product being offered for sale with the view of making another person a client or closing or bringing in a sale or purchase of security or investment product. The solicitor need not be a signatory to any contract relative to such offer or sale of the security.

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.

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.

RULE 27 - Insider Trading

27.1. It shall be unlawful for an insider to sell or buy a security of the issuer, while in possession of material information with respect to the issuer or the security that is not generally available to the public, unless: (a) The insider proves that the information was not gained from such relationship; or (b) If the other party selling to or buying from the insider (or his agent) is identified, the insider proves: (i) that he disclosed the information to the other party, or (ii) that he had reason to believe that the other party otherwise is also in possession of the information. A purchase or sale of a security of the issuer made by an insider defined in Section 3.8 of the Code, or such insider's spouse or relatives by affinity or consanguinity within the second degree, legitimate or common-law, shall be presumed to have been effected while in possession of material nonpublic information if transacted after such information came into existence but prior to dissemination of such information to the public and the lapse of a reasonable time for market to absorb such information; Provided, however, That this presumption shall be rebutted upon a showing by the purchaser or seller that he was aware of the material nonpublic information at the time of the purchase or sale.

27.2. Information is "material nonpublic" under this Rule if: (a) It has not been generally disclosed to the public and would likely affect the market price of the security after being disseminated to the public and the lapse of a reasonable time for the market to absorb the information; or (b) would be considered by a reasonable person important under the circumstances in determining his course of action whether to buy, sell or hold a security.

27.3. It shall be unlawful for any insider to communicate material nonpublic information about the issuer or the security to any person who, by virtue of the communication, becomes an insider as defined in Section 3.8 of the Code, where the insider communicating the information knows or has reason to believe that such person will likely buy or sell a security of the issuer while in possession of such information.

27.4. Where a tender offer has commenced or is about to commence, it shall be unlawful for:

- 27.4.1. Any person (other than the tender offeror) who is in possession of material nonpublic information relating to such tender offer, to buy or sell the securities of the issuer that are sought or to be sought by such tender offer if such person knows or has reason to believe that the information is nonpublic and has been acquired directly or indirectly from the tender offeror, those acting on its behalf, the issuer of the securities sought or to be sought by such tender offer, or any insider of such issuer; and
- 27.4.2. Any tender offeror, those acting on its behalf, the issuer of the securities sought or to be sought by such tender offer, and any insider of such issuer to communicate material nonpublic information relating to the tender offer to any other person where such communication is likely to result in a violation of the preceding SRC Rule.

The term "securities of the issuer sought or to be sought by such tender offer" shall include any securities convertible or exchangeable into such securities or any options or rights in any of the foregoing securities.



TITLE VIII
Regulation of Securities Market Professionals

RULE 28.1 - Registration of Brokers and Dealers⁸²

28.1.1. Broker Dealer

A Broker Dealer is any entity that buys or sells securities for its own and customers' account and who shall be registered with the Commission pursuant to Section 28 of the Code.

28.1.2. Requirements for Registration

28.1.2.1. An entity applying for registration as a Broker Dealer under Section 28 shall indicate in the application form for registration, or in an amendment thereto, whether it will:

- 28.1.2.1.1. Act as a Broker or Dealer;
- 28.1.2.1.2. Trade, directly or indirectly, in an Exchange, in the Over- The-Counter Market or in an Alternative Trading System;
- 28.1.2.1.3. If an Exchange Trading Participant, act as a clearing or a non-clearing participant or as a market maker;
- 28.1.2.1.4. Deal with Equity Securities, Fixed Income/Debt Securities, Proprietary Shares, Non-Proprietary Shares, Government Securities, Derivatives or other instruments which must be specified in the application form.

28.1.2.2. "Market-making transactions" shall mean transactions in a particular security/ies:

- 28.1.2.2.1. By a Broker Dealer which complies with the Commission and Exchange rules regarding its duty as a market maker;
- 28.1.2.2.2. To ensure two way quotes, provide liquidity, and maintain a fair and orderly trading market therein.

28.1.2.3. An applicant for registration as a Broker Dealer shall solely engage in the business of a Broker Dealer, unless otherwise authorized by the Commission to engage in another business.

The Broker Dealer shall segregate the operational and financial books and records of the other businesses, if any.

28.1.2.4. Every application for registration as a Broker Dealer shall be filed on SEC Form 28-BD and be accompanied by the following papers or documents:

- 28.1.2.4.1. A continuing authorization for the Commission's duly authorized representative to verify the applicant's bank accounts. The authorization shall be for all banks wherein accounts are maintained by the Broker Dealer and shall be continuous with registration by the Commission;
- 28.1.2.4.2. Proof of compliance with paid up capital requirements pursuant to SRC Rule 28.1.2.5.2;
- 28.1.2.4.3. Certified True Copy of valid work permit of foreigners who are employees or officers of the applicant corporation duly issued by the Department of Labor and Employment (DOLE) or any appropriate agency;

⁸² SRC Sec. 28. Registration of Brokers, Dealers, Salesmen and Associated Persons. — 28.1. No person shall engage in the business of buying or selling securities in the Philippines as a broker or dealer, or act as a salesman, or an associated person of any broker or dealer unless registered as such with the Commission.

- 28.1.2.4.4. Copies of identity cards/passports of the following:
 - 28.1.2.4.4.1. Individual applicants (salesman/associated person);
 - 28.1.2.4.4.2. Officers;
 - 28.1.2.4.4.3. Directors; and
 - 28.1.2.4.4.4. Persons who control more than ten percent (10%) of a class of voting securities of corporate applicants.
- 28.1.2.4.5. Written supervision and control procedures, including procedures for establishing and segregating transactions pursuant to Section 34.1 of the Code. Such procedures shall take into consideration the requirements of the Anti- Money Laundering Act of 2001 (RA 9160, as amended), and the Revised Code of Corporate Governance;⁸³
- 28.1.2.4.6. A schedule of minimum commission charges as required by SRC Rule 30.2.5;
- 28.1.2.4.7. Calculation of net capital requirements in accordance with SRC Rule 28.1.2.5.2 and SRC Rule 49.1.1.5 or any other financial ratio/measure which the Commission may in the future mandate;
- 28.1.2.4.8. Bio-data of Directors and Officers using SEC Form 28-BDF as well as Certified True Copy of educational, professional/technical or other academic qualifications of Officers, Associated Persons and Salesmen;
- 28.1.2.4.9. Latest audited financial statement;
- 28.1.2.4.10. Where applicant has been in existence for more than one year, certified copies of income tax returns for the two years preceding date of application;
- 28.1.2.4.11. Detailed description of Organizational and Functional charts, the names and designations of the officers, including branch offices;
- 28.1.2.4.12. If the applicant is a corporation, a certified copy of the following documents under oath, by the corporate secretary:
 - 28.1.2.4.12.1. With respect to a foreign corporation, certificate that the board of directors has authorized, in a resolution, the President and Secretary to sign an irrevocable consent to service of process upon the Commission as service to the corporation;
 - 28.1.2.4.12.2. Articles of Incorporation indicating that the purpose of the applicant is to engage in the business of a Broker Dealer;
 - 28.1.2.4.12.3. Board resolution attesting to particulars contained in the application and in the attached documents.
- 28.1.2.4.13. Business plan regarding proposed and/or current operations, including projected volume of business. Such plan should reflect applicant's ability and plans to engage in a profitable level of business; and
- 28.1.2.4.14. A yearly schedule/timetable on the implementation of the training program for the staff, which specifies, among others, the description of the training program, date of implementation and name of participants.
- 28.1.2.4.15. Proof of valid membership in an SRO;

⁸³ As amended by MC 24-2019 and MC 19-2016, *supra* note 3.

28.1.2.4.16. Risk Management Manual and Internal Control Procedures;

28.1.2.4.17. Business Continuity and Disaster Recovery Plan;

28.1.2.4.18. Comprehensive Information Technology Plan, to include among others: a) a list and brief description of the software and hardware to be primarily used in its functions and their location; b) a back-up system or subsystem and their location; c) security system and procedures to be employed; d) procedures to check sufficiency of system's capacity and expansion program, if necessary; and e) IT system maintenance schedule; and

28.1.2.4.19. Copies of proposed contract of any activities or services that are being outsourced.

28.1.2.5. Terms and Conditions for Registration and for Continuing Registration

28.1.2.5.1. Applicable to Exchange Trading Participants

28.1.2.5.1.1. Membership in good standing in an Exchange; provided, however that any applicant who is not a member of an Exchange may only be granted registration conditioned upon future membership in an Exchange;

28.1.2.5.1.2. Membership or participation in a Trust Fund accredited by the Commission under SRC Rule 36.5.1;

28.1.2.5.1.3. Where the Broker Dealer is a participant in a registered clearing agency, fulfillment of its obligation to contribute to the guarantee fund;

28.1.2.5.2. Applicable to both Exchange Trading Participants and Non-Exchange Broker Dealers

28.1.2.5.2(a). Compliance with SEC Risk Based Capital Adequacy (RBCA) Requirement/Ratio for Brokers Dealers, otherwise known as the RBCA Rules or any amendments thereto.

28.1.2.5.2(b).1. Unimpaired paid up capital of One Hundred Million pesos (PhP100,000,000.00) for the following types of Broker Dealers:

28.1.2.5.2(b).1.1 First time registrants who will be participating in a registered clearing agency upon the effectivity of the Code;

28.1.2.5.2(b).1.2 Those acquiring the business of existing Broker Dealer companies pursuant to SRC Rule 28.1.3 and will be participating in a registered clearing agency; Provided, however, that the Commission may authorize a lower capitalization for applicants not participating in a registered clearing agency.

28.1.2.5.2(b).2. Other existing Broker Dealer applicants not meeting the One Hundred Million (PhP100,000,000.00) capitalization and not seeking authorization to engage in market making transactions shall maintain a Thirty Million Pesos (PhP30,000,000.00) unimpaired paid up capital, or such other amount as the Commission may prescribe, and file the required surety bond in lieu of the One Hundred Million Pesos (PhP100,000,000.00) as prescribed under SRC Rule 28.1.6.

28.1.2.5.2(b).3. Unimpaired paid up capital of Two Million Five Hundred Thousand Pesos (PhP2,500,000.00), or such other amount as the Commission may prescribe, for applicants dealing purely in proprietary shares who are not holding securities for their clients.

28.1.2.5.2(c). Registration of each branch office;

28.1.2.5.2(d). At least one trained and registered salesman at each registered branch office. All salesmen of the applicant shall apply for registration as a salesman under SRC Rule 28.1.5;

28.1.2.5.2(e). At least one registered Associated Person. Any person with supervisory responsibility for the applicant shall apply for registration as an Associated Person under SRC Rule 28.1.5;

28.1.2.5.2(f). A sufficient number of back office staff at the main office of the applicant;

28.1.2.5.2(g). A computerized and effective recording and accounting system;

28.1.2.5.2(h). Separate bank accounts for client funds;

28.1.2.5.2(i). Separate bank accounts for proprietary funds;

28.1.2.5.2(j). Reporting, using SEC Form 28-BDA of changes in the information provided in the application form to the Commission in writing within seven (7) days of such changes;

28.1.2.5.2(k). Compliance with the provisions of the Revised Code of Corporate Governance⁸⁴ and Anti Money Laundering Act, as amended;

28.1.2.5.2(l). Filing of reports required under the rules and regulations, including but not limited to the filing of the Revised Manuals on Good Governance and Anti-Money Laundering;

28.1.2.5.2(m). A certificate of Membership in good standing from a duly-accredited or recognized broker/dealer association; and

28.1.2.5.2(n). A Broker Dealer must have a website which shall contain basic information about the firm including the services offered, the names, current photos and contact details of its directors, principal officers, associated persons and salesmen. This requirement must be complied with by the firm within six (6) months from effectivity of these rules. The website shall be kept current and updated at all times.

28.1.2.5.2(o). A Broker Dealer shall submit to the Commission and the SRO which has authority to supervise its trading participants a list of its directors, officers, salesmen and employees together with their respective photos taken within six (6) months before submission to the Commission, designations and specimen signatures. For initial compliance, the Broker Dealer shall submit such requirements within six (6) months from the effectivity of these rules. These requirements shall be updated every three (3)-years thereafter.

28.1.2.5.2(p). The Commission may require Broker Dealers to subject their information technology, trading, business continuity, disaster recovery and risk management systems to a regular review and audit by independent firm at least once every three (3)-years and such other frequency that the Commission may deem necessary. The Commission may also require that the results of said review and audit shall be submitted to the Commission;

28.1.2.5.2(q). Such other requirements which the Commission may prescribe.⁸⁵

28.1.2.6. Perpetual License of Broker Dealer

The registration of Broker Dealer license shall remain valid unless otherwise revoked for cause or suspended or voluntarily surrendered by the Broker Dealer, subject to the Broker Dealers' compliance with the qualification and monitoring requirements of the Commission. Each registered Broker Dealer shall pay the annual fee every November of each year of registration. The filing and payment of the required annual fee after the prescribed period shall be subject to a penalty that shall be determined by the Commission. Failure to pay the annual fee shall, after notice and hearing, result in the suspension or revocation of the license, as the circumstances may warrant.

28.1.3. Registration of Successor to Broker Dealer

⁸⁴ As amended by MC 24-2019 and MC 19-2016, *supra* note 3.

⁸⁵ See MC 5-2014 Re: Guidelines on the Outsourcing of Functions of Broker Dealer, prescribing the principles and standards which shall be observed by broker dealers in its outsourcing arrangements with service providers dated 11 February 2014.

28.1.3.1 No sale or transfer of assets and liabilities of an existing Broker Dealer (hereinafter referred to as "predecessor Broker Dealer") to an entity (hereinafter referred to as "successor Broker Dealer") or any form of reorganization or change in management of a Broker Dealer, *de facto* or otherwise *shall* be effected without prior approval by the Commission. The successor Broker Dealer, with conformity of the predecessor Broker Dealer, shall file a request for such approval. In the evaluation of the request of the predecessor Broker Dealer, the Commission shall determine the eligibility of the successor entity for registration as broker dealer.

After securing the aforementioned approval of the Commission, the successor Broker Dealer shall file its application for registration within (30) business days from the date of receipt of notice of approval and simultaneously publish at its expense a notice of such application in any national newspaper of general circulation.

In the event that the successor Broker Dealer succeeds to and continues the business of the predecessor Broker Dealer without filing an application for registration, both the predecessor and successor Broker Dealer shall be subject to corresponding administrative penalty as may be determined by the Commission.

28.1.3.2 The following are examples of the types of reorganizations that require the successor of a Broker Dealer to file a new application:

28.1.3.2.1 A person or entity purchases or assumes substantially all of the assets and liabilities of a Broker Dealer, and, after so doing, the said entity decides to operate the business of the Broker Dealer;

28.1.3.2.2 If two or more registered Broker Dealers consolidate their firms and conduct their business through a new entity which assumes substantially all of the assets and liabilities of the predecessor broker dealer the new entity shall file a complete application on SEC Form 28-BD, while the predecessor firms shall each be required to file a Request for Withdrawal of Business and/or Cancellation of Registration as Broker Dealer under SRC Rule 28.1.4.

28.1.3.2.3 A person or group of persons representing the same interest or acting in concert invests in the Broker Dealer, where such investment results in a change in the management and/or ownership control of the Broker Dealer.

28.1.3.3 Notwithstanding SRC Rule 28.1.3.1, the successor may file an amendment to the registration of the predecessor Broker Dealer on SEC Form 28-BDA instead of an original application for registration, within thirty (30) days after the succession in the following instances:

28.1.3.3.1 A corporate reorganization or restructuring that does not result in a change in control of the Broker Dealer.

28.1.3.3.2 A succession resulting from a change in the form of business, such as from a partnership to a corporation.

28.1.4. Withdrawal of Business and/or Cancellation of Registration as Broker Dealer

28.1.4.1. The Request for Withdrawal of Business and/or Cancellation of Registration as a Broker Dealer shall be filed on SEC Form 28-BDW in accordance with the instructions contained therein.

28.1.4.2. A request to withdraw business and/or cancel registration filed by a Broker Dealer shall become effective on such date as determined by the Commission for its effectivity. If there is no date indicated, the withdrawal or cancellation shall take effect on the date of the issuance of the Order.

28.1.4.3. Subsequent to filing of such Notice or Request to withdraw business and/or cancel registration, the Broker Dealer shall perform the following:

- 28.1.4.3.1. Publication in at least two (2) national newspapers of general circulation of the notice of the filing of request to withdraw business and/or cancel registration with the Commission and/or the SRO; and
- 28.1.4.3.2. Execution within five (5) days of a sworn statement, undertaking to comply with the following conditions:
 - 28.1.4.3.2.1. The company will cease to solicit new business and that should the company remain inoperative for five (5) years, its Certificate of Incorporation will be revoked;
 - 28.1.4.3.2.2. The company will no longer execute orders from clients within five (5) days from actual cessation of operation;
 - 28.1.4.3.2.3. The terms and conditions of the Surety Bond shall remain effective until its expiration;
 - 28.1.4.3.2.4. There will be no disposal or transfer of clients' securities to a successor Broker without the prior written agreement or confirmation of the client. The Broker Dealer shall provide the client a template for its agreement or confirmation of the disposal or transfer. The Broker Dealer shall submit to the Commission and/or the Self-Regulatory Organization ("SRO") proof of mailing or transmittal, whether through personal service or a reputable commercial courier, or through online submission as the Commission may prescribe, of the agreement or confirmation. The Broker Dealer shall notify the Commission if the client accepted or rejected the agreement or confirmation.
 - 28.1.4.3.2.5. The company will continually inform the client of its corporate activities until the transfer to successor broker;
 - 28.1.4.3.2.6. The company will preserve for a period of not less than five (5) years from the date the Commission and/or the SRO has approved its operation to cease, all records required to be maintained pursuant to the Books and Records Rule. The company shall inform the SRO and the Commission of the names and residence addresses and contact numbers of at least two (2) person/s responsible for the safekeeping of all the records, reporting any change in the person/s responsible, if there is any. If money laundering, criminal or administrative cases have been filed in court or an investigation is being conducted wherein the customer is involved or impleaded as a party to the case or investigation, the file must be retained beyond the five (5)-year period until it is confirmed that the case has been finally been resolved or terminated by the court;
 - 28.1.4.3.2.7. It shall be the responsibility of the Compliance Officer or Associated Person to oversee compliance with the requirements of the Commission and/or the SRO relative to the closure of its business;
- 28.1.4.3.3. Following the submission of SEC Form 28-BDW Notice of Withdrawal from Registration, the Broker Dealer shall be given a maximum of forty five (45) business days to effect the transfer of its clients' securities to the successor Broker duly approved by the SRO (in the case of Exchange Trading Participants) or the Commission (in the case of Non-Exchange Broker Dealer) or any broker chosen by

the client. During such period the following requirements shall be complied with:

- 28.1.4.3.3.1. Submit to the SRO (in the case of Exchange Trading Participants) or the Commission (in the case of Non-Exchange Broker Dealer) for its approval a draft letter informing the clients of the closure of business including the procedures that it will undertake to service the clients and the creditors;
 - 28.1.4.3.3.2. Issue latest statement of accounts to individual clients to give them the opportunity to validate their securities' positions with the company including their payables;
 - 28.1.4.3.3.3. Submit to the SRO (in the case of Exchange Trading Participants) or the Commission (in the case of Non-Exchange Broker Dealer) a summary of clients' account balances;
 - 28.1.4.3.3.4. Execute clients' instructions on how to effect transfer/liquidate their securities and cash positions;
 - 28.1.4.3.3.5. Provide the SRO (in the case of Exchange Trading Participants) or the Commission (in the case of Non-Exchange Broker Dealer) with a status report of clients' complaints with the corresponding actions taken; and
 - 28.1.4.3.3.6. Submit to the SRO (in the case of Exchange Trading Participants), copy furnished the Commission, or the Commission (in the case of Non-Exchange Broker Dealer) an undertaking to be accomplished by the persons responsible for the safekeeping of all the records of the company pursuant to AMLA and SRC's IRR; and
 - 28.1.4.3.3.7. Submit an affidavit of publication with a copy of the notice that was published regarding the application for the Withdrawal of Business and/or Cancellation of Registration as a Broker Dealer in accordance with SRC Rule 28.1.4.3.9.
- 28.1.4.3.4. The SRO tasked to perform the independent audit, surveillance and/or compliance functions of the Broker Dealers (in case of Exchange Trading Participants) or the Commission (in the case of Non-Exchange Broker Dealer), if it deems necessary, will conduct a post audit of the company to ensure compliance with the aforementioned requirements after the end of the forty five (45)-day period.
- 28.1.4.3.5. After effecting the transfer of clients' securities to the successor broker duly approved by the SRO (in the case of Exchange Trading Participants) or the Commission (in the case of Non-Exchange Broker Dealers) or any broker of their choice, the company is required to submit to the Commission the following documents:
- 28.1.4.3.5.1. A list, executed under oath, of all transfers of customer accounts from the time notice of cessation of business or withdrawal of registration has been communicated to the Commission or the SRO;
 - 28.1.4.3.5.2. Certificate of Good Standing from the Commission;
 - 28.1.4.3.5.3. Clearance from the SRO that the company has no outstanding liabilities to the SRO;

- 28.1.4.3.5.4. Clearance from the SRO tasked to perform the independent audit, surveillance and/or compliance functions that the company can settle or has settled all of its trading related liabilities and obligations prior to the date of effectivity of the termination of operations;
- 28.1.4.3.5.5. Clearance from the registered clearing agency that all obligations have been settled, delivered and/or securities intact and in good control location;
- 28.1.4.3.5.6. Current original licenses of the Broker Dealer, salespersons and its Associated Person; and
- 28.1.4.3.5.7. Filing of SEC Form 28-T for each of the company's Associated Person/s and salesperson/s.
- 28.1.4.3.5.8. Notwithstanding, the filing of the notice of cessation of operation with the Commission, the liabilities and obligations of the company to third parties shall continue until full compliance with and submission of the abovementioned conditions/requirements. Furthermore, the primary license of the company will be cancelled/revoked should it remain non-operational for five (5) years pursuant to Section 22 of the Corporation Code.⁸⁶

28.1.5. Registration of Salesmen and Associated Persons of Brokers Dealers

28.1.5.1. A person may not be employed as a salesman or associated person of a Broker Dealer or Issuer of proprietary or non-proprietary securities unless registered as a salesman or Associated Person under this Rule. The Broker Dealer/Issuer may be allowed to employ trainees for a one-time, non-extendible period of six (6) months; Provided however that:

- 28.1.5.1.1. The trainees are supervised by a registered salesman;
- 28.1.5.1.2. The trainees are not soliciting clients or dealing directly with clients;
- 28.1.5.1.3. The trainees are not receiving any form of commission or salary from the Broker Dealer other than a reasonable allowance; and
- 28.1.5.1.4. The Broker Dealer immediately informs the Commission in writing of the hiring of such trainees.

The Commission shall consider the attendant conditions to warrant the determination of compliance with the above requirements.

28.1.5.2. For purposes of this Rule:

- 28.1.5.2.1. **Salesman** shall refer to a natural person hired to buy and sell securities on a salary or commission basis properly endorsed to the Commission by the employing Broker Dealer. It shall also include any employee of an issuer company whose compensation is determined directly or indirectly on sales of the issuer's securities.
- 28.1.5.2.2. **Associated person** shall mean any person employed full time by the Broker Dealer whose responsibilities include internal control supervision of other employees, agents, salesmen, officers, directors, clerks and stockholders of such Broker Dealer for compliance with

⁸⁶ Now Section 21 of the Revised Corporation Code. "SEC. 21. *Effects of Non-Use of Corporate Charter and Continuous Inoperation.* – If a corporation does not formally organize and commence its business within five (5) years from the date of its incorporation, its certificate of incorporation shall be deemed revoked as of the day following the end of the five-year period. However, if a corporation has commenced its business but subsequently becomes inoperative for a period of at least five (5) consecutive years, the Commission may, after due notice and hearing, place the corporation under delinquent status. ..."

the Code and rules and regulations adopted thereunder. He cannot perform other duties without Commission approval and subject to the condition that the broker dealer will maintain the appropriate Chinese Wall between the functions of an associated person and that of his other duties.

28.1.5.3. Notice of discontinuation of employment of a salesman or Associated Person and the reasons therefore, shall be provided to the Commission by the employing Broker Dealer by filing SEC Form 28-T and surrendering to the Commission the original registration certificate of such salesman or associated person, no later than five (5) business days after the discontinuation of employment.

28.1.5.4. Requirements for Registration

Every application for registration as a salesman or associated person shall be filed on SEC Form 28-S, or SEC Form 28-AP, respectively, verified under oath by the Broker Dealer who is the employer of the salesman or associated person, be accompanied by the prescribed fee and the following papers and documents:

- 28.1.5.4.1. If an applicant is a foreigner, certified true copy of valid work permit duly issued by the Department of Labor and Employment (DOLE) or any appropriate agency;
- 28.1.5.4.2. Copies of identity cards/passports of applicant;
- 28.1.5.4.3. Evidence, preferably a certified true copy, that such person has complied with applicable examination requirements and/or meets other educational, professional or technical qualifications; and
- 28.1.5.4.4. Written evidence that a Broker Dealer has agreed to employ such person contingent upon such person's registration as a salesman or Associated Person.

28.1.5.5. Terms and Conditions for Applicants for Registration

28.1.5.5.1. Only natural persons can apply and be employed by a Broker Dealer.

28.1.5.5.2. Applicants for salesmen shall be at least eighteen (18) years of age and applicants for Associated Person shall be at least twenty one (21) years of age.

28.1.5.5.3. Applicants for registration as a salesman must have no disciplinary history that would subject them to disqualification from registration under Section 29 of the Code.⁸⁷

⁸⁷ SRC Sec. 29.1. Registration under Section 28 of this Code may be refused, or any registration granted thereunder may be revoked, suspended, or limitations placed thereon, by the Commission if, after due notice and hearing, the Commission determines the applicant or registrant:

- a. Has willfully violated any provision of this Code, any rule, regulation or order made hereunder, or any other law administered by the Commission, or in the case of a registered broker, dealer or associated person has failed to supervise, with a view to preventing such violation, another person who commits such violation;
- b. Has willfully made or caused to be made a materially false or misleading statement in any application for registration or report filed with the Commission or a self-regulatory organization, or has willfully omitted to state any material fact that is required to be stated therein;
- c. Has failed to satisfy the qualifications or requirements for registration prescribed under Section 28 and the rules and regulations of the Commission promulgated thereunder;
- d. Has been convicted, by a competent judicial or administrative body of an offense involving moral turpitude, fraud, embezzlement, counterfeiting, theft, estafa, misappropriation, forgery, bribery, false oath, or perjury, or of a violation of securities, commodities, banking, real estate or insurance laws;
- e. Is enjoined or restrained by a competent judicial or administrative body from engaging in securities, commodities, banking, real estate or insurance activities or from willfully violating laws governing such activities;
- f. Is subject to an order of a competent judicial or administrative body refusing, revoking or suspending any registration, license or other permit under this Code, the rules and regulations promulgated thereunder, any other law administered by the Commission;
- g. Is subject to an order of a self-regulatory organization suspending or expelling him from membership or participation therein or from association with a member or participant thereof;
- h. Has been found by a competent judicial or administrative body to have willfully violated any

28.1.5.5.4. Applicants for registration as an Associated Person, must not have been censured or reprimanded by a professional (e.g., IBP, PRC, etc.), or regulatory body (e.g., SEC, BSP, IC, etc.) for negligence, incompetence or mismanagement, or dismissed or requested to resign from any position or office for negligence, incompetence or mismanagement, or be subject to any other disqualification under Section 29 of the Code.

28.1.5.5.5. Any applicant applying for registration as a salesman or Associated Person for the first time, must have taken and passed the applicable examination within the last three (3)-years immediately preceding the date of his application.

28.1.5.5.5.1. No applicant for registration as salesman or Associated Person shall be registered unless he has completed the certification requirements of the Commission.

28.1.5.5.5.2. An applicant who is not registered as a salesman or associated person for three (3) consecutive years or more, which shall be counted from the date of expiration or termination of his registration or from the date of his passing of relevant examinations, cannot apply for registration unless he has complied with the certification requirements of the Commission.

28.1.5.5.5.3. An applicant who is covered under subsection 28.1.5.5.5.2 above may not be required to take the earlier referred examination if he can prove to the Commission that he has continuously worked in an equivalent capacity in the local capital market or its related industries for the last three (3)-years.

28.1.5.6. The registration of a salesman or Associated Person shall cease when he is no longer employed by the Broker Dealer identified in his registration application.

28.1.5.7. Duties of an Associated Person. Taken in conjunction with SRC Rule 30.2.6, an Associated Person shall:

- 28.1.5.7.1. Have a general knowledge of the operations of the Broker Dealer without necessarily engaging or actively participating in the day-to-day operations of the firm;
- 28.1.5.7.2. Supervise and provide trainings as prescribed under SRC Rule 30.2.7 to stockholders, directors, officers, salesmen, other employees, agents, and authorized clerks of the Broker Dealer for compliance with the Code and these Rules;
- 28.1.5.7.3. Oversee compliance with legislative and other regulatory requirements (such as notifying the Commission of material changes in information previously filed, maintaining registers, books of accounts and other records, compliance with rules, orders and laws relating to trading, issuing confirmation receipts, compliance with margin rules, net capital and other financial requirements);
- 28.1.5.7.4. Ensure that all salesmen of the Broker Dealer are registered and that the Commission is notified when any salesman is no longer employed by the Broker Dealer;
- 28.2.5.7.4. Develop procedures and monitor on a daily basis compliance with financial resource requirements; and⁸⁸
- 28.1.5.7.5. Ensure that there is an audit trail which enables compliance with applicable laws, Exchange, Clearing Agency and other SRO rules.

28.1.5.8. Conditions for Continuing Registration

As a condition for continuing registration, registered salesmen and Associated Persons shall:

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- provisions of securities, commodities, banking, real estate or insurance laws, or has willfully aided, abetted, counseled, commanded, induced or procured such violation; or
 - i. Has been judicially declared insolvent.
For purposes of this subsection, the term "competent judicial or administrative body" shall include a foreign court of competent jurisdiction and a foreign financial regulator.

⁸⁸ Duplicate numbering (28.1.5.7.4).

- 28.1.5.8.1. Report any change in the information provided in the application forms and other information that may be required under these rules or orders. Such report must be in SEC Form 28-AMD and filed within seven (7) days from such change.
- 28.1.5.8.2. Observe at all times the provisions of the Code, these Rules, and applicable Exchange, clearing agency and other SRO rules; and
- 28.1.5.8.3. Demonstrate an on-going understanding of applicable regulatory requirements and Exchange, clearing agency, and other SRO rules.

28.1.5.9. Every registered salesman or Associated Person who shall change his registration category during the year (*i.e.*, salesman to Associated Person and vice versa) shall be assessed the appropriate fee for the issuance of a new license.

28.1.5.10. Perpetual License of Salesmen and Associated Person

For so long as the salesmen and Associated Persons are employed by the Broker Dealer identified in his registration application, their license shall remain valid unless otherwise revoked for cause or suspended or voluntarily surrendered, subject to compliance with the terms and conditions of registration. Each registered salesman or Associated Person shall pay the annual fee every November of each year of registration, and must be cleared of all derogatory reports and cases by the Commission and/or any duly recognized professional or regulatory body or, in appropriate cases, the SRO. The filing and payment of the annual fee after the prescribed period will be charged a fee for late filing. Failure to pay the required annual fees is a ground to suspend registration.

28.1.5.11. Rules in Case of Absence or Lack of Associated Persons

Should an Associated Person file an application for vacation leave or takes leave of absence due to emergency, health, and other personal reasons, the Broker Dealer shall notify the Commission in writing on or before the first day the vacation leave or leave of absence takes effect. The same notice requirement applies in case of resignation of an Associated Person wherein the Broker Dealer is unable to find a replacement who can and shall assume office on or before the date of effectivity of said resignation.

In case the Associated Person resigns, the Broker Dealer shall immediately appoint a replacement within a period not exceeding one (1) month from the date of filing of resignation, or from the effectivity of the resignation in case the Associated Person resigns without prior notice. In the event that the Broker Dealer will not be able to appoint a replacement within the one (1)-month period or if the replacement appointed/to be appointed cannot yet assume office within the said period, the Broker Dealer shall secure an exemptive relief from the Commission.

In case the Associated Person takes a leave of absence for a period exceeding three (3) months which will result in the Broker Dealer not having an Associated Person during the said period, the Broker Dealer shall secure an exemptive relief from the Commission within two (2) days from the time of the approval of such leave of absence, or from the time of knowledge thereof by the Broker Dealer, if prior approval is not applicable.

In all instances of absence or lack of Associated Person, it shall be the responsibility and accountability of the board of directors to immediately appoint a competent person to perform the functions of an Associated Person subject to the following conditions:

- 28.1.5.11.1. The company's President shall take full accountability and responsibility in the event of violations or non-compliance committed at the time the Broker Dealer has no Associated Person or the Associated Person was absent even as the appointed competent person performs the activities required and expected of an Associated Person.

- 28.1.5.11.2. The company shall be willing to be subject to a monthly audit to be conducted by the SRO and pay audit fee as may be imposed by the SRO.

28.1.6. Broker Dealer Surety Bond and Self Insurance Bond

The surety bonds required to be filed pursuant to SRC Rule 28.1.2.5 by Broker Dealers who have been allowed by the Commission to defer compliance with the One Hundred Million (PhP100,000,000.00) unimpaired paid up capital requirements pursuant to that Rule shall be not less than Ten Million Pesos (PhP10,000,000.00) for Brokers and not less than Two Million Pesos (PhP2,000,000.00) for Dealers, or such other amount as the Commission shall prescribe. Such bonds shall be conditioned upon the faithful compliance with the provisions of the Code and rules and regulations adopted thereunder by said Broker Dealer and by all salesmen and Associated Persons while acting for it. Such bond shall be executed by a surety company authorized to do business in the Philippines and duly accredited as a surety company pursuant to the Commission's Guidelines on Accreditation as a Surety Company.⁸⁹

In lieu of such bond, the Broker Dealer may file bonds of the Government of the Philippines. If a bond is filed, any person damaged by the failure of such Broker Dealer or of any salesman or Associated Person while acting for it, to comply with the provisions of the Code and these Rules shall be entitled to sue the sureties under such bond and to recover the damages so suffered thereunder. If other securities are filed in lieu thereof, such person may subject such securities to the payment of such damage. The Commission shall file the claim or call on the surety on behalf of claimants.

28.1.7. Compliance with New Requirements

Any registered Broker Dealer operating prior to the effectivity of these Rules shall, within ninety (90) calendar days from these Rules' effectivity, comply with all the requirements provided under these Rules that are not otherwise included in its original registration.

Nothing in this Rule shall be construed as precluding the Commission from requiring an applicant for registration or a registered Broker Dealer, Salesman, Associated Person to submit other requirements it may deem reasonably necessary to effectively regulate and supervise these persons and/or to protect the interest of the investing public.

RULE 28.2 - Compliance with Qualification Requirements of Self-Regulatory Organizations

No Broker Dealer shall effect any transaction in or induce the purchase or sale of any security unless the employee of such Broker Dealer who effects or is involved in effecting such transaction is registered or approved in accordance with the standards of training, experience, competence, and other qualification standards (including, but not limited to, submitting and maintaining all required forms, paying all required fees, and passing the required examinations) established by the rules of any Exchange or other Self-Regulatory Organization where such Broker Dealer is a Participant.

RULE 28.3 - Action of the Commission on the Registration⁹⁰

28.3.1. Exemption from Registration and Compliance with Qualification Requirements

The Commission, by rule or order, may conditionally or unconditionally exempt any broker, dealer, salesman, associated person of any broker or dealer, or any class of

⁸⁹ See MC 9-2012, Revised Guidelines on Accreditation of Surety Companies dated 12 October 2012.

⁹⁰ SRC Section 28.3 "The Commission, by rule or order, may conditionally or unconditionally exempt from Subsections 28.1 and 28.2 any broker, salesman, associated person of any broker or dealer, or any class of the foregoing, as it deems consistent with the public interest and the protection of investors."

the foregoing, from the requirement of registration under SRC Rule 28.1 for purposes consistent with public interest and for the protection of investors.

28.3.2. Approval or Denial of Registration by the Commission

The Commission shall, within thirty (30) days after the filing of any application under this Rule: (i) grant registrations if it determines that the requirements and qualifications for registrations set forth in this Rule have been satisfied; or (ii) deny said registration.

RULE 28.4 - Suspension of Registration

The Commission shall promulgate rules and regulations prescribing the qualifications for registration of each category of applicant, which shall, among other things, require as a condition for registration that:

28.4.1. If a natural person, the applicant satisfactorily pass a written examination as to his proficiency and knowledge in the area of activity for which registration is sought;

28.4.2. In the case of a broker or dealer, the applicant satisfy a minimum net capital as prescribed by the Commission, and provide a bond or other security as the Commission may prescribe to secure compliance with the provisions of this Code; and

28.4.3. If located outside of the Philippines, the applicant files a written consent to service of process upon the Commission pursuant to Section 65 hereof.

RULE 28.5 - Automatic Termination of Registration

The registration of a salesman or associated person shall be automatically terminated upon the cessation of his affiliation with said registered broker or dealer or with an issuer in the case of a salesman employed, appointed or authorized by such issuer. Promptly following any such cessation of affiliation, the registered broker or dealer, issuer as the case may be, shall file with the Commission a notice of separation of such salesman or associated person.

RULE 28.6

Registration of a salesman or of an associated person of a registered broker or dealer may be made upon written application filed with the Commission by such salesman or associated person. The application shall be separately signed and certified by the registered broker or dealer to which such salesman or associated person is to become affiliated, or by the issuer in the case of a salesman employed, appointed or authorized solely by such issuer. The application shall be in such form and contain such information and documents concerning the salesman or associated person as the Commission by rule shall prescribe. For purposes of this Section, a salesman shall not include any employee of an issuer whose compensation is not determined directly or indirectly on sales of securities of the issuer.

RULE 28.7 - Registration Fee

Applications filed pursuant to SRC Rules 28.5 and 28.6 shall be accompanied by a registration fee in such reasonable amount prescribed by the Commission.

RULE 28.8

Within thirty (30) days after the filing of any application under this Section, the Commission shall by order: (a) Grant registration if it determines that the requirements of this Section and the qualifications for registration set forth in its rules and regulations have been satisfied; or (b) Deny said registration.

RULE 28.9 – Register of Securities Market Professionals

The names and addresses of all persons approved for registration as brokers, dealers, associated persons or salesmen and all orders of the Commission with respect thereto shall be recorded in a Register of Securities Market Professionals kept in the office of the Commission which shall be open to public inspection.

RULE 28.10

Every person registered pursuant to this Section shall file with the Commission, in such form as the Commission shall prescribe, information necessary to keep the application for registration current and accurate, including in the case of a broker or dealer changes in salesmen, associated persons and owners thereof.

RULE 28.11 – Annual Fee

Every person registered pursuant to SRC Rule 28.1 shall pay to the Commission an annual fee at such time and in such reasonable amount as the Commission shall prescribe. Upon notice by the Commission that such annual fee has not been paid as required, the Commission shall initiate a proceeding to suspend such person's registration. The registration of such person shall be suspended until payment has been made.

RULE 28.12 – Automatic Termination of Registration

The registration of a salesman or associated person shall be automatically terminated upon the cessation of his affiliation with said registered broker or dealer, or with an issuer in the case of a salesman employed, appointed or authorized by such issuer. Promptly following any such cessation of affiliation, the registered broker or dealer, or issuer, as the case may be, shall file with the Commission a notice of separation of such salesman or associated person.

RULE 29 – Protection of Customer Accounts Where Registration of a Broker Dealer is Suspended or Revoked

29.1 Procedure for Refusal, Suspension, Cancellation or Revocation of Registration

The Commission may, upon its initiative, order or upon the complaint of any person, upon existence of any of the grounds provided for under Section 29⁹¹ and/or Section 54⁹² of the Code, refuse, suspend, cancel or revoke the registration of a broker-dealer, salesman or Associated Person in accordance with the 2006 Rules of Procedure of the Securities and Exchange Commission.

29.2 Protection of Customer Accounts Where Registration of a Broker Dealer is Suspended or Revoked

If registration of a Broker Dealer is suspended or revoked the following procedure shall be observed:

⁹¹ SRC, Section 29, supra note 87.

⁹² SRC Section 54. Administrative Sanctions. — 54.1. If, after due notice and hearing, the Commission finds that: (a) There is a violation of this Code, its rules, or its orders; (b) Any registered broker or dealer, associated person thereof has failed reasonably to supervise, with a view to preventing violations, another person subject to supervision who commits any such violation; (c) Any registrant or other person has, in a registration statement or in other reports, applications, accounts, records or documents required by law or rules to be filed with the Commission, made any untrue statement of a material fact, or omitted to state any material fact required to be stated therein or necessary to make the statements therein not misleading; or, in the case of an underwriter, has failed to conduct an inquiry with reasonable diligence to insure that a registration statement is accurate and complete in all material respects; or (d) Any person has refused to permit any lawful examinations into its affairs, xxx

29.2.1. If such Broker Dealer is an Exchange Trading Participant, the Exchange shall immediately arrange for another Exchange Trading Participant to take over any outstanding contracts relating to securities and simultaneously notify the Commission and the affected customers in writing of such transfer that said contracts have been transferred.

29.2.2. If such Broker Dealer is not an Exchange Trading Participant, the Commission shall notify the affected customers, if any, of such suspension or revocation and shall require the Exchange Trading Participant to which the Broker Dealer courses its trade to take over the operations of such Broker Dealer.

RULE 30.1 - Monitoring of Affiliated Transactions by Broker Dealers

30.1.1. Every Broker Dealer shall require every stockholder, director, Associated Person, salesman and authorized clerk of the Broker Dealer (collectively referred to as "director") to complete and submit to the Broker Dealer an executed copy of SEC Form 30.1 under oath (Affiliated Transactions Monitoring Sheet) to ensure compliance with the conditions set forth in Section 30.1⁹³ of the Code.

30.1.2. Based on information set forth in the Affiliated Transactions Monitoring Sheet, every Broker Dealer shall provide the Commission with a list of securities that the Broker Dealer must report pursuant to Section 30.1 of the Code under SEC Form 30.1/30.1-AMD (Report by Broker Dealers on Restricted Transactions).

The reports required under SRC Rules 30.1.1 and 30.1.2 of this Rule shall be submitted to the Commission not later than seven (7) calendar days after the occurrence of the relationship defined under Section 30.1 of the Code.

30.1.3. Every director shall ensure that his Affiliated Transactions Monitoring Sheet is accurate and complete at all times and shall update and submit to the Broker Dealer any amendment thereto within seven (7) calendar days of such amendment so as to reflect any change/s thereto.

30.1.4. Brokers Dealers that transact listed shares of corporations which would have been prohibited by Section 30.1 of the Code shall disclose the same within seven (7) calendar days after such transaction. The disclosure shall include the following information:

- 30.1.4.1. Name of the traded issue;
- 30.1.4.2. Date and time of the transaction;
- 30.1.4.3. Number of shares;
- 30.1.4.4. Traded price;
- 30.1.4.5. Side of the transaction (i.e., whether it is a buy or a sell);
- 30.1.4.6. Name of the customer that transacted the prohibited shares; and Relationship of the Broker Dealer with the Issuer company (i.e., the reason why the reported issue falls under the restriction of Section 30.1 of the Code).

30.1.5. The failure of any director to comply with this rule shall be deemed a violation of the Code.

⁹³ SRC Section 30.1. No broker or dealer shall deal in or otherwise buy or sell, for its own account or for the account of customers, securities listed on an Exchange issued by any corporation where any stockholder, director, associated person or salesman, or authorized clerk of said broker or dealer and all the relatives of the foregoing within the fourth civil degree of consanguinity or affinity, is at the time holding office in said issuer corporation as a director, president, vice president, manager, treasurer, comptroller, secretary or any office of trust and responsibility, or is a controlling person of the issuer.

RULE 30.2 - Transactions and Responsibilities of Brokers and Dealers**30.2.1. Ethical Standards Rule**

30.2.1.1. Every Broker Dealer, Associated Person and salesman of a Broker Dealer (hereinafter referred to as a "registered person"), in the conduct of his business, shall observe high standards of commercial honor and just and equitable principles of trade.

30.2.1.2. In considering whether a registered person is conducting his business in an ethical and fair manner, the Commission, in addition to requirements imposed under other SRC rules, will be guided by the following principles and requirements which incorporate International Organization of Securities Commission ("IOSCO") standards:

30.2.1.2.1. Honesty and fairness

In conducting his business activities, a registered person shall act honestly, fairly and in the best interest of his client and for the integrity of the market.

If a registered person advises or acts on behalf of a client, he shall ensure at all times that any representations or other communications made and information provided to the client is accurate and not misleading.

30.2.1.2.2. Diligence

In conducting his business activities, a registered person shall act with due skill, care and diligence, in the best interest of his clients and for the integrity of the market.

30.2.1.2.2.1. A registered person shall take all reasonable steps to promptly execute client orders and in conformity with the instruction of the client.

30.2.1.2.2.2. A registered person when acting for or with a client shall always execute client orders on the best available terms in compliance with SRC Rule 30.2.13.

30.2.1.2.2.3. A registered person shall ensure that transactions executed on behalf of clients are promptly and fairly allocated to the accounts of the clients on whose behalf the transactions were executed.

30.2.1.2.2.4. When providing advice to a client, a registered person shall act diligently and ensure that his advice and recommendations in relation to clients are based on thorough analysis and takes into account available alternatives.

30.2.1.2.3. Capabilities

A registered person shall have and employ effectively the resources and procedures which are needed for the proper performance of his business activities.

30.2.1.2.3.1. A registered person shall ensure at all times that any person he employs or appoints to conduct business for or with clients or other registered persons is qualified, including having relevant training or experience to act in the capacity so employed or appointed in compliance with SRC Rules 28.1, and 28.2.

30.2.1.2.3.2. A registered person shall ensure that at all times, pursuant to SRC Rule 30.2.6, he has:

30.2.1.2.3.2.1 Adequate resources to diligently supervise and does diligently supervise his employees and all persons appointed by him to conduct business for or with clients or any other registered persons; and

30.2.1.2.3.2.2 Satisfactory internal control procedures and financial and operational capabilities which can be reasonably expected to protect his operations, his clients and other registered persons from financial loss arising from the theft, fraud and other dishonest acts, or professional misconduct or omissions of all company officers, employees and authorized representatives.

30.2.1.2.4. Information about clients

30.2.1.2.4.2. A registered person should seek from his clients, information about their financial situation, investment experience and investment objectives regarding the services to be provided pursuant to SRC Rule 52.1.6 and other applicable laws. If a client refuses to disclose reasonable information about his financial situation, the registered person shall make the necessary estimate based on his initial evaluation of the information given by the client.

30.2.1.2.4.3. Information obtained from clients shall be treated with utmost confidentiality and shall not be disclosed to unauthorized persons; Provided that, such treatment of confidentiality shall not apply to the Commission, SROs, Exchanges, clearing agencies, depositories and their authorized representatives that exercise regulatory and supervisory responsibilities, or to any order issued by the Commission pursuant to SRC Rule 30.2.9. This confidentiality treatment and all the exceptions shall be stated in the Client Agreement.

All requests for information by the Commission about trading activities shall be complied with strictly by the registered persons in a form and style prescribed by the Commission, notwithstanding any confidentiality agreement between and among the registered persons and their clients.

The submission of the registered persons referred to above shall not be made in codes, cyphers or internal descriptions, or any other means that may hinder the Commission's ability to expeditiously conduct surveillance, examination or investigation pursuant to this Rule.

30.2.1.2.4.4. A registered person shall take all reasonable steps to establish the true and full identity of each of his clients, their financial situation, investment experience, and investment objectives.

30.2.1.2.4.5. Having regard to information disclosed by a client and other circumstances relating to the client which the registered person is or should be aware of through the exercise of due diligence, the registered person shall ensure that such recommendation or solicitation for that client is reasonable and suitable in all circumstances pursuant to Suitability Rule under SRC Rule 30.2.4.

- 30.2.1.2.4.6. A registered person providing services to any client, in relation to derivatives, including options and warrants, structured products, or any leveraged transaction, shall assure himself that the client understands the nature and risks of these instruments and has sufficient net worth and financial sophistication to be able to assume the risks and bear the potential losses of trading in such instruments.
- 30.2.1.2.4.7. A registered person should be reasonably satisfied about the identity, address and contact details of the person ultimately responsible for originating the instruction in relation to a transaction, the person who stands to gain the commercial or economic benefit of the transaction and/or bears the commercial or economic risk; Provided, however, that in relation to an investment company, or discretionary account, the person referred to above is the investment company or account, not those who hold a beneficial interest therein.
- 30.2.1.2.4.8. A registered person shall keep in the Philippines a record of the details referred to above and provide the Commission with access to those records upon request pursuant to Section 52 of the Code and SRC Rule 52.1.1.
- 30.2.1.2.4.9. A registered person shall not do anything to effect a transaction unless he has first complied with the requirements of this rule, as required by the Suitability Rule under SRC Rule 30.2.4.

30.2.1.2.5. Information for clients

A registered person shall make adequate disclosure of material information in his dealings with his clients.

- 30.2.1.2.5.2. A registered person shall ensure that a written agreement which complies with SRC Rule 30.2.3 (Client Agreement) is entered into with a client before any services are provided to that client.
- 30.2.1.2.5.3. A registered person shall provide clients with adequate information about his firm, including his business address, any relevant conditions or restrictions under which the registered person conducts his business, and the identity or status of employees and others acting on his behalf with whom the client may have contact. Broker Dealers which changed their corporate names shall indicate their former corporate names in all their communications, letter heads and corporate documents for two (2) years from date of issuance of the Commission's approval of the change in corporate name. Any change in the address of the broker dealer shall also be announced not later than thirty (30) days through publication in a national newspaper of general circulation and posted in its website not later than thirty (30) days from such date of issuance. The Commission reserves the right to require the Broker Dealers to send notices to each client about the change of corporate name and address.
- 30.2.1.2.5.4. After a registered person has effected a transaction for a client, he shall endeavor to confirm promptly with the

client, in writing, the essential features of the transaction pursuant to SRC Rule 30.2.⁹⁴

30.2.1.2.5.5. A registered person shall comply with SRC Rule 52.1.8, regarding customer account statements.

30.2.1.2.5.6. A registered person shall disclose the financial condition of his business to a client upon request by providing a copy of the most recent report required to be filed with the Commission under SRC Rule 52.1.5 (Audited Financial Statements) and Risk Based Capital Adequacy Report, (Net Capital) and disclose any material changes which adversely affect the registered person's financial condition after the date of such filing.

30.2.1.2.6. Conflicts of Interest

A registered person should avoid conflicts of interest and when they cannot be avoided, should ensure that his clients are fairly treated and properly informed of such conflicts of interest.

30.2.1.2.6.2. **Client priority** - A registered person shall handle orders of clients fairly and in the order in which they are received in compliance with Customer First policy under SRC Rule 34.1.⁹⁵

30.2.1.2.6.1.1 Orders of clients, or transactions to be undertaken on behalf of clients, shall have in all cases priority over orders for the account of the registered person, and otherwise comply with SRC Rule 34.1.1 where the Broker is an Exchange Trading Participant;

30.2.1.2.6.1.2 A registered person shall, where he has aggregated an order for a client with an order for another client, or with an order for his own account, give priority to satisfying orders of clients, in any subsequent allocation, if all orders cannot be filled.

Aggregated orders or bundled orders should have designated specific trading account codes to be used for such purpose only.

30.2.1.2.6.1.3 A registered person shall not deal in any securities for himself or for any account in which he has an interest based upon advance knowledge he possesses of pending transactions for or with clients or any other non- public information, the disclosure of which would be expected to affect the price of such securities and violate Section 27 of the Code (Prohibition on Insider Trading);

30.2.1.2.6.1.4 A registered person who withdraws in whole or in part from providing any investment or

⁹⁴ SRC Section 30.2. No broker or dealer shall effect any transaction in securities or induce or attempt to induce the purchase or sale of any security except in compliance with such rules and regulations as the Commission shall prescribe to ensure fair and honest dealings in securities and provide financial safeguards and other standards for the operation of brokers and dealers, including the establishment of minimum net capital requirements, the acceptance of custody and use of securities of customers, and the carrying and use of deposits and credit balances of customers.

⁹⁵ SRC Section 34.1. It shall be unlawful for any member-broker of an Exchange to effect any transaction on such Exchange for its own account, the account of an associated person, or an account with respect to which it or an associated person thereof exercises investment discretion: Provided, however, That this Section shall not make unlawful-

- a. Any transaction by a member-broker acting in the capacity of a market maker;
- b. Any transaction reasonably necessary to carry on an odd-lot transactions;
- c. Any transaction to offset a transaction made in error; and
- d. Any other transaction of a similar nature as may be defined by the Commission.

related service shall ensure that affected clients are promptly notified of such action and that any business which remains outstanding is promptly completed or transferred to another registered person in accordance with SRC Rule 29 and any instructions of the affected clients.

30.2.1.2.6.2. **Conflicts of Interest** — Where a registered person has a material interest in a transaction with or for a client, or a relationship which gives rise to an actual or potential conflict of interest in relation to such transaction, he shall neither advise, nor deal in relation to the transaction unless he has disclosed that material interest or conflict to the client and has taken all reasonable steps to ensure fair treatment of the client.

30.2.1.2.6.3. **Client assets** — A registered person shall, in the handling of client transactions and assets, act to ensure that client assets are accounted for properly and promptly and comply with SRC Rule 52.1.10. Where the registered person, or a third party on behalf of the registered person, is in possession or control of client positions or assets, the registered person shall ensure that client positions or assets are adequately safeguarded.

30.2.1.2.7. **Compliance**

A registered person shall comply with all regulatory requirements applicable to the conduct of his business activities so as to promote the best interest of clients and the integrity of the market.

30.2.1.2.7.1. A registered person shall comply with the Code, these Rules and rules of any Exchange, clearing agency, or other SRO, of which he is a member or participant.

30.2.1.2.7.2. A registered person shall have a policy, which has been communicated to employees in writing, on whether employees are permitted to deal for their own accounts in securities. If employees are permitted to deal, the conditions on which they may do so, including those imposed under SRC Rule 34.1, shall be set out in writing and communicated to each employee.

30.2.1.2.7.3. A registered person shall ensure that complaints from clients relating to his business are adequately addressed in compliance with SRC Rule 30.2.6.2.7 and sufficient records of such complaints are made in compliance with SRC Rule 52.1.9.

30.2.1.2.7.4. A registered person shall at all times be responsible for the acts or omissions of his employees and agents in respect to the conduct of his business, pursuant to Section 51 of the Code.

30.2.1.2.7.5. All registered persons, as a condition of their registration, shall undertake in writing to uphold the Code, and the rules and regulations adopted in relation to it.

30.2.1.3. This rule applies to all registered persons, although the Commission recognizes that certain requirements of the Code and rules adopted in relation to it may not be within the control of an Associated Person. In considering the conduct of an Associated Person, the Commission will consider such person's level of responsibility within the Broker Dealer company, and the level of control or knowledge he may have,

considering any failure by his company or persons under his supervision to follow the Code.

30.2.1.4. Where the Commission makes an inquiry under Section 53 of the Code, the Commission will refer to the requirements set forth in this Rule in considering whether any person is guilty of a violation of the Code and should remain registered.

30.2.2. Confirmation of Customer Orders

30.2.2.1. A Broker Dealer shall report to its customers all transactions entered into for the customer's account, and to this end, shall send the customer a written confirmation as promptly as possible. The written confirmation shall preferably be by electronic mail, facsimile or any other means as may be approved by the Commission. The Broker Dealer shall adopt written procedures to ensure that the written confirmations are received promptly by the customer. An employee or salesman of a Broker Dealer shall not be authorized to accept a confirmation for or on behalf of a customer.

30.2.2.2. Notwithstanding the electronic format authorized in the immediately preceding SRC Rule, Broker Dealer shall provide his customer a confirmation of purchases and sales in paper format if requested by such customer.

A Broker Dealer shall ensure that the electronic copies of the confirmation receipt or its equivalent are kept current and made available to the Commission, the Exchange, or SRO concerned, and upon the request of the Commission, the Exchange, or SRO concerned, prepare or print hard copies of such document and submit such without delay.

The confirmation shall be sent to the customer at the electronic mail, business, home or such address indicated by the customer in the Customer Account Information Form ("CAIF"). Parties subscribing to facsimile transmission or electronic mail confirmation of customer orders are governed by the special procedure provided in the immediately succeeding paragraph.

30.2.2.3. Broker Dealers shall send to their clients their confirmations during office hours on the day of the transactions but not later than the next business day after the transaction. Clients are required to attest to the accuracy of the information communicated in the confirmation to the Broker Dealer, not later than the next business day after they received the confirmation. The Broker Dealer shall then keep a printout of such reply together with the file notifications and transaction data being confirmed.

30.2.2.4. The confirmation required by SRC Rule 30.2.2.1 above shall contain at least the following information:

30.2.2.4.1. A statement as to whether the Broker Dealer is broking for a customer or another Broker Dealer or is dealing for himself pursuant to Section 34.1 (a) to (d) of the Code and SRC Rule 34.1;

30.2.2.4.2. That the Broker Dealer is controlled by, or controls, or is under common control with the issuer of such security if such be the fact;

30.2.2.4.3. Whether the transaction was solicited or unsolicited by the Broker Dealer or whether the transaction was executed pursuant to the exercise of discretionary power; and

30.2.2.4.4. For facsimile transmission and electronic confirmations, the reminder that clients must confirm their orders, not later than the next business day after they received the confirmation.

30.2.2.5. The Commission, when it deems necessary, may require a Broker Dealer to submit a report of his commission or remuneration on a particular transaction.

30.2.2.6. All payments to customers must be through electronic fund transfer or checks issued in the name of the payee customer and/or the beneficial owner indicated in the CAIF. In no case shall checks be payable "To Cash" or similar designations.

30.2.3. Client Agreement

30.2.3.1. A Broker Dealer and its registered persons who deal directly with clients shall ensure that a written agreement (hereinafter referred to as "Client Agreement") is entered into with a client before any service is provided to that client.

30.2.3.2. The Client Agreement shall be in a language understood by the client. The registered persons who deal directly with clients shall explain to the client the contents of the agreement.

30.2.3.3. A Client Agreement shall contain, among others, the following information:

- 30.2.3.3.1. The full name and address of the client, as evidenced by a retained copy of the identity card, relevant sections of the passport, business registration certificate, corporation documents, or any other official document which uniquely identifies the client;
- 30.2.3.3.2. The full name and registered address of the Broker Dealer.
- 30.2.3.3.3. The Broker Dealer's registration status with the Commission;
- 30.2.3.3.4. Undertakings by the Broker Dealer and the client to notify the other in the event of any material change to the information provided in the agreement;
- 30.2.3.3.5. A description of the nature of services to be provided to or available to the client, such as securities cash account, securities margin account, discretionary account, portfolio management, investment advice, derivatives trading;
- 30.2.3.3.6. A description of any remuneration (and the basis for payment) that is to be paid by the client to the Broker Dealer, such as commission, brokerage, and any other fees and charges;
- 30.2.3.3.7. A statement indicating the circumstances under which the Broker Dealer will be acting as principal in relation to the client and that in all other circumstances the Broker Dealer will be acting as agent for the client;
- 30.2.3.3.8. If the Broker Dealer is acting as a Dealer in relation to securities and is an Exchange Trading Participant, a statement explaining the application of Section 34 of the Code, and if the client specifically authorizes the Dealer to pledge the client's securities or subject such securities to liens of third parties;
- 30.2.3.3.9. If margin or short selling facilities are to be provided to the client, details of margin requirements, interests charges, margin calls, and the circumstances under which a client's position may be closed without the client's consent; and
- 30.2.3.3.10. Risk disclosure statement as set forth in "Annex 30.2".⁹⁶

30.2.3.4. A registered person shall ensure that he complies with his obligations under this rule and the Client Agreement.

30.2.3.5. The Client Agreement shall state the nature of the account, whether directory or discretionary.

30.2.4. Suitability Rule

30.2.4.1. In recommending to a customer the purchase, sale or exchange of any security, a Broker Dealer or an associated person or salesman of a Broker Dealer, shall have reasonable grounds for believing that the recommendation is suitable for such

⁹⁶ [Annex D of SRC Rules](#); see [Annexes to SRC](#).

customer upon the basis of the facts disclosed by such customer as to his other security holdings and as to his financial situation and needs.

30.2.4.2. Except as provided in SRC Rule 52.1.6, prior to the execution of a transaction recommended to a customer, a Broker Dealer shall execute a Customer Account Information Form ("CAIF") which complies with SRC Rule 52.1.6.

30.2.5. Commissions and Charges for Services Performed by a Broker Dealer

30.2.5.1. Charges by a Broker Dealer for services performed, including:

30.2.5.1.1. Miscellaneous services such as collection of monies due for principal, dividends or interest;

30.2.5.1.2. Exchange or transfer of securities; and

30.2.5.1.3. Appraisals, safekeeping or custody of securities, and other services, shall be reasonable.

30.2.5.2. All Broker Dealers shall file a schedule of their minimum commission rates with the Commission. No discounts and/or rebates shall be permitted from the minimum rates. Before the execution of any transaction, they shall inform their clients of any change in the commission rates charged.

A Broker Dealer shall not effect transaction unless he has disclosed and explained to his customer the various fees, if any, involved in effecting such transaction and the customer has agreed to said fees. The fees to a transaction should be presented in the confirmation advice in an unbundled manner. Clients should signify in writing their assent to the various fees being charged by the broker or dealer.

30.2.6. Supervision

30.2.6.1. The management of every Broker Dealer shall establish and maintain an appropriate and effective compliance function within the firm which is independent of all operational and business functions. The compliance function shall be performed by an Associated Person who shall be registered with the Commission and required to report directly to the board of directors and the company President. The management shall ensure that the Associated Person/s performing the compliance function possesses sufficient training and experience in securities regulation matters and an understanding of the securities activities of the firm enabling them to effectively execute their duties.

30.2.6.2. Associated Persons shall be responsible, in addition to the duties enumerated under SRC Rule 28.1.4.3.2.7, for maintaining a system to supervise the activities of all persons employed by the Broker Dealer who are directly or indirectly related to the conduct of its securities business. The supervisory system shall be reasonably designed to achieve compliance with the Code and rules and regulations adopted thereunder, with the rules of any self regulatory organization which the Broker Dealer is a participant in, other applicable laws, including, but not limited to, the Anti-Money Laundering Act (RA 9160, as amended), and the Broker Dealer's own internal policies and procedures. A company's supervisory system shall include at least the following:

30.2.6.2.1. Establishment and maintenance of written supervisory procedures (WSP), including procedures for establishing and maintaining a "Chinese Wall" taking into consideration the applicable requirements under the AMLA and the Revised Code of Corporate Governance.

30.2.6.2.2. Designation of one or more Associated Persons with the authority and responsibility to carry out the supervision of each type of business in which it engages;

30.2.6.2.3. Titles, registration status and locations of the required Associated Person/s and the responsibilities of each Associated Person as these relate to the types of business engaged in;

- 30.2.6.2.4. Written documentation to prove that all Associated Persons are qualified by virtue of experience or training to carry out their assigned supervisory responsibilities;
- 30.2.6.2.5. Written documentation to prove that each person engaged in securities transactions, either collectively or individually, has participated no less than annually in an interview or meeting conducted by the Associated Person/s designated by the firm in which compliance matters relevant to the activities of these persons are discussed. There shall be prompt notification in writing to each such person of new or modified compliance obligations;
- 30.2.6.2.6. Establishment of an effective management and organizational structure which ensures that the operations of the business are conducted in a sound, efficient and effective manner; and
- 30.2.6.2.7. Establishment, maintenance and enforcement of policies and procedures to ensure the proper handling of complaints from clients and that appropriate remedial action is promptly taken. Where possible, complaints should be investigated by the Associated Person performing the compliance function who is not directly involved in the subject matter of the complaint. Where a complaint is not remedied promptly, the client shall be advised of any further steps which may be available to the client under the law.

The WSP shall always be updated to address any adoption of new rules and requirements or any change in the existing rules and requirements and in the Broker Dealer's internal policies, and activities. A copy of the WSP shall be submitted to the Commission on or before the 30th day of January of the succeeding year, provided that any amendment to the WSP shall be promptly provided to the Commission.

30.2.6.3. Although final responsibility for proper supervision shall rest with the Broker Dealer company, diligence of a good father of the family is required from the Associated Person/s in the conduct of their compliance function.

30.2.6.4. Associated Person/s shall promptly report to management all occurrences of material non-compliance by the company or its staff with legal and regulatory requirements, as well as with the company's own policies and procedures. Management shall then promptly notify the Commission and any self-regulatory organization of which such Broker Dealer is a trading participant of such findings and action taken. For this purpose, the Associated Person must maintain a logbook of all material non-compliance reports with the appropriate notation of the action taken by management on the said occurrences. Such logbook must be duly registered with the Commission within fifteen (15) days from issuance of the Associated Person/s new/renewal license.

30.2.6.5. Notwithstanding the requirement in the immediately preceding SRC Rule, all Associated Persons must prepare, sign and file with the Commission within fifteen (15) calendar days after the end of each quarter, a Compliance Report which shall follow the format of SEC Form 30.2-BD (QCR) on the company's compliance and/or non-compliance with the provisions of the Code and these Rules including, but not limited to, the following matters:

- 30.2.6.5.1. Whether the company complies with the requirements of the Code and these Rules;
- 30.2.6.5.2. The significant findings of non-compliance; and
- 30.2.6.5.3. Information on the action taken by management to address the issue.

The Report shall also include a summary of all events of material non-compliance by the company or its staff with legal and regulatory requirements and the actions taken by management on such violations.

30.2.7. Internal or Accredited Training Program

30.2.7.1. Every Broker Dealer shall establish, implement and maintain a reasonably comprehensive system of training towards —

- 30.2.7.1.1. Ensuring the continuing improvement in critical areas of its principal activities and operations; and
- 30.2.7.1.2. Enhancing the technical knowledge of its employees to enable them to understand the operational and internal control policies and procedures of that Broker Dealer and all applicable legal and regulatory requirements.

30.2.7.2. Such system of training shall be properly documented in a manual which shall:

- 30.2.7.2.1. Set out details of the training programs that the Broker Dealer proposes to implement; and
- 30.2.7.2.2. Be regularly updated in line with the development in the securities industry.

30.2.7.3. All Broker Dealers shall submit to the Commission and to the SRO (for Exchange Trading Participants), no later than January 30 of each year, a yearly schedule/timetable of the implementation of its training programs. At a minimum, such report should contain the following information:

- 30.2.7.3.1. The implementation of the previous year's internal training programs with details on seminar dates, number of participants, and other pertinent information; and
- 30.2.7.3.2. Current year's seminar topics (with description), projected dates, target market, and planned speakers.

30.2.7.4. The Broker Dealer may, at its option, substitute its internal training program by enrolling in training programs sponsored by associations or organizations duly accredited or recognized by the Commission, provided, however, that proper approval is obtained from the Commission on such substitution. It is the responsibility of Broker Dealers, through its Associated Person, to provide periodic training to its officers and employees whether externally or internally, the occurrence of which shall not be dependent solely on the expectation that an external seminar will be sponsored at a later time.

30.2.8. Block Sale

30.2.8.1. A Broker Dealer may engage in block sales on an Exchange, and an Exchange may execute block sales, provided that:

- 30.2.8.1.1. Such transaction complies with Exchange rules, which have been approved by the Commission; and
- 30.2.8.1.2. The Exchange notifies the Commission in writing, not later than one (1) business day after the date such transaction has been executed, of the price and volume thereof or in such form and manner that the Commission may prescribe.

30.2.8.2. A block sale shall mean a matched trade that does not go through the automated order matching system of an Exchange trading system but instead has been prearranged by and among the Broker Dealer's clients and is then entered as a done deal directly into the trading system.

30.2.8.3. Other transactions such as but not limited to options, warrants or those emanating from a tender offer, rights offering, and conversion of a security with

convertibility features, shall be allowed to be consummated within the Exchange trading system using the block sale facility of an Exchange, and in accordance with the relevant rules of the Exchange as approved by the Commission.

30.2.9. Done Through Transactions

30.2.9.1. Done-Through Transactions ("DTT") shall refer to transactions of clients of a Trading Participant ("TP") or Non Trading Participant ("NTP") which are executed by another Trading Participant.

30.2.9.2. A requesting TP or NTP may request an executing TP to execute transactions for the account of the requesting TP's or NTP's clients subject to the requirements under these rules.

30.2.9.2.1. The executing TP shall maintain a designated trading account code exclusively for DTTs. The trading account code shall indicate that it is for Done Through Transactions only.

30.2.9.2.2. An executing TP shall designate a trading account code classified as Special Account Institutional and secure a corresponding account code, prior to executing DTTs.

30.2.9.2.3. The executing TP shall classify the Special Account Institutional as either local or foreign, depending on the nationality of the beneficial owner/s. All DTTs must be executed using this account.

30.2.9.2.4. Upon order or instruction, the requesting TP or Non TP shall inform the executing TP the nationality of client(s) for which the DTT will be executed.

30.2.9.2.5. Executing TP shall not aggregate DTTs with the Orders of its other clients.

30.2.9.2.6. Amendment of DTTs shall not be allowed.

30.2.9.2.7. The Requesting TP or NTP and the Executing TP shall submit, not later than 12:00 noon of T+1, a written report to the Exchange or its designated SRO, regarding the details of the DTTs. The report shall follow a format prescribed by the Exchange and/or the SRO and shall contain, at the minimum, the following information: (i) Trade Date; (ii) Confirmation Number; (iii) Trading Account Codes of clients for whose accounts the DTT was executed; (iv) Corresponding names of clients for whose accounts the DTT was executed; (v) If the DTT was for multiple clients, the corresponding shares of each client as well as the names of the clients corresponding to the account codes; and (vi) Foreign or Local.

30.2.10. Submission of Names of Stockholders, Members, Participants, Clients and Related Information

Every Exchange, clearing agency, Broker Dealer, transfer agent, other self-regulatory organization, and every other person required to register under the Code (hereinafter referred to as "registered person") shall immediately report to the Commission and any person deputized and/or duly authorized by the Commission pursuant to Section 5 (h) of the Code,⁹⁷ the names of their owners/stockholders, members, participants, and clients, and other related information in its or his possession, upon order of the Commission, or as required by the rules of a self-regulatory organization in which he is a member or participant, in pursuance of an investigation, examination, official inquiry or as part of a surveillance procedures, and/or in compliance with other pertinent laws.

30.2.11. Publication of Transactions and Quotations

No Broker Dealer, or associated person or salesman of a Broker Dealer, shall publish or circulate, or cause to be published or circulated, any notice, circular, advertisement, newspaper article, investment service, or communication of any kind that

⁹⁷ SRC Section 5(h): "Enlist the aid and support of and/or deputize any and all enforcement agencies of the Government, civil or military as well as any private institution, corporation, firm, association or person in the implementation of its powers and functions under this Code".

purports to report any transaction as a purchase or sale of any security unless he believes that such transaction was a bona fide purchase or sale of such security. Neither shall he publish or circulate or cause to be published or circulated such notice, circular, advertisement, newspaper article, investment service, or communication of any kind that purports to quote the bid price or asked price for any security, unless he believes that such quotation represents a bona fide bid for, or offer of, such security. [SRC Rule 24.1(d).2]

30.2.12. Payment to Influence Market Prices

No Broker Dealer shall, directly or indirectly, give, permit to be given, or offer to give, anything of value to any person for the purpose of influencing or rewarding the action of such person in connection with the publication or circulation in any newspaper, investment service, or similar publication, of any matter which has, or is intended to have, an effect upon the market price of any security, provided that this rule shall not be construed to apply to a matter which is clearly identifiable as paid advertising. [SRC Rule 24.1(d).3]

30.2.13. Best Execution Rule

In any transaction for or with a customer, a Broker Dealer shall use reasonable diligence to ascertain the best market for the subject security and buy and sell in such market so that the result to the customer is as favorable as possible under prevailing market conditions. Among the factors that shall be considered in determining whether a Broker Dealer has used reasonable diligence are the price, promptness of execution of the order, size of the transaction, available markets, settlement cycle and attendant transaction costs.

RULE 31 - Commission Role in the Development of Securities Market Professionals⁹⁸

31.1 The Commission shall periodically meet with organizations and associations of securities market participants and private educational and research institutions to discuss new regulatory developments and related compliance issues.

31.2 The Commission, in coordination with such organizations, associations and institutions, shall help facilitate the organization of, and participate in, workshops on regulatory requirements.

31.3 The Commission shall encourage all securities market participants to participate in the continued development of the securities market through such organizations, associations and institutions.

⁹⁸ SRC, "SEC. 31. *Development of Securities Market Professionals*. — The Commission, in joint undertaking with self regulatory organizations, organizations and associations of finance professionals as well as private educational and research institutions shall undertake or facilitate/organize continuing training, conferences/ seminars, updating programs, research and development as well as technology transfer at the latest and advanced trends in issuance and trading of securities, derivatives, commodity trades and other financial instruments, as well as securities markets of other countries."

TITLE IX

Exchanges and Other Securities Trading Markets

RULE 32.1 - Trading Limited to Listed Securities and Exchanges Registered under the Code

No Broker Dealer or any registered person shall effect any transaction in any security in an Exchange or any other trading market, unless such Exchange or any other trading market and the securities listed or allowed to be traded therein are registered under the Code or exempt from registration pursuant to Sections 9 and 10 of the Code.

RULE 32.2 - Exchanges and Other Securities Trading Markets to be Supervised by Self-Regulatory Organization

32.2.1. No broker, dealer, salesman or associated person of a broker or dealer, singly or in concert with any other person, shall make, create or operate, or enable another to make, create or operate, any securities trading market, for the buying and selling of any security, unless such market participants are registered with the Commission.⁹⁹

32.2.2. No broker or dealer shall participate in any trading market unless he is a member of an SRO which has been registered with the Commission to regulate and supervise the activities of the broker or dealer in such market.

32.2.3. In case a broker or dealer is already a member of an existing SRO which is authorized to regulate and supervise a market other than the market in which a broker or dealer will participate, such broker or dealer may be allowed by the SRO to participate in such other market; Provided, that the broker or dealer shows proof and the existing SRO is able to demonstrate that such SRO is capable of performing its regulatory and supervisory obligations as regards to the activities of the broker or dealer in the other market; Provided further, that the SRO has committed in writing to regulate and supervise the broker or dealer with respect to such activities; Provided finally, that the SRO files an amendment to its current SRO registration to reflect its intention to act as SRO in such other market.

32.2.4. The Commission may prescribe the governance and ownership structure of an SRO or require amendment thereto to ensure the effective regulation and supervision of different markets.

RULE 33 - Registration of Exchange

33.1. Registration Requirements

33.1.1. An application for registration as an Exchange shall be filed on SEC Form 33 and be accompanied by the statements and exhibits prescribed to be filed under Section 33 of the Code; Provided, however, that an Exchange shall also apply for registration as a Self-Regulatory Organization under Section 40 of the Code at the time it files SEC Form 33-SRO. An application on SEC Form 33-SRO shall also be accompanied by the statements and exhibits prescribed under Section 40 of the Code. Any registered Exchange existing prior to the effectivity of these Rules shall, within forty-five (45) days from effectivity of these Rules, comply with all the requirements provided under this Rule, which were not provided for in its original registration.

The following exhibits shall accompany the duly accomplished SEC Form 33-SRO:

33.1.1.1. Board Resolution attesting to particulars in the application.

⁹⁹ See MC 14-2006 Re: Rules Governing the Over the Counter (OTC Market), dated 27 October 2006, establishing the framework for trading securities outside of a formal exchange; SEC Rules and Regulations on Alternative Trading System (4 Mar. 2004), for organizations or systems providing electronic marketplaces for primary and secondary trading of SEC-registered securities, including innovative and SME-related securities.

- 33.1.1.2.** Copies of identity cards/passports of directors and persons who control more than 10% of the applicant.
- 33.1.1.3.** Copy of the Articles of Incorporation with all amendments thereto, and of existing By-Laws or instruments corresponding thereto, whatever the name, of the Exchange. The Articles must state that the purpose of the applicant/corporation is to engage in the business of an exchange.
- 33.1.1.4.** Copy of proposed Exchange rules to be submitted for SEC approval pursuant to procedures set forth in Sections 33 and 40 of the Code.
- 33.1.1.5.** Copy of the Articles of Incorporation with all amendments thereto, and of existing By-laws or rules or instruments corresponding thereto, whatever the name, of each affiliate and subsidiary listed in answer to Item 7 of the Statement.
- 33.1.1.6.** Original signed copy of the applicant's audited balance sheet and statement of income and expenses, and all notes and schedules thereto as of the end of the last fiscal year.
- 33.1.1.7.** Projected balance sheet and statement of income and expenses for the first five years in its capacity as an exchange.
- 33.1.1.8.** A complete set of all forms pertaining to application for membership in the Exchange.
- 33.1.1.9.** A complete set of all forms pertaining to application for approval as a person associated with a member of the Exchange (Such as associated persons and salesmen).
- 33.1.1.10.** A complete set of all forms of financial statements, reports or questionnaires required of members, relating to such matters as members' responsibility or minimum capital requirements.
- 33.1.1.11.** A complete set of documents, comprising the Exchange's listing applications, including the agreements required to be executed in connection therewith, and a schedule of listing fees.
- 33.1.1.12.** List and explanation of all dues, fees and charges for exchange activities.
- 33.1.1.13.** Study made as to comparative fees and charges imposed by other major and neighboring exchanges.
- 33.1.1.14.** The organizational chart of the Exchange, indicating filled and unfilled positions and the identity of persons presently occupying the title or position. The chart should be accompanied by the list of qualifications/requirements and Statement of Duties and Responsibilities for each position/item.
- 33.1.1.15.** List of present officers, governors, members of all standing committees, or persons performing functions similar to any of the foregoing, whatever their title or technical status may be, of the Exchange, who presently hold or have their offices or positions during the previous year, including for each:
 - 33.1.1.15.1.** Name;
 - 33.1.1.15.2.** Title;
 - 33.1.1.15.3.** Dates of commencement and termination of office or position;
 - 33.1.1.15.4.** Length of time each has held the same position or office;
 - 33.1.1.15.5.** Type of business in which each is primarily engaged.

- 33.1.1.16.** List of present officers, directors, members of all standing committees or persons performing functions similar to any of the foregoing, whatever their title or technical status may be, of each affiliate and subsidiary listed in answer to Item 7 of the Statement, including for each Name and Title;
- 33.1.1.17.** List of the names of participants and of current applications to become participants.
- 33.1.1.18.** Complete set of all forms pertaining to identification and description of any qualifications or criteria that have the effect of denying or limiting access or use by any person, including a broker dealer and custodian participant or their clients, of the Exchange. If such data in the rules and procedures already, quote the specific provision(s).
- 33.1.1.19.** Complete set of all forms pertaining to copies of proposed participation agreement/s.
- 33.1.1.20.** Detailed plan of operation and economic justification for operating an Exchange with description and analysis of the industry and the market environment from which the Exchange expects to draw majority of its business, as well as the strategy for its ongoing operation. This should include the target security instruments (e. g., equities, bonds) and target participants (e.g., brokers, dealers).
- 33.1.1.21.** Comprehensive Information Technology Plan, to include among others, list and brief description of the following: software and hardware to be primarily used in its exchange function and their location; back-up system or subsystem and their location; security system and procedures to be employed; procedures to check sufficiency of system's capacity and expansion program, if necessary; and IT system maintenance schedule.
- 33.1.1.22.** Business Continuity and Disaster Recovery Plan.
- 33.1.1.23.** Risk Management Manual and Internal Control Procedures.
- 33.1.1.24.** Insurance plan to cover any operational risks and other risks, to be specified by type, total amount and risk area.
- 33.1.1.25.** Copies of service contracts/proposed contract of any activities or services to be outsourced, if any.
- 33.1.1.26.** The following undertakings executed by the President of the Exchange:
- 33.1.1.26.1.** That the Exchange will comply and enforce compliance by its members with the provisions of the Code, its implementing rules and regulations and any amendments to these, the rules of the Exchange, and as with any terms and conditions imposed by the Commission in connection with registration of the applicant;
 - 33.1.1.26.2.** Undertaking to subject the information technology, trading, business continuity and disaster recovery plans, and risk management systems to regular review and audit by an independent firm at least once every three (3)-years and such other frequency that the Commission may deem necessary. The results of such review and audit shall be submitted to the Commission within thirty (30) days from completion of the audit.
 - 33.1.1.26.3.** That in the event a member firm becomes insolvent or when the Exchange/SRO shall have found that the financial condition of its member firm has so deteriorated that it cannot readily meet the demands of

its customers for the delivery of securities and/or payment of sales proceeds, the Exchange/SRO shall, upon order of the SEC, take over the operation of the insolvent member firm and immediately proceed to settle such firm's liabilities to its customers.

33.1.1.26.4. Statement of Readiness and Undertaking to link the proposed system with other capital market participants, within and outside of the Philippines.

33.1.1.27. Brief description as to any judicial or any other legal, including arbitration, proceedings, pending or terminated within the last five (5) years or affecting the applicant directly or to which any of its properties or assets, directors, or officers.

33.2. An amendment to such application shall be made in duplicate on SEC Form 33- A, and each amendment shall be dated and numbered in the order of filing.

33.3. No later than seven (7) days after the discovery that any information in the statement, any exhibit, or any amendment was inaccurate when filed, an Exchange shall file with the Commission an amendment correcting such inaccuracy.

33.4. Whenever the number of changes to be reported in an amendment, or the number of amendments filed, are so great that the purpose or clarity of the disclosure will be promoted by the filing of a new complete statement and exhibits, an Exchange may, at its election, or shall, upon request of the Commission, file as an amendment a completely new statement together with all exhibits which are prescribed to be filed in connection with SEC Form 33.

33.5. Nothing in this Rule shall be construed as precluding the Commission from requiring an applicant for registration or a registered Exchange to submit other requirements it may deem reasonably necessary to effectively regulate and supervise the Exchange and/or to protect the interest of the investing public.

33.6. Within ninety (90) days after the filing of the application the Commission may issue an order either granting or denying registration as an Exchange, unless the Exchange applying for registration shall withdraw its application or shall consent to the Commission's deferring action on its application for a stated longer period after the date of filing. The filing with the Commission of an application for registration by an Exchange shall be deemed to have taken place upon the receipt thereof. Amendments to an application may be made upon such terms as the Commission may prescribe.

33.7. Upon the registration of an Exchange, it shall pay a fee in such amount and within such period as the Commission may fix.

33.8. Upon appropriate application in accordance with the rules and regulations of the Commission and upon such terms as the Commission may deem necessary for the protection of investors, an Exchange may withdraw its registration or suspend its operations or resume the same.

RULE 33.1(D) - Protection of Customer Accounts in Case of Business Failure of an Exchange Trading Participant

33.1(d).1. When a Trading Participant has filed or is the subject of a petition for insolvency, suspension of payment and/or rehabilitation or when an Exchange or pertinent SRO determines that the Trading Participant's financial condition has so deteriorated that it cannot readily meet the demands of its customers for the delivery of securities and/or payment of sales proceeds, the Commission may issue *ex parte* an order compelling the insolvent or failed Trading Participant and the Exchange or pertinent SRO to take the necessary action to protect customer accounts including, but not limited to, the preservation of the failed Trading Participant's books and records. Said order shall remain in effect until lifted by the Commission *motu proprio* or upon petition of the failed Trading Participant.

33.1(d).2. Based on any of the grounds mentioned in the preceding SRC Rule, the Commission, after proper investigation or verification, *motu proprio* or upon verified complaint by any party, order an Exchange or pertinent SRO to take over the operation of the failed Trading Participant for the purpose of preserving and protecting the failed Trading Participant's books, records, customer accounts, trade-related assets and settling its liabilities to its customers.

33.1(d).3. Where the Commission has ordered an Exchange or pertinent SRO to take over the operations of a failed Trading Participant, an Exchange or pertinent SRO shall:

- 33.1(d).3.1. Suspend such failed Trading Participant and immediately arrange for another Trading Participant to take over the outstanding contracts relating to securities, and simultaneously notify the Commission of such suspension and takeover;
- 33.1(d).3.2. Promptly notify customers of the failed Trading Participant that their accounts have been transferred to another Trading Participant and provide such customers with the opportunity to transfer anew their accounts to another Trading Participant of their choice;
- 33.1(d).3.3. Settle the failed Trading Participant's liabilities to customers through the sale of the Trading Participant's trading rights and other trade-related assets as may be prescribed by the Commission; the liquidation of paid up capital; and/or the supervision of payment of claims against the surety bond.
- 33.1(d).3.4. Simultaneously inform the Accredited Trust Fund referred to in Section 36.5 of the Code, where such failed Trading Participant is a Participant, of such takeover and inform the customers that they may also claim compensation for losses from the Trust Fund, subject to the validation of their claims by the Exchange or pertinent SRO and the Trust Fund;
- 33.1(d).3.5. Where after such settlement and liquidation of the failed Trading Participant's trade-related assets, there are outstanding liabilities to customers of the failed Trading Participant, refer the same to the Accredited Trust Fund and inform the customers of the further steps necessary for claiming compensation for unsatisfied losses; and
- 33.1(d).3.6. The Accredited Trust Fund, based on its rules and regulations or upon order of the Commission, shall release payments to the failed Trading Participant's customers even before the Exchange or pertinent SRO has finalized the settlement of the failed Trading Participant's liabilities, subject to the validation as provided in SRC Rule 33.1(d)3.4 herein; Provided, however, that the Trust Fund shall be subrogated to the customers' rights to claim before the Exchange or pertinent SRO to the extent that it has paid the customers' claims before final settlement of the failed Trading Participant's liabilities.

33.1(d).4. In the determination of business failure, SRC Rule 36.5.1 on accredited trust funds for Broker Dealer customers shall be taken into account.

RULE 33.2(C)

Ownership of an Exchange

33.2(c).1. An Exchange organized as a stock corporation may be owned and controlled by another juridical person ("Exchange Controller"), based on the following terms and conditions, to ensure that such ownership will not negatively impact the Exchange's ability to effectively operate in the public interest.

33.2(c).1.1. The Exchange Controller shall become registered with the Commission as a Self-Regulatory Organization under Section 40 of the Code and comply

with its duties regarding rulemaking under this section and rules adopted thereunder; Provided, however, that for purposes of Section 40 and SRC Rule 30.1.1, the enforcement responsibilities of an SRO shall be delegated to the Exchange which is being controlled by the Exchange Controller or to another entity which the Commission may order.

33.2.(c).1.2. The Board of an Exchange Controller shall include in its composition the president of the Exchange Controller, and unless the Commission otherwise agrees to a different governance structure based on findings that the Exchange Controller can operate the Exchange in the public interest and that the Exchange can effectively operate as an SRO, no less than fifty one (51%) percent of the remaining members of the Board shall be comprised of three (3) independent directors and persons who represent the interest of issuers, investors and other market participants who are not associated with any Broker Dealer, participant of the Exchange controlled by the Exchange Controller, for a period of two (2) years prior to his appointment. No officer or employee of a Broker Dealer, its subsidiaries or affiliates or related interests may become an independent director.

33.2.(c).1.3. Unless the Commission prescribes otherwise, no person shall beneficially own or control, directly or indirectly, more than five percent (5%) of the voting rights of the Exchange Controller and no industry or business group shall beneficially own or control, directly or indirectly, more than twenty percent (20%) of the voting rights of the Exchange Controller; Provided that pursuant to SRC Rule 33.2(c).2.3, the Exchange Controller shall disclose the names of its beneficial owners, their business or industry affiliation, and share ownership to the Commission and, no less than once a month, update such disclosure.¹⁰⁰

33.2.(c).1.4. An Exchange Controller shall obtain prior Commission approval regarding share ownership or any other investment in any clearing agency, other securities related business, or any other non-related business.

33.2(c).2. For purposes of Section 33.2 (c) of the Code, the 2009 Philippine Standard Industrial Classification (PSIC) shall be the primary basis for the industry or business classification with the following sections:

- 33.2(c).1.1. Agriculture, Hunting, Forestry, Fishing
- 33.2(c).1.2. Mining and Quarrying
- 33.2(c).1.3. Manufacturing
- 33.2(c).1.4. Electricity, Gas, Steam and Air-Conditioning
- 33.2(c).1.5. Water Supply, Sewerage
- 33.2(c).1.6. Construction
- 33.2(c).1.7. Wholesale and Retail Trade; Repair of Motor Vehicles and Motorcycles
- 33.2(c).1.8. Transportation and Storage
- 33.2(c).1.9. Accommodation and Food Service Activities
- 33.2(c).1.10. Information and Communication
- 33.2(c).1.11. Financial and Insurance Activities
- 33.2(c).1.12. Real Estate Activities
- 33.2(c).1.13. Professional, Scientific, Technical Services
- 33.2(c).1.14. Administrative and Support Service Activities
- 33.2(c).1.15. Public administration; compulsory social security

¹⁰⁰ Rules Governing the Trading of PSE Shares, (30 Dec. 2003), prohibit broker-dealers and their related parties, including family and affiliates, from purchasing PSE shares for their own accounts unless specific independence criteria are met and SEC authorization is granted.

- 33.2(c).1.16. Education
- 33.2(c).1.17. Human health and social work activities
- 33.2(c).1.18. Arts, entertainment and recreation
- 33.2(c).1.19. Other service activities
- 33.2(c).1.20. Activities of private households
- 33.2(c).1.21. Activities of extraterritorial organizations

The business grouping shall be by Industry Class as represented by four (4)-digit numeric codes under the 2009 PSIC provided that brokers and dealers shall be treated as belonging to one industry group.

The Commission may, depending on attendant circumstances, make a reclassification of the business classification aforementioned.

33.2(c).3. To ensure diversification of ownership of an Exchange or that of the Exchange Controller, the Commission may consolidate different industry or business groups into one group or divide one group into several groups or re-designate the industry classification chosen by a business group; Provided, however that where the shares of stock of the Exchange or Exchange Controller are not yet listed or traded in an exchange or any other trading market, prior to the sale of shares of an Exchange or Exchange Controller to any person, the Exchange or Exchange Controller shall disclose in writing to the Commission the proposed ownership to ensure compliance with ownership restrictions. No shares of an Exchange or Exchange Controller may be transferred without prior Commission approval.

33.2(c).4. Where any ownership restrictions set forth in this rule are exceeded and/or violated, the Commission may order divestment of such excess ownership. Until such ownership is divested, a person violating this restriction shall be barred from exercising his voting rights thereunder.

RULE 34 - Segregation and Limitation of Functions of Members, Brokers and Dealers

34.1. Segregation of Broker and Dealer Transactions, Affiliations and Practices

An Exchange Trading Participant shall not effect any transaction on such Exchange for its own account, the account of an Associated Person, salesmen, or any other person associated with the Trading Participant, including its affiliates, or an account with respect to which an associated person exercises investment discretion, unless it complies with the "Customer First" Policy as prescribed below:

- 34.1.1.** A trader or salesman of an Exchange Trading Participant shall execute a customer order in the Exchange trading terminal immediately upon the receipt thereof.
- 34.1.2.** The Dealer-Broker shall give priority to the orders of its customers over trades for its own account.
- 34.1.3.** The time the customer order was received shall be recorded either manually or electronically.
- 34.1.4.** All orders whether customer or proprietary shall be executed in their assigned trading terminals and by the designated trader.
- 34.1.5.** Orders of stockholders, officers, directors, Associated Persons and salesmen, or any other person associated with the Exchange Trading Participant, including affiliated persons, traded within the Trading Participant shall be treated as the proprietary account of the Trading Participant's account, in which case, the "Customer First" Policy shall apply.

34.2. A trader or salesman shall use and maintain only one (1) dealing account, and only with his employing broker, which shall be registered under his name or jointly with members of his family within the first degree of consanguinity and shall be treated as the Trading Participant's proprietary account only for the purpose of complying with the Customer First Policy.

34.3. Orders from a Done-through Account shall be executed in accordance with the "Customer First" policy.

34.3.1. Done-through transactions of the initiating Trading Participant shall be recorded in the executing Trading Participant's records under the name of the initiating Trading Participant. The initiating Trading Participant shall prepare and maintain a list of its done-through transactions.

34.3.2. Requests for Done-through order from the initiating Trading Participant shall include a disclosure to the executing Trading Participant of the beneficial owner/s for the said order. Orders for the account of a customer shall be executed by the executing Trading Participant in the Exchange trading terminal assigned for customers and orders of proprietary accounts shall be executed in the Exchange trading terminal for proprietary accounts.

34.4. Stockholders, directors, officers, Associated Persons, salesmen, and other employees cannot trade outside their employing Trading Participant unless they obtain the appropriate permission, and the Executing Trading Participant agrees to send duplicate account statements to the employing Trading Participant.

34.5. Non-Exchange Broker Dealers shall likewise observe the "Customer First" Policy whenever applicable.

34.6. For purposes of this Rule, "affiliated person" of a Trading Participant is any person who (a) exercises control, as defined in SRC Rule 3.1.8, is controlled by, or is under common control with the Trading Participant; (b) has stockholders, directors, officers (such as president, vice president, manager, treasurer, comptroller, secretary or others occupying positions of trust and responsibility), Associated Persons, salesmen, or authorized clerks of a Trading Participant or a relative of any of the foregoing within the first civil degree of consanguinity; or (c) directly or indirectly owns more than ten percent (10%) of the equity of the Trading Participant.

34.7. An Exchange Trading Participant and any other Broker or Investment House as defined in P.D. 129, as amended, with securities accounts of other Trading Participants, and/or their Associated Persons, other employees, owners, directors and/or officers, including discretionary accounts on behalf thereof, for transactions executed, shall, when receiving and executing such transactions, identify such accounts as that of the Exchange Trading Participant, its Associated Persons, other employees, affiliates or discretionary accounts on behalf thereof, and require the company's Associated Person or, in the case of an Investment House, a person responsible for compliance, to review such accounts on a daily basis.

34.8. A Broker Dealer shall adopt proper internal controls to prevent the commission of fraud and ensure that customers' cash and securities positions are intact and are properly accounted for by segregating trading, settlement, accounting and back-office functions including their respective physical facilities.

34.9. Access to computer files should be limited to authorized users and the appropriate security measures shall be adopted.

34.10. The Associated Person of a Broker Dealer shall supervise the functions of the employees and check all executed trades and other transactions of the company.

34.11. Segregation of Functions (Chinese Walls)

34.11.1. Any Broker Dealer that assumes more than one function whether as a dealer, adviser, or that engages in market making transactions, shall maintain proper segregation of those functions within the company to prevent the flow of information

between the different units of the company that performs functions that may have potential conflict of interest.

34.11.2. For purposes of this rule, information means matter:

34.11.2.1. Of a specific nature which has not been made public;

34.11.2.2. Relating to one or more public companies or securities of a public company; and

34.11.2.3. Which, if it were made public, would likely affect the market price of the securities.

34.11.3. A Broker Dealer shall at all times ensure that its trading functions and back-office settlement functions and physical setup are properly segregated and shall establish written procedures to ensure compliance with this rule.

34.11.4. The Broker Dealer shall file an annual report on the measures it has taken to enforce these Chinese Wall rules.¹⁰¹

34.11.5. Broker Dealers with other functions shall submit an undertaking under oath to comply with the rules and regulations, orders, memorandum circulars and policies promulgated by the Commission, and of other rules, procedures, standards and policies set by other Exchanges or SROs and duly approved by the Commission, and its own internal rules and procedures regarding Chinese Walls.

34.12. In all instances where the member-broker effects a transaction on an Exchange for its own account or the account of an associated person or an account with respect to which it exercises investment discretion, it shall disclose to such customer at or before the completion of the transaction it is acting for its own account: Provided, further, That this fact shall be reflected in the order ticket and the confirmation slip.

34.13. Any member-broker who violates the provisions of this Section shall be subject to the administrative sanctions provided in Section 54 of the Code.

RULE 35 - Additional Fees of Exchanges

In addition to the registration fee prescribed in Section 33 of the Code, every Exchange shall pay to the Commission, on a semestral basis on or before the tenth day of the end of every semester of the calendar year, a fee in such an amount as the Commission shall prescribe, but not more than one-hundredth of one per centum (1%) of the aggregate amount of the sales of securities transacted on such Exchange during the preceding calendar year, for the privilege of doing business, during the preceding calendar year or any part thereof.

RULE 36.1-3 Powers with Respect to Exchanges and Other Trading Market

36.1. The Commission is authorized, if in its opinion such action is necessary or appropriate for the protection of investors and the public interest so requires, summarily to suspend trading in any listed security on any Exchange or other trading market for a period not exceeding thirty (30) days or, with the approval of the President of the Philippines, summarily to suspend all trading on any securities Exchange or other trading market for a period of more than thirty (30) but not exceeding ninety (90) days: Provided, however, That the Commission, promptly following the issuance of the order of suspension, shall notify the affected issuer of the reasons for such suspension and provide such issuer with an opportunity for hearing to determine whether the suspension should be lifted.

¹⁰¹ See MC 6-2017 dated 17 March 2017: Guidelines on the Submission of the Annual Report on Segregation of Functions (Chinese Wall).

36.2. Wherever two or more Exchanges or other trading markets exist, the Commission may require and enforce uniformity of trading regulations in and/or between or among said Exchanges or other trading markets.

36.3. In addition to the existing Philippine Stock Exchange, the Commission shall have the authority to determine the number, size and location of stock Exchanges, other trading markets and commodity Exchanges and other similar organizations in the light of national or regional requirements for such activities with the view to promote, enhance, protect, conserve or rationalize investment.

RULE 36.4 - Registration of Transfer Agents and Clearing & Settlement

36.4.1. Registration of Transfer Agents

36.4.1.1. No person shall act as a transfer agent for a security which is listed or traded on an Exchange, over-the-counter, or any other trading market without being registered with the Commission in accordance with the provisions of this Rule. The Commission may, for the protection of investors, require Issuers to engage the services of transfer agents that are neither affiliated nor in a conflict-of-interest situation with the Issuer.

36.4.1.2. To apply for registration under this Rule, a transfer agent shall:

36.4.1.2.1. Be a corporation;

36.4.1.2.2. Have unimpaired paid-up capital of at least One Million Pesos (PhP1,000,000.00) or such amount as the Commission may determine;

36.4.1.2.3. Have an officer who is a certified public accountant;

36.4.1.2.4. Submit an undertaking that it shall comply with the Rules, orders, memorandum circulars and policies promulgated by the Commission, and of other rules, procedures, standards and policies set by other market participants and duly approved by the Commission, and its own internal rules and procedures;

36.4.1.2.5. Submit schedule of fees and charges for approval of the Commission. Such schedule shall not be effective until and unless approved by the Commission; and

36.4.1.2.6. The Commission may require transfer agents to subject their information technology, business continuity and disaster recovery, and risk management systems to a regular review and audit by an independent firm at least once every three (3)-years and such other frequency that the Commission may deem necessary. The Commission may also require that the results of said review and audit shall be submitted to the Commission within thirty (30) days from completion of the audit.

36.4.1.3. Every application for registration as a transfer agent shall be filed with the Commission on SEC Form 36-TA and be accompanied by the following documents:

36.4.1.3.1. For an existing corporation:

36.4.1.3.1.1. Certified True Copy of Articles of Incorporation;

36.4.1.3.1.2. Certified True Copy of By-Laws;

36.4.1.3.1.3. Latest Annual Audited Financial Statements; and

36.4.1.3.1.4. General Information Sheet.

36.4.1.3.2. For a newly registered corporation:

36.4.1.3.2.1. Certified True Copy of Articles of Incorporation;

36.4.1.3.2.2. Certified True Copy of By-Laws; and

36.4.1.3.2.3. List of Officers and Stockholders.

- 36.4.1.3.3. Transfer agent Rules and Procedures, certified true and correct by its President, including procedures on withdrawal as transfer agent and successor transfer agent;
- 36.4.1.3.4. Organizational Chart;
- 36.4.1.3.5. Business Plan;
- 36.4.1.3.6. Manual of Corporate Governance;
- 36.4.1.3.7. Copy of the sample engagement letter containing, among others, the identification of the services to be rendered and specification of the responsibilities of the transfer agent;
- 36.4.1.3.8. Undertaking under oath to comply with the rules and regulations, orders, memorandum circulars and policies promulgated by the Commission, and of other rules, procedures, standards and policies set by other Exchanges or SROs and duly approved by the Commission, and its own internal rules and procedures set for transfer agency operation;
- 36.4.1.3.9. Undertaking under oath to be a member of a transfer agent association/organization and to submit a copy of the transfer agent agreement with issuer companies;
- 36.4.1.3.10. Undertaking to conduct due diligence prior to engagement to warrant the completeness and reliability of the records to be received from the company or its former transfer agent; and
- 36.4.1.3.11. Undertaking to assume the obligation in relation to the stock transfer services as provided in the engagement letter during the period of engagement.

Any amendment to such application shall be filed with the Commission on SEC Form 36-TA, in accordance with the instructions contained therein.

36.4.1.4. If any of the information reported on SEC Form 36-TA becomes inaccurate, misleading, or incomplete or requires updating for any reason, such as change/s in operating procedures and/or the list of directors and officers, the Issuer shall file an amendment within seven (7) days after the date on which the information in the application became inaccurate, misleading, or incomplete.

36.4.1.5. After reviewing an application for registration as a transfer agent, or an amendment thereto, the Commission shall, by order:

36.4.1.5.1. Grant registration or approve the amendment; or

36.4.1.5.2. Deny registration or the amendment, place limitations on the activities, functions or operations of, suspend or revoke its registration, if the Commission finds, after notice and opportunity for hearing:

36.4.1.5.2.1. That such order is in the public interest;

36.4.1.5.2.2. That the Issuer does not meet applicable qualifications;

36.4.1.5.2.3. That the application is incomplete, inaccurate or misleading; or

36.4.1.5.2.4. That the transfer agent has been found to:

36.4.1.5.2.4.1 Be insolvent or not in sound financial condition;

36.4.1.5.2.4.2 Have violated or have not complied with the applicable provisions of the Code or the rules and regulations adopted thereunder, or any order of the Commission;

36.4.1.5.2.4.3 Have engaged in, or be engaged in, or is about to engage in fraudulent transactions;

36.4.1.5.2.4.4 Be in any other way dishonest or not of good repute;

36.4.1.5.2.4.5 Have not conducted its business in accordance with law or be engaged in a business that is illegal or contrary to government rules and regulations;

36.4.1.5.2.4.6 Have an officer, member of the board of directors, or principal shareholder who is disqualified to be such an officer, director or principal shareholder;

36.4.1.5.2.4.7 Have a backlog of share certificate transfers which indicates the inability of the Issuer to fulfill its responsibilities as a transfer agent;

36.4.1.5.2.4.8 Have repeatedly or materially failed to comply with its procedures or those of a registered clearing agency; or

36.4.1.5.2.4.9 Have filed an application for registration or an amendment thereto which is incomplete or inaccurate in any material respect or which includes any untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the application or amendment not misleading.

36.4.1.6. A transfer agent cannot be the auditor of an issuer for whom it acts as transfer agent.

36.4.1.7. The procedures of a transfer agent are binding on and enforceable against issuers for which they act, registered securities holders and transferees who present securities for transfer. To minimize the issuance and movement of and to facilitate other dealings with those securities eligible to the operations of a registered clearing agency, a transfer agent and registered clearing agency shall jointly formulate and abide by written procedures addressing certificated and uncertificated securities issuance, transfers, cancellations, registration, confirmation and reconciliation of positions in securities, audit, replacement of lost securities, signature guarantees, delivery processes and turnaround times.

36.4.1.8. Every transfer agent registered pursuant to this Rule shall file the appropriate registration renewal form every June 1 to June 30 of each year, surrender its old license, and pay to the Commission the prescribed annual renewal fee.

If such fee is not paid or the registration renewal form is not filed as required, the registration of such transfer agent shall be suspended or terminated as the case may be.

36.4.1.9. Nothing in this Rule shall be construed as precluding the Commission from requiring an applicant for registration or a registered transfer agent to submit other requirements it may deem reasonably necessary to effectively regulate and supervise the transfer agent and/or to protect the interest of the investing public.

36.4.2. Reports from Transfer Agents

36.4.2.1. Annual Report — Every registered transfer agent shall file with the Commission an annual report on SEC Form 36-AR in accordance with the instructions contained therein within 120 days after the end of its fiscal year. Reports filed on SEC

Form 36-AR shall be deemed to satisfy Section 141 of the Corporation Code¹⁰² of the Philippines.

36.4.2.2. Exception Reports to the Commission — A transfer agent shall provide to the Commission within seven (7) days of the occurrence of any of the following events, a report detailing the reasons and circumstances for:

- 36.4.2.2.1. Any delay in the turnaround or processing of an issue, transfer or replacement of a security;
- 36.4.2.2.2. Any discrepancy between its records and those of the registered clearing agency, if applicable;
- 36.4.2.2.3. Actual termination of its function as a transfer agent for a particular security;
- 36.4.2.2.4. Withdrawal from business of a transfer agent; and
- 36.4.2.2.5. Additional listed issues being handled or have ceased from servicing.

36.4.2.3. Periodic Reporting to Issuer — At regular intervals within each and every year and upon request by the issuer, a transfer agent shall supply the issuer, for whom it acts in that capacity, with the list of holders of its securities, as shown by the register of holders of securities, and the changes to the register of transfers, showing the name and registered address of, and the number or face value of the securities held by each such holder and supply any other statements, lists, entries, information and material concerning issues, transfers and cancellations of securities.

36.4.2.4. Complaint Log — A record of all claims and complaints made to a transfer agent shall be kept by it at its principal office. The record shall contain:

- 36.4.2.4.1. The name of the security holder and a description of the security;
- 36.4.2.4.2. The date of the complaint or claim and a complete description thereof; and
- 36.4.2.4.3. The steps taken by the transfer agent, the manner in which the complaint or claim is resolved and any subsequent action taken or to be taken by the holder or the transfer agent.
- 36.4.2.4.4. The record shall be open for inspection during normal business hours by the Commission and by any issuer with respect to securities issued by it.

36.4.3. Records Retention by Transfer Agents

36.4.3.1. In addition to the records required to be maintained pursuant to Section 74 of the Corporation Code of the Philippines,¹⁰³ every transfer agent shall make and retain for a period of five (5) years the following books and records relating to its transfer agent activities:

- 36.4.3.1.1. Its rules and procedures;
- 36.4.3.1.2. Exception reports filed with the Commission pursuant to SRC Rule 36.4.2.2;
- 36.4.3.1.3. Complaint log as required to be maintained under SRC Rule 36.4.2.4;
- 36.4.3.1.4. Reports to the issuers for whom the firm acts as transfer agent as required under SRC Rule 36.4.2.3; and
- 36.4.3.1.5. Annual report on SEC Form 36-AR.

36.4.3.2. Every transfer agent shall make available any or all of its books and records upon request of an authorized representative of the Commission. Failure to do so

¹⁰² Now Section 177 of the Revised Corporation Code. "SEC. 177. Reportorial Requirements of Corporations. ..."

¹⁰³ Now Section 73 of the Revised Corporation Code. "SEC. 73. Books to be Kept; Stock Transfer Agent."

shall result in an immediate suspension of the transfer agent's registration. Such suspension shall continue until such time as the books and records are made available to the Commission.

36.4.4. Clearing and Settlement

36.4.4.1. Exchanges and other trading markets shall ensure that the clearing and settlement arrangement in the exchange of assets subject of the trade shall be on a delivery versus payment (DVP) scheme such that delivery of the securities occurs if and only if payment occurs.

36.4.4.2. Exchanges and other trading markets shall have their DVP systems approved by the Commission.

36.4.4.3. No broker or dealer shall effect transactions in an OTC market unless it has secured an agreement from the counterparty as to how a transaction shall be cleared and settled. The broker or dealer shall ensure that the clearing and settlement arrangement shall be prompt and accurate and shall define among others: (1) Due date as to settlement; (2) Due date as to delivery of the security; and (3) Due date as to payment of cash.

36.4.4.4. No broker or dealer shall allow the clearing and settlement of transaction via an intermediary unless such intermediary is a registered clearing agency or has been authorized by the Commission to act as intermediary.

36.4.4.5. The Commission may require market participants to use uniform settlement systems in the public interest and for the protection of the investors including the use of a central counterparty (CCP) in the clearing and settlement of trades in all markets.

RULE 36.5 - Trusts and Other Similar Funds for Broker Dealer Customers

36.5.1. A trust fund established to compensate customers for the extraordinary losses or damage they may suffer due to the business failure or fraud or mismanagement of a Broker Dealer shall be registered as an Accredited Trust Fund under this Rule. For purposes of this Rule, the term "extraordinary losses and damages" refers only to actual damages.

36.5.2. An application for registration shall be filed on SEC Form 36-TF and contain the following supporting documents:

36.5.2.1. Data on its organization, rules of procedure and membership/participation;

36.5.2.2. Copies of its rule; and

36.5.2.3. List of directors and officers and a list of their affiliations.

36.5.3. Business failure of the Broker Dealer shall be established upon a determination that the financial condition of the Broker Dealer has so deteriorated that the Broker Dealer cannot readily meet the demands of its customers for the delivery of securities and/or the payment of sales proceeds; provided, however, that such determination shall not be dependent upon a judicial declaration of insolvency. Such determination will be made by: a. the Exchange or the pertinent SRO; or b. the Commission, when the Exchange or the pertinent SRO fails or does not exercise such timely determination.

36.5.4. As a condition of their registration, all Broker Dealers shall be a member of or a participant in an Accredited Trust Fund.

36.5.5. An Accredited Trust Fund shall establish a Customer Protection Fund (the "Fund"). All amounts received by the Accredited Trust Fund, except amounts set outside for operating expenses, shall be deposited into the Fund which shall serve as trustee in compliance with general rules of trust.

36.5.6. The Commission shall not accredit a trust fund unless the trust fund has adopted rules governing:

- 36.5.6.1. The initial and the continuing required balance for the Fund;
- 36.5.6.2. Assessments to be imposed on members/participants and procedures for collecting such assessment;
- 36.5.6.3. Borrowing by the Fund;
- 36.5.6.4. Investment of Fund assets;
- 36.5.6.5. Procedures for paying customers for the extraordinary losses or damage they may suffer due to business failure or fraud or mismanagement of the Broker Dealer;
- 36.5.6.6. Role and duty of the trust fund as trustee; and
- 36.5.6.7. The composition of the trust fund's Board of Directors.

36.5.7. All rules of the Accredited Trust Fund, including amendments thereto, shall be approved by the Commission prior to becoming effective.

36.5.8. If the Exchange, pertinent SRO, or the Commission is aware of facts which may lead one to believe that the financial condition of a Broker Dealer, including an Exchange Trading Participant, has so deteriorated and the Broker Dealer has difficulties meeting the demands of its customers for the delivery of securities and/or the payment of sales proceeds, it shall immediately notify the Accredited Trust Fund; Provided, however, where such notification involves an Exchange Trading Participant, the Exchange or pertinent SRO shall simultaneously notify the Commission.

36.5.9. Every Exchange, or other SRO responsible for monitoring the financial condition of Broker Dealer shall file with the Accredited Trust Fund copies of financial reports submitted by such Broker Dealers.

36.5.10. The Commission may, having due regard to the public interest or the protection of investors, regulate, supervise, examine, suspend or otherwise discontinue such and other similar funds under such rules and regulations which the Commission may promulgate, and which may include taking custody and management of the fund itself as well as investments in and disbursements from the funds under such forms of control and supervision by the Commission as it may from time to time require. The authority granted to the Commission under this subsection shall also apply to all funds established for the protection of investors, whether established by the Commission or otherwise.

RULE 37 - Registration of Innovative and Other Trading Markets

The Commission, having due regard for national economic development, shall encourage competitiveness in the market by promulgating within six (6) months upon the enactment of the Code, rules for the registration and licensing of innovative and other trading markets or Exchanges covering, but not limited to, the issuance and trading of innovative securities, securities of small, medium, growth and venture enterprises, and technology-based ventures pursuant to Section 33 of the Code.¹⁰⁴

SRC RULE 38 - Requirements on Nomination and Election of Independent Directors¹⁰⁵

38.1. This Rule shall apply to companies mentioned under Sec. 38 of the Code¹⁰⁶ and to companies with secondary licenses that adopted in their Manuals on

¹⁰⁴ See MC 9-2024, *supra* note 56, providing for a regulatory sandbox framework to test innovative products or services or a new business model in a live and controlled environment, within a defined period; *see also* Rules on OTC Market and ATS Exchanges, *supra* note 99.

¹⁰⁵ To be amended upon once included in the Code of Corporate Governance. *See* MC 24-2019 and MC 19-2016, *supra* note 3.

¹⁰⁶ SRC Sec. 38: "Any corporation with a class of equity securities listed for trading on an Exchange or with

Corporate Governance the practice of nominating and electing independent director/s in their Boards. Said entities shall be referred to in this Rule as "covered companies".

38.2. As used in Section 38 of the Code, **independent director** means a person who, apart from his fees and shareholdings, is independent of management and free from any business or other relationship which could, or could reasonably be perceived to, materially interfere with his exercise of independent judgment in carrying out his responsibilities as a director in any covered company and includes, among others, any person who:¹⁰⁷

- 38.2.1.** Is not a director or officer of the covered company or of its related companies or any of its substantial shareholders except when the same shall be an independent director of any of the foregoing;
- 38.2.2.** Does not own more than two percent (2%) of the shares of the covered company and/or its related companies or any of its substantial shareholders;¹⁰⁸
- 38.2.3.** Is not related to any director, officer or substantial shareholder of the covered company, any of its related companies or any of its substantial shareholders. For this purpose, relatives include spouse, parent, child, brother, sister, and the spouse of such child, brother or sister;
- 38.2.4.** Is not acting as a nominee or representative of any director or substantial shareholder of the covered company, and/or any of its related companies and/or any of its substantial shareholders, pursuant to a Deed of Trust or under any contract or arrangement;
- 38.2.5.** Has not been employed in any executive capacity by the covered company, any of its related companies and/or by any of its substantial shareholders within the last two (2) years;
- 38.2.6.** Is not retained, either personally or through his firm or any similar entity, as professional adviser, by that covered company, any of its related companies and/or any of its substantial shareholders, within the last two (2) years; or
- 38.2.7.** Has not engaged within the last two (2) years and does not engage in any transaction with the covered company and/or with any of its related companies and/or with any of its substantial shareholders, whether by himself and/or with other persons and/or through a firm of which he is a partner and/or a company of which he is a director or substantial shareholder, other than transactions which are conducted at arms length and are immaterial;¹⁰⁹

38.3. No person convicted by final judgment of an offense punishable by imprisonment for a period exceeding six (6) years, or a violation of this Code, committed within five (5) years prior to the date of his election, shall qualify as an independent director. This is without prejudice to other disqualifications which the covered company's Manual on Corporate Governance provides.

assets in excess of Fifty million pesos (P50,000,000.00) and having two hundred (200) or more holders, at least of two hundred (200) of which are holding at least one hundred (100) shares of a class of its equity securities or which has sold a class of equity securities to the public pursuant to an effective registration statement in compliance with Section 12 of the SRC."

¹⁰⁷ See MC 16-2006, dated 21 December 2006; Disqualification of a Securities Broker-Dealer as an Independent Director, disqualifies Securities Broker-Dealer, defined in the Circular as those holding any office of trust and responsibility in a broker-dealer firm, which includes, among others, a director, officer, principal stockholder, nominee of the firm to the Exchange, associated person, or salesman, and an authorized clerk of the broker or dealer; see also MC 7-2026; Term Limits of Independent Directors, which disqualifies independent directors who have served the maximum cumulative term of nine (9) years for companies whose equities are listed in an Exchange as defined by the SRC.

¹⁰⁸ See MC 5-2012, *supra* note 59, clarifying that Independent Directors may participate in stock option plans, provided their total shareholding remains below the required percentage (2%).

¹⁰⁹ MC 7-2018, dated 20 April 2018; Amendment to Rule 38.2.7 of the 2015 Implementing Rules and Regulations of the Securities Regulation Code (SRC).

38.4. Any controversy or issue arising from the selection, nomination or election of independent directors shall be resolved by the Commission by appointing independent directors from the list of nominees submitted by the stockholders.

38.5. When used in relation to a company subject to the requirements of this Rule and Section 38 of the Code:

38.5.1. Related company means another company which is: (a) its holding company; (b) its subsidiary; or (c) a subsidiary of its holding company; and

38.5.2. Substantial shareholder means any person who is directly or indirectly the beneficial owner of more than ten percent (10%) of any class of its equity security.

38.6. Qualifications and Disqualifications

38.6.1. An independent director shall have the following qualifications:

38.6.1.1. He shall have at least one (1) share of stock of the corporation;

38.6.1.2. He shall be at least a college graduate or he shall have been engaged or exposed to the business of the corporation for at least five (5) years;

38.6.1.3. He shall possess integrity/probity; and

38.6.1.4. He shall be assiduous.

38.6.2. No person enumerated under Section II (5) of the Code of Corporate Governance¹¹⁰ shall qualify as an independent director. He shall likewise be disqualified during his tenure under the following instances or causes:

38.6.2.1. He becomes an officer or employee of the corporation where he is such member of the board of directors/trustees, or becomes any of the persons enumerated under Section II (5) of the Code on Corporate Governance;

38.6.2.2. His beneficial security ownership exceeds two percent (2%) of the outstanding capital stock of the company where he is such director;

38.6.2.3. Fails, without any justifiable cause, to attend at least 50% of the total number of Board meetings during his incumbency unless such absences are due to grave illness or death of an immediate family;

38.6.2.4. Such other disqualifications which the covered company's Manual on Corporate Governance provides.

38.7. Number of Independent Directors

38.7.1. All companies are encouraged to have independent directors. However, issuers of registered securities and public companies are required to have at least two (2) independent directors or at least twenty percent (20%) of its board size, whichever is the lesser. Provided further that said companies may choose to have more independent directors in their boards than as above required.

38.7.2. The Exchange/s are required to have at least three (3) independent directors. To effectively carry out the provisions of Section 33.2 (g) of the Securities Regulation Code,¹¹¹ the Exchange's independent director or a nominee for such director shall not solicit votes for himself.

¹¹⁰ As amended by MC 24-2019 and MC 19-2016, *supra* note 3.

¹¹¹ SRC Sec. 33.2 "Registration of an Exchange shall be granted upon compliance with the following provisions: ... (g). For the board of the Exchange to include in its composition ... (ii) no less than fifty one percent (51%) of the remaining members of the board to be comprised of three (3) independent directors and persons who represent the interests of issuers, investors, and other market participants, who are not associated with any broker or dealer or member of the Exchange for a period of two (2) years prior to his/ her appointment. No officer or employee of a member, its subsidiaries or affiliates or related interests shall become an independent director...."

38.8. Nomination and Election of Independent Director/s

The following rules shall be applicable to all covered companies:

- 38.8.1.** The Nomination Committee (the "Committee") shall have at least three (3) members, one of whom is an independent director. It shall promulgate the guidelines or criteria to govern the conduct of the nomination. The same shall be properly disclosed in the company's information or proxy statement or such other reports required to be submitted to the Commission.
- 38.8.2.** Nomination of independent director/s shall be conducted by the Committee prior to a stockholders' meeting. All recommendations shall be signed by the nominating stockholders together with the acceptance and conformity by the would-be nominees.
- 38.8.3.** The Committee shall pre-screen the qualifications and prepare a final list of all candidates and put in place screening policies and parameters to enable it to effectively review the qualifications of the nominees for independent director/s.
- 38.8.4.** After the nomination, the Committee shall prepare a Final List of Candidates which shall contain all the information about all the nominees for independent directors, as required under Part IV(A) and (C) of Annex "C" of SRC Rule 12,¹¹² which list, shall be made available to the Commission and to all stockholders through the filing and distribution of the Information Statement, in accordance with SRC Rule 20, or in such other reports the company is required to submit to the Commission. The name of the person or group of persons who recommended the nomination of the independent director shall be identified in such report including any relationship with the nominee.
- 38.8.5.** Only nominees whose names appear on the Final List of Candidates shall be eligible for election as Independent Director/s. No other nominations shall be entertained after the Final List of Candidates shall have been prepared. No further nominations shall be entertained or allowed on the floor during the actual annual stockholders'/memberships' meeting.
- 38.8.6. Election of Independent Director/s**
 - 38.8.6.1.** Except as those required under this Rule and subject to pertinent existing laws, rules and regulations of the Commission, the conduct of the election of independent director/s shall be made in accordance with the standard election procedures of the company or its by-laws.
 - 38.8.6.2.** It shall be the responsibility of the Chairman of the Meeting to inform all stockholders in attendance of the mandatory requirement of electing independent director/s. He shall ensure that an independent director/s are elected during the stockholders' meeting.
 - 38.8.6.3.** Specific slot/s for independent directors shall not be filled-up by unqualified nominees.
 - 38.8.6.4.** In case of failure of election for independent director/s, the Chairman of the Meeting shall call a separate election during the same meeting to fill up the vacancy.
 - 38.8.6.5.** The covered companies shall amend its by-laws in accordance with the foregoing requirements as soon as practicable.

¹¹² Annex C of SRC Rules, see Annexes to SRC.

38.9. Termination/Cessation of Independent Directorship

In case of resignation, disqualification or cessation of independent directorship and only after notice has been made with the Commission within five (5) days from such resignation, disqualification or cessation, the vacancy shall be filled by the vote of at least a majority of the remaining directors, if still constituting a quorum, upon the nomination of the Committee otherwise, said vacancies shall be filled by the stockholders in a regular or special meeting called for that purpose. An independent director so elected to fill a vacancy shall serve only for the unexpired term of his predecessor in office.



TITLE X**Registration, Responsibilities and Oversight of Self-Regulatory Organizations****RULE 39.1 - Registration, Responsibilities and Oversight of Self-Regulatory Organizations and Other Securities-Related Organizations****39.1.1. Rules Governing a Self-Regulatory Organization which is an Organized Exchange**

39.1.1.1. All organized Exchanges shall be subject to these procedures and requirements set forth in this Rule.

39.1.1.2. For purposes of this Rule:

39.1.1.2.1. Organized Exchange or Exchange means a registered Exchange, whether or not registered as an SRO under the Code.

39.1.1.2.2. Participant refers to any person who has been authorized to use the SRO's services and facilities.

39.1.1.2.3. Securities laws refers to the Code and rules, regulations and orders issued by the Commission.

39.1.1.2.4. SRO rule refers to the constitution, articles of incorporation, by-laws and rules, or instruments corresponding to the foregoing and such policies, guidelines, practices, conventions and interpretations of the SRO including the annexes, forms and checklists to such rule, other than those establishing or concerning solely matters of SRO administration under SRC Rule 40.3.3.

39.1.1.3. SRO Rulemaking

39.1.1.3.1. Subject to Commission approval and pursuant to the procedures set forth in SRC Rule 40.3, an SRO's power to adopt and amend rules shall also include the power to repeal existing rules and provide interpretative guidance; Provided that, an SRO shall not suspend, alter or modify the enforcement of rules, guidelines, or policies earlier approved by the Commission without the prior approval of the latter.

39.1.1.3.2. An SRO shall adopt comprehensive rules governing its organization and governance, qualifications and rights of shareholders, listing of securities, trading of securities, settlement of contracts, qualification of members and other participants, ethical conduct of members and other participants, supervision and control of members, financial and operational responsibility of members, and discipline of members and other participants.

39.1.1.4. Power over listed companies

The SRO shall be solely responsible for processing and approving or rejecting applications for new listing of securities, suspension and de-listing of listed issues and imposition of sanctions on listed companies for violation of SRO rules; Provided, however, that such powers shall be exercised pursuant to SRO rules.

39.1.1.5. Compliance and Surveillance

39.1.1.5.1. An SRO shall establish an independent audit, compliance and surveillance office separate from the Exchange or within the Exchange, and in such form and substance that the Commission, by order, may prescribe. Such office shall not be subordinated or otherwise controlled in its activity by the Exchange Board or its review unit, and shall be responsible for carrying out the SRO's enforcement role pursuant to the securities law and for the discipline of participants. Such office shall further submit to the Commission a copy of its findings within three (3) business days from completion or at the same time that such office provides a copy to the Board or a review unit, if such office is an entity separate from the Exchange, or to any person or unit outside of the office if such office is an integral unit within the Exchange, whichever is earlier. Nothing in this

rule shall be understood to preclude the Commission from requiring such office to submit a status report or any other kind of report on any of the activities that it is performing.

39.1.1.5.2. The Compliance and Surveillance office, in order to protect the interest of investors and the public in general, and to arrest the further commission of violations of securities laws, prevent financial instability and damage to the capital market caused by delay, and/or risk manage Broker Dealer operations effectively, may summarily suspend or impose limitations upon the erring Broker Dealer without need of approval from the Exchange Board or its review unit. Provided, however, that the Exchange Board shall, within five (5) trading days from implementation of such order, convene to review, confirm, modify, or reverse the Compliance and Surveillance office's action. Failure by the Exchange Board or its review unit to resolve the summary order shall be deemed an automatic confirmation of the action taken by the Compliance and Surveillance office.

39.1.1.5.3. The SRO shall enforce compliance with provisions of the securities laws regulating brokers, dealers and trading on the SRO and SRO rules by its members. The SRO shall notify the Commission within forty eight (48) hours of any instance where it fails to enforce compliance with the provisions of the securities laws and its implementing rules and regulations, and of the SRO rules, which it believes is justifiable, and within ten (10) days submit a complete report of such an instance to the Commission.

39.1.1.5.4. An SRO shall enter into a Memorandum of Understanding with other SROs to clarify its oversight responsibilities over persons who are members of or participants in more than one SRO and coordinate with other SROs to ensure adequate oversight. Such plan shall be submitted to the Commission for approval under SRC Rule 39.1.3.

39.1.1.5.5. An SRO shall monitor market conditions and trading activity to detect violations of the securities law and SRO rules.

39.1.1.5.5.1. The SRO shall conduct market surveillance of all trading activity on the SRO pursuant to SRO rules setting forth surveillance procedures and guidelines.

39.1.1.5.5.2. The SRO shall monitor compliance by listed companies with continuing listing obligations; Provided, however, primary oversight for compliance with full disclosure regulation under the securities law shall remain the responsibility of the Commission.

39.1.1.5.6. The Commission may, on its own initiative, monitor the market to ensure that the SRO is fulfilling its functions and to ensure further that each activity or potential problem area in the market is adequately covered and being reasonably addressed. For this purpose, SROs, exchanges, operators of trading markets, trading participants and other market participants shall, upon request, provide the Commission or its authorized representatives direct access to their trading systems, platforms, repositories and databases for information about particular accounts, orders, trades, positions, clearing data, trading account codes and the names of clients corresponding to such codes, or any other information reasonably needed for effective market surveillance, reconstruction of trade events and conduct of trade analysis.

39.1.1.6. Periodic Examinations

39.1.1.6.1. The SRO shall periodically examine all its members to determine whether they are in compliance with the securities law and SRO rules governing, among other things, financial responsibility, dealings of members with the public, back office procedures, trading practices, and supervision and shall submit to the Commission for review and comment its audit calendar for the year on or before the 30th day of January of the succeeding year, provided that any amendment to the calendar shall be promptly provided to the Commission. The submitted calendar shall include the manner of selection and prioritization used by the SRO in formulating it. The manner of selection and prioritization shall be based on the historical and potential risks that each member posed to the market. This calendar shall be treated as confidential information. Periodic examination of each member firm shall be conducted without prior notice to the member firm.

39.1.1.6.2. The SRO shall file with the Commission monthly reports of its periodic examinations started and completed during the month, within ten (10) days after the end of each month, together with a summary of findings for audits completed. Periodic examinations of each member firm shall be made by the SRO pursuant to written procedures approved by the Commission. Where deficiencies are detected, the SRO shall either send a letter to the firm within three (3) business days of the completion of such examination directing that such deficiencies be corrected or, where such deficiencies show evidence of violations of the securities law, SRO rules and/or otherwise negatively reflect upon the firm's integrity or solvency, promptly notify the Commission through a brief written report and without delay, initiate an investigation.

39.1.1.6.3. The Commission may, on its own initiative, conduct periodic or parallel examinations of members to validate the SRO's findings and conduct on-spot audit inspections of the relevant SRO department to check if it is fulfilling its duties and responsibilities as an SRO.

39.1.1.7. Investigations

39.1.1.7.1. An SRO shall investigate suspected violations of the securities law and SRO rules based on complaints, examination audit findings or unusual trading activities or verified referrals from a member, other trading participant, SRO other than an Exchange, clearing agency, transfer agent, any registered person, or the Commission and take disciplinary action, where appropriate, pursuant to SRO rules.

39.1.1.7.2. The SRO shall be primarily responsible for conducting investigations which concern suspected violation of rules governing sales practices, financial and operational requirements, trading and floor related violations, and compliance procedures/supervision of members.

39.1.1.7.3. The SRO shall promptly notify the Commission of any investigation which involves suspected violations of the securities law involving persons not subject to the SRO's jurisdiction, concerning the disclosure obligations of listed companies under the securities law, and/or involving fraud or manipulation. The SRO shall cooperate with the Commission which shall have primary investigative authority over such suspected violations.

39.1.1.7.4. The Commission shall not be precluded from initiating its own investigation ahead of, parallel to or following an investigation conducted by an SRO. In such an event, the SRO shall coordinate, cooperate, and provide a copy to the Commission, upon notice or order, documents, pieces of evidence or other information related to the case that it may have earlier gathered or are available in its database and which it may readily procure. Unless specifically ordered by the Commission or by a competent court to cease, the SRO shall continue to conduct its own investigation pursuant to its mandate. In case of conflict between the findings of the Commission and the Exchange, the former's decision shall prevail. For purposes of initiating its own investigation, the Commission, through the Chairperson, may designate any department, other than the Enforcement and Investor Protection Department or form the task force for the purpose of taking the lead in such investigation.

39.1.1.8. Discipline of SRO Members and Participants

39.1.1.8.1. An SRO shall discipline a member, to include suspension or expulsion, if such person has been found to have been engaged in a violation of SRO rules or provisions of the securities law, including, but not limited to, illegal sales practices, financial and operational requirements, trading and floor related violations, and/or violation of SRO listing rules.

39.1.1.8.2. In any disciplinary hearing by the SRO, other than a proceeding brought pursuant to SRC Rule 39.1.1.8.3, the SRO shall bring specific charges, provide notice to the member or participant charged, afford such person charged with an opportunity to defend against the charges, and keep a written record of the proceedings. A determination to bring a disciplinary sanction shall be supported by a written statement of the offense, a summary of the evidence presented, and a statement of the sanction/s imposed.

39.1.1.8.3. The SRO may summarily suspend a member or person associated with a member who has been expelled or suspended from another SRO, and/or suspend a member who the SRO finds to be in such financial or operating difficulty that the member cannot be permitted to do business as a member with safety to investors, creditors, other members, or the SRO; Provided, however, that the SRO immediately provides written notice to the Commission of the action taken.

Any person aggrieved by a summary action pursuant to this SRC Rule shall be promptly afforded an opportunity for a hearing by the SRO in accordance with SRC Rule 39.1.1.8.2. The Commission, by order, may stay a summary action *motu proprio* or upon application by any person aggrieved thereby if the Commission determines summarily or after notice and an opportunity for hearing (which may consist solely of the submission of affidavits or presentation of oral arguments) that a stay is consistent with the public interest and the protection of investors.

39.1.1.8.4. The SRO shall promptly notify the Commission in written reports of any disciplinary sanction imposed on any member or participant. Within thirty (30) days after receipt of such notice, any aggrieved person may appeal to the Commission from, or the Commission *motu proprio* within such period, may institute review of, the decision of the SRO, at the conclusion of which, after due notice and opportunity for hearing which may consist solely of review of the record before the SRO, the Commission shall affirm, modify or set aside the sanction. In such proceeding, the Commission shall determine whether the aggrieved person has engaged or omitted to engage in the acts and practices as found by the SRO; whether such acts, and practices, or omission constitute willful violations of the securities law or SRO rules, whether such provisions were applied in a manner consistent with the purposes of the securities law; and whether, with due regard for the public interest and the protection of investors, the sanction is excessive or oppressive.

39.1.1.9. SRO Discipline by the Commission

The Commission may, if in its opinion such action is necessary or appropriate in the public interest or for the protection of investors, or otherwise in furtherance of the purposes of the securities law, after due notice and an opportunity for a hearing:

- 39.1.1.9.1. Suspend for a period not to exceed twelve (12) months or revoke the registration of an SRO, or censure or impose limitations on the activities, functions and operations of the SRO as an SRO, if the Commission finds that the SRO has willfully violated or is unable to comply with any provision of the securities law or SRO rules, or has failed to enforce compliance therewith by a member or participant;
- 39.1.1.9.2. Take over the activities of an SRO pursuant to SRC Rule 40.5;
- 39.1.1.9.3. Suspend for a period not exceeding twelve (12) months or to expel from the SRO any member who is subject to an order of the Commission under Section 29 of the Code or is found to have willfully violated any provision of the securities law, or effected, directly or indirectly, any transaction for any person who such member had reason to believe was violating, in respect of such transaction, any of such provisions;
- 39.1.1.9.4. Remove from office or censure any officer or director of the SRO if it finds that such officer or director has violated any provision of the securities law or the rules of such SRO, abused his authority or has failed to enforce compliance with any of such provisions; and/or
- 39.1.1.9.5. Take other actions as may be reasonably necessary to enforce the provisions of the Code.

39.1.1.10. SRO Reporting

An SRO shall submit the following reports to the Commission:

- 39.1.1.10.1. Monthly reports on dockets of examinations and investigations being conducted to be submitted on or before the 15th of the following month, containing the docket number, name of SRO examiner/investigator, how audit/examination originated (investor complaint, examination, surveillance), name of the member or participant, including a listed company being audited/investigated, nature of the violations alleged, status, findings, sanctions imposed and other courses of action taken by the SRO relative thereto;
- 39.1.1.10.2. Monthly reports on risk based capital adequacy requirements by members;
- 39.1.1.10.3. Quarterly reports on the result of investigations conducted with respect to the trading of listed companies to be submitted on or before the 15th of the month after each quarter;
- 39.1.1.10.4. Annual report to be submitted on or before the 30th of every January containing information on the number of newly listed issues; delisted/suspended issues and reasons therefor; the number, type of securities; issuers of current listed issues. The report shall also include profile of investors and their investments such as estimate of number of investors in the market by type (retail, institutional, qualified buyer, etc.), investment portfolio, amount of investment, mode of access (traditional or online), geographical location of investors, and other relevant market data.
- 39.1.1.10.5. Such other report as may, from time to time, be required by the Commission from the SRO;
- 39.1.1.10.6. The reports on examination and investigation being conducted, the results thereof, and the cases resolved shall also include the following information: (1) Names and designations of the persons allegedly responsible for the violations; (2) Description of the nature of the violations with brief narration of the participation of the persons allegedly responsible for such violations; (3) Supporting documents.

Further, if the persons allegedly responsible for the violations have existing registration with the Commission (*e.g.*, salesman, associated persons) such fact shall be indicated in the report. In this case, the SRO shall initiate proceedings to suspend or revoke such registration, if warranted, without prejudice to the filing of a criminal case. On the other hand, if the persons allegedly responsible for the violations are not registered with the Commission, such fact shall be indicated in the report. In this case, the SRO shall initiate a criminal case against such persons if warranted;
- 39.1.1.10.7. The SRO shall inform the public of violations of its own rules, the SRC and its implementing rules committed by, its trading participants, issuers and the persons responsible for the violations and the sanctions it has imposed. For this purpose, the SRO shall immediately publish on its website and/or the pertinent Exchange's website the nature of violations and sanctions imposed on the trading participants, issuers and the persons responsible for the violations, as soon as the SRO affirms the sanctions or the period to appeal or move for reconsideration with SRO lapses without the aggrieved party taking the appeal or move for reconsideration.

The SRO shall likewise post on its own website and/or the pertinent Exchange's website the list of trading participants whose regular and special audits did not result in any examination findings or are fully compliant.

The reports containing the results of examinations and investigations on trading participants, issuers and the persons

responsible for the violations, shall remain posted and accessible in the website of the SRO and the Commission for the guidance of the investing public.

39.1.2. Registration of Associations of Brokers and Dealers and Other Self-Regulatory Organizations

39.1.2.1. An application for registration as an Association of Securities Brokers and Dealer shall be filed on SEC Form 39-BD accompanied by copies of the statements and exhibits required to be filed with it under Section 40 of the Code and SEC Form 39-BD.

39.1.2.2. Any other application for registration as a Self-Regulatory Organization shall be filed on SEC Form 39 accompanied by the statements and exhibits required to be filed with it under Section 40 and SEC Form 39; Provided, however, that an applicant for registration as an Exchange and SRO shall file Form 33-SRO and an applicant for registration as a Clearing Agency and SRO shall file SEC Form 42-SRO.

39.1.2.3. Every SRO shall maintain the integrity of its registration and report to the Commission any material change within seven (7) days from the occurrence of such change through the filing of SEC Form 39-A.

39.1.2.4. For registered SRO whose fiscal year ends on December 31, SEC Form 39-AR shall be filed with the Commission depending on the last numerical digit of its registration number as prescribed by the Commission. SRO whose fiscal year ends on a date other than December 31 shall file SEC Form 39-AR 110 calendar days after the close of such fiscal year.

39.1.2.5. Amendments to its registration shall be filed, at least one copy of which shall be signed and attested, in the same manner as required in the case of the original registration. All amendments shall be dated and numbered in the order of filing. One amendment may include a number of changes.

39.1.2.6. In addition to the formal filing of amendments and the annual return, every registered SRO shall send to the Commission copies of any notices, reports, circulars, loose leaf instructions, riders, new additions, lists, or other records of changes covered by amendments or supplements when, as, and if such records are made available to members and/or participants of the SRO.

39.1.3. Allocation of Regulatory Responsibilities among Self-Regulatory Organizations

39.1.3.1. Any two (2) or more Self-Regulatory Organizations (SROs) may file with the Commission a plan for allocating among SROs the responsibility to receive regulatory reports from persons who are members of or participants in more than one SRO, to examine such persons for compliance, or to enforce compliance by such persons, with the Code and rules and regulations adopted under it, and the rules of such SRO, and to carry out other specified regulatory functions with respect to such persons.

39.1.3.2. Any plan filed under this Rule may contain provisions for the allocation among the parties of expenses reasonably incurred by the SRO having regulatory responsibility under the plan.

39.1.3.3. After appropriate notice and opportunity for comment, the Commission may, by written notice, declare such a plan, or any part thereof, effective if it finds the plan, or any part thereof, necessary or appropriate in the public interest and for the protection of investors, to foster cooperation and coordination among SROs.

39.1.3.4. Upon the effectivity of such a plan, or part of it, any SRO which is a party to the plan shall be relieved of responsibility to any person for whom another SRO is responsible under the plan, to the extent of the responsibility allocated.

39.1.3.5. After the Commission has declared a plan or part of it effective pursuant to SRC Rule 39.1.3.3, or has acted pursuant to SRC Rule 39.1.3.6, an SRO relieved of responsibility may notify customers of, and persons doing business with, such member or participant of the limited nature of its responsibility for such member's or participant's acts, practices and course of business.

39.1.3.6. If a plan declared effective pursuant to SRC Rule 39.1.3.3 does not provide for all members or participants or does not allocate regulatory responsibilities, the Commission may, after notice and opportunity for hearing, designate one or more SROs responsible for specified regulatory responsibilities with respect to such members or participants.

39.1.4. Rules Governing Registrars of Qualified Institutional and Individual Buyers¹¹³

39.1.4.1. Authorized Registrars — The following entities which have been granted the appropriate secondary license by the Commission may be authorized to act as Registrar upon proper application and compliance with registration requirements under these rules:

- 39.1.4.1.1. Banks with respect to their registration as broker-dealer, Government Securities Eligible Dealer, Government Securities Brokers and/or underwriter of securities;
- 39.1.4.1.2. Brokers;
- 39.1.4.1.3. Dealers;
- 39.1.4.1.4. Investment Houses;
- 39.1.4.1.5. Investment Company Advisers;
- 39.1.4.1.6. Issuer companies with respect to offerings of their own securities; and
- 39.1.4.1.7. Funding Portals registered under the SEC Crowdfunding Rules.¹¹⁴

39.1.4.2. Initiation of Function as Registrar — An entity that wants to act as Registrar of Qualified Buyers (QBs) shall submit to the Commission electronically the following requirements before it can perform the duties and responsibilities of a Registrar, for the approval of the Commission:

- 39.1.4.2.1. Letter informing the Commission of the intention to act as Registrar;
- 39.1.4.2.2. SEC Form 39-Registrar;
- 39.1.4.2.3. Board Resolution approving the initiation of the Registrar function, certified under oath by the Corporate Secretary and attested to by the President or anyone performing a similar function;
- 39.1.4.2.4. List of applicant's directors and officers;
- 39.1.4.2.5. Copy of the secondary license granted by the Commission;
- 39.1.4.2.6. List of individuals who shall be involved in evaluating the qualifications of the applicants for QBs, and their corresponding SEC registration license numbers (salesman, fixed income market salesman, certified investor solicitor and associated person), duly certified correct by an authorized officer of the entity; and
- 39.1.4.2.7. Internal procedures.

Authorization of a Registrar does not expire unless otherwise revoked by the Commission, or unless the Commission approves the Registrar's intent to cease its functions as Registrar.

39.1.4.3. Registrar's Internal Procedures — A Registrar shall establish its own internal procedures, subject to the approval of the Commission, to guide its

¹¹³ MC 5-2026, dated 20 January 2026; Amendments to Section 39.1.4 of the Implementing Rules and Regulations of the Securities Regulation Code.

¹¹⁴ MC 12-2023, dated 07 September 2023; Amendments to Section 39.1.4.1 of the Implementing Rules and Regulations of the Securities Regulation Code.

personnel in evaluating the qualifications of applicants for QB status, which shall include the following at the minimum:

- 39.1.4.3.1. Organization chart, indicating all filled and unfilled positions and the identity of the registered persons (salesman, fixed income market salesman, certified investor solicitor and associated person) who will conduct the evaluation of QB applications, including the identity and designation of the officials duly authorized to sign the Certificates of Registration to be issued; the chart should also be accompanied by a list of qualifications or requirements, and a statement of duties and responsibilities for each position;
- 39.1.4.3.2. Legal basis or criteria, which shall refer to the applicable provisions of the SRC, its IRR, and relevant SEC issuances, for evaluating the QB applicants;
- 39.1.4.3.3. Guidelines for conducting due diligence and Know-Your-Customer (KYC) on the applicants;
- 39.1.4.3.4. QB registration procedure which shall include the required documents, the responsible person or department, the turnaround time on each process, and the procedures for the issuance of Certificates of Registration to qualified applicants;
- 39.1.4.3.5. Control mechanisms to allow Registrars to verify continued compliance of the QB with respect to the required qualifications and submitted undertaking. This procedure shall include, at a minimum, the following:
 - i. Scope of Verification - The Registrar shall verify whether the QB continues to meet the qualifications and requirements set forth under 2015 SRC Rule 10.1.11.
 - ii. Frequency of Verification - The Registrar shall conduct verification of each QB's continued compliance at the end of every calendar year.
 - iii. Provided that, in the third year and if the QB intends to renew its QB status, the verification date shall fall within six (6) months prior to the expiration of the QB status. This shall constitute the formal renewal process at the scheduled renewal date.
 - iv. Notification to QBs - The Registrar shall inform the QB, thirty (30) calendar days prior to the date of verification, that its QB status shall be subject for verification.
 - v. Submission of Supporting Documents - The Registrar shall require the QB to submit updated supporting documents when there are significant changes to its qualifications. Where no significant changes exist, the Registrar shall require the QB to submit electronically a signed attestation confirming continued compliance with the minimum eligibility criteria. Such attestation shall be valid for purposes of the current verification cycle only.
 - vi. Verification and Review Procedures - The Registrar shall assess the completeness, authenticity, and consistency of the submitted documents, and validate the same against internal records and, where appropriate, available external or public records. The Registrar shall determine whether the QB remains compliant with the eligibility criteria.

In case of discrepancy on submitted documents, the Registrar shall require the QB to provide additional information or clarification within thirty (30) calendar days from notice. If the

requested information was not provided within the said period, the Registrar shall request and require the QB to surrender its Certificate of Registration for cancellation.

- vii. Documentation and Reporting Obligations - The Registrar shall maintain an internal verification database to record the results of each verification activity. The database shall include, at a minimum, the date of verification, whether the QB is compliant with the applicable eligibility criteria, and any recommended actions. This database shall be kept up to date and made available for inspection by the Commission upon request.

39.1.4.3.6. Renewal process for QBs under the authority of the Registrar, which shall at a minimum, include the following:

- i. Notification to the QBs thirty (30) calendar days prior to the expiration date;
- ii. Initiation of the renewal process; and
- iii. Updated supporting documents when there are significant changes to the qualifications of the QB, otherwise, renewed client attestation on its compliance with financial eligibility of a QB.

39.1.4.3.7. Non-renewal process for QBs who intend not to renew its QB status. The Registrar shall require such QBs to surrender their Certificates of Registration for cancellation and recording within thirty (30) calendar days from the date of notification of non-renewal;

39.1.4.3.8. Withdrawal process for QBs who intend to withdraw its QB status prior to the expiration date, which shall include the initiation and requirements of the withdrawal process among others;

39.1.4.3.9. Disqualification or revocation procedures under the authority of the Registrar and the Commission, which shall include the notification to QBs, grounds for disqualification or revocation, such as but not limited to non-compliance with the eligibility requirements set forth under 2015 SRC Rule 10.1.11:

39.1.4.3.10. Procedures for loss or replacement of Certificates of Registration;

39.1.4.3.11. Record-keeping policies, registry maintenance and information security guidelines to ensure that all relevant documents are maintained and accessible for regulatory review;

39.1.4.3.12. Privacy policy and risk mitigation measures to protect QB data against security threats, unauthorized access, as well as policies and procedures on data breaches;

39.1.4.3.13. Complaints handling guidelines outlining the policies and procedures for receiving, recording, evaluating, resolving, monitoring, and reporting QB complaints;

39.1.4.3.14. Internal audit program to regularly assess and ensure compliance with internal procedures, the SRC, and other relevant regulations; and

39.1.4.3.15. Reporting obligations to the Commission and the risk and sanctions for non-compliance by QBs and Registrars under the SRC and these rules.

39.1.4.4. Responsibilities of a Registrar — The duties and responsibilities of a Registrar in relation to applicants for registration and registrants (persons who have been registered as QBs) shall be as follows:

- 39.1.4.4.1. Ensure that the applicants for registration affirm in writing that the information and documents that they have submitted to it pursuant to Rule 39.1.4.5b.1. to b.4. are true and correct;
- 39.1.4.4.2. Inform the applicants that the qualifications prescribed for registration should be maintained during the registration period.
- 39.1.4.4.3. Require the registrants to submit an undertaking that they shall refrain from representing themselves or dealing in securities as qualified buyers if, after their registration, there are circumstances that disqualify them from enjoying that status, such as — diminution of their net worth below the prescribed minimum, or commission of acts that constitute misrepresentation, fraud or deceit under the SRC and its implementing rules and regulations.
- 39.1.4.4.4. Prepare a letter of undertaking for the registrant and cause its signature, which shall state, among others, that the registrant shall comply with the requirements for QB status, and that the registrant acknowledges that the Commission's representatives may examine the documents it submitted to the Registrar upon the Commission's directive to submit the documents for audit, investigation or official inquiry in compliance with other pertinent laws. The registrant should also acknowledge that the Commission will conduct verification procedures to ensure compliance with regulatory requirements.
- 39.1.4.4.5. Assign a QB identification number (QBID) to each QB, which shall comprise the following components, separated by a dash delimiter;
 - i. Three-letter Registrar code approved by the Commission;
 - ii. Three-letter code indicating individual QB (IND) or institutional QB (INS);
 - iii. Two-digit year code corresponding to the date of conferment as QB; and
 - iv. Six alphanumeric characters provided by the Registrar;

The QBID shall be permanent and shall not change upon renewal with the same Issuing Registrar. It shall also not be re-issued to another person or entity, even if the QB status is cancelled, suspended or revoked.
- 39.1.4.4.6. Issue a Certificate of Registration in favor of the registrant who shall acknowledge receipt thereof. The Certificate of Registration shall be valid for three (3)-years from the date of its issuance provided that the prescribed qualifications are maintained, and shall contain the following at a minimum:
 - i. Control number
 - ii. Name of QB and corresponding QBID
 - iii. Validity period
 - iv. Statement that the QB shall comply with and maintain all the qualifications and requirements of applicable securities laws and regulations
 - v. Authorized Signatory (Registrar)
 - vi. Statement that other Authorized Registrars may rely on the issued Certificate of Registration as proof that the holder is a duly registered QB until the stated validity period, subject to confirmation of authenticity and validity with due diligence

vii. Name of Issuing Registrar

- 39.1.4.4.7. Submit electronically to the Commission an attestation confirming the list of clients' continued eligibility as a QB every end of the year.
- 39.1.4.4.8. Inform the applicant that the SEC Information Sheets and the supporting documents may be submitted to the Commission upon the Commission's directive to submit documents for audit, investigation, or official inquiry in compliance with other pertinent laws.
- 39.1.4.4.9. File with the Commission electronically a report using SEC Form 39-Registrar — Annual Report (AR) which shall include the following information: total number of registered qualified institutional and individual buyers; number of registered qualified individual buyers whose registrations have been effective for more than three (3)-years; number of registered qualified institutional and individual buyers whose registrations have been renewed for during the covered year; number of registered qualified institutional and individual buyers whose registrations have expired during the covered year; number of registered qualified institutional and individual buyers that were disqualified during the covered year; number of qualified institutional and individual buyers transacting through reliance on QB Registrations maintained by another Registrar during the covered year, and the number of instances of such reliance, if available; key objectives for the investment being considered as stated in the Information Sheet; status of current portfolio investments; current total portfolio of securities; intended investment horizon; appetite for risk; current net worth; years of experience in trading in securities personally or through a fund manager. This report shall be filed with the Commission not later than thirty (30) calendar days from the end of the covered calendar year.
- 39.1.4.4.10. Report to the Commission any change in the information provided in the Registrar's application forms and other information that may be required under these rules or orders. Such report must be in SEC Form 39 — Registrar-A and must be filed within seven (7) calendar days from such change.

39.1.4.5. Registry Book of Qualified Buyers — A registrar shall maintain and make available for inspection by the Commission's representatives a registry book of QBs, in manual or electronic form, which shall contain a chronological listing of the following information of QBs based on the dates they were qualified and registered:

- 39.1.4.5a.1. The names of the QB and their QBIDs;
- 39.1.4.5a.2. Name and designation of the registrar's personnel who conducted the evaluation;
- 39.1.4.5a.3. Date of evaluation; and
- 39.1.4.5a.4. Other details that the registrar may deem necessary.

The following documents shall also be maintained by the registrar:

- 39.1.4.5b.1. Signed SEC Information Sheet;
- 39.1.4.5b.2. Applicant's signed letter of undertaking;
- 39.1.4.5b.3. Certificates of Registration issued; and
- 39.1.4.5b.4. Supporting documents required by the registrar and submitted by the applicant to prove financial capacity and sophistication.

The supporting documents that may be required in evaluating the applicant's financial capacity and sophistication include the certified true copies of income tax returns, audited financial statements, statements of account and certificates of deposit issued by the applicant's bank, statements of portfolio investments issued by the applicant's securities brokers or investment managers, certificates of employment with statement of income issued by the applicant's employer and other sources of information which are equally objective, reliable and verifiable that may prove financial capacity and sophistication.

If, after verification, a QB is found to be no longer entitled to that status due to intervening events, the Registrar shall note that fact in the registry that such person or entity is no longer a QB and shall report the same to the Commission within five (5) business days from knowledge of the disqualification.

39.1.4.6. Report of List of Qualified Buyers — A Registrar shall submit to the Commission electronically the list of persons on whom it conferred the status of "qualified institutional buyers" and "qualified individual buyers", within seven (7) calendar days from the date of conferment or renewal of said status. The submission shall be made using the SEC Form 39-Registrar-QB and shall include the information stated therein:

- 39.1.4.6.1. The names of the QBs and their QBIDs;
- 39.1.4.6.2. The name and designation of the Registrar's personnel who conducted the evaluation;
- 39.1.4.6.3. Date of evaluation; and
- 39.1.4.6.4. Date of registration as QB.

The Signed SEC Information Sheet, supporting documents required by the Registrar and submitted by the applicant to prove financial capacity and sophistication, and the applicant's signed undertaking which acknowledges that information, shall be submitted to the Commission upon the Commission's directive during the conduct of an audit, investigation, or official inquiry in compliance with other pertinent laws. The applicant should also acknowledge that the Commission will conduct random verification procedures to ensure compliance with regulatory requirements.

39.1.4.7. Central Registry and Inter-Registrar Registry of Qualified Buyers — The Commission shall maintain a Central Registry of QBs based on the SEC Form 39-Registrar-QB reports submitted by the Registrars and shall contain the information enumerated under 39.1.4.6. This shall be kept internally within the Commission.

In addition, an Inter-Registrar Registry, which shall be accessible to Authorized Registrars, shall also be maintained by the Commission and shall contain the QBID, Control Number, Date of Validity, Issuing Registrar, Relying Registrars and the status of the QB whether Active, Disqualified or Expired.

39.1.4.8. Qualified Buyer Registration Reliance - A Registrar shall be allowed to rely on the existing registration of a QB with another Registrar through its Certificate of Registration as QB. This applies to securities transactions of QBs with another Registrar. Requiring additional documents shall be at the discretion of the Registrar and shall be reflected in its Internal Procedures.

- 39.1.4.8.1. Verification of Certificate of Registration - The Relying Registrar shall verify the Certificate of Registration presented by a QB applicant by validating the details against the Inter-Registrar Registry accessible to Authorized Registrars.
- 39.1.4.8.2. Confirmation from Issuing Registrar - If the details submitted by the QB applicant do not correspond with the records in the Inter-Registrar Registry, or if further confirmation is necessary, the Relying Registrar shall send written confirmation to the Issuing

Registrar. The Issuing Registrar shall respond within three (3) business days upon receipt of the written confirmation. All communications must be documented and retained by the Relying Registrar for audit and compliance purposes.

39.1.4.8.3. Notification to the Commission and Issuing Registrar - Within three (3) business days from completing the verification the Relying Registrar shall notify the Commission and the Issuing Registrar of:

- i. The acceptance of the Certificate of Registration of the QB applicant as valid, including the method of verification; or
- ii. The rejection of the Certificate of Registration due to discrepancies, together with the corresponding report of irregularities.

39.1.4.8.4. Record-keeping of Reliance - The Relying Registrar shall maintain a reliance record which shall contain the following:

- i. The method of verification of the Certificate of Registration, such as through Inter-Registrar Registry or Registrar confirmation;
- ii. The name/s of personnel who conducted the verification of Certificate of Registration; and
- iii. The result of the verification of the Certificate of Registration.

39.1.4.8.5. Good Faith Reliance - The Relying Registrar that has duly complied with the foregoing requirements shall not incur liability for relying on the Certificate of Registration issued by another Registrar, unless it is established that the Relying Registrar acted with negligence or in bad faith.

39.1.4.9. Confidentiality of Information

39.1.4.9.1. Information obtained from QBs shall be treated with utmost confidentiality by the Registrar and shall not be disclosed to unauthorized persons.

39.1.4.9.2. All information submitted to the Commission pursuant to the requirements of these provisions, including but not limited to the list of QBs, shall be considered confidential. The Commission shall take all necessary measures to ensure the confidentiality of such information and shall disclose it only as required by law subject to the rules on Confidentiality of Information Filed with the Commission, Sec 66 of the SRC and Rule 66 of the 2015 SRC Rules.

39.1.4.10. Other Records — A Registrar shall maintain and make available for inspection by the Commission's representatives the registrant's application forms, information sheets and proof of qualifications in a consistent format, either physical or electronic, for a period of at least five (5) years from the date of the registrant's submission of final documents. It shall retain the records that relate to an on-going investigation beyond this period until the Commission declares the case closed and terminated.

The Commission may require the Registrar and any QB to furnish it with copies of the records mentioned in the preceding sections or to file reports based on the same records.

39.1.4.11. Review of Registration — The Commission reserves the authority to review the registration of QBs to ensure that the requirements prescribed herein are complied with. The Commission will conduct post-audits and random verification as part of this review process. Non-compliance with any of these requirements shall cause the revocation of the Certificate of Registration of the QB and shall constitute a ground for the imposition of sanctions against the Registrar and the registrant if warranted.

39.1.4.12. Cessation of Function as Registrar

39.1.4.12.1. If a Registrar no longer intend to act as Registrar, it shall electronically submit to the Commission, at least thirty (30) calendar days prior to the intended cessation date the following:

- i. Letter of intent to cease as Registrar of QBs:
- ii. Board Resolution approving the cessation. certified under oath by the corporate secretary and attested to by the president or any person performing a similar function:
- iii. Proposed letter addressed to it, clients and/or other counterparties informing them of the cessation of its functions as Registrar;
- iv. Registrar's Attestation confirming that verification of the continued compliance of all QBs under its registry has been duly conducted prior to cessation together with a list of QBs that underwent such verification.

39.1.4.12.2. The Commission shall evaluate the submission within ten (10) calendar days from receipt of the complete documents. Upon determining its sufficiency, the Commission shall authorize the Registrar to notify its clients and counterparties of its intent to cease its functions, which notification shall be made at least fifteen (15) calendar days prior to the intended cessation date.

39.1.4.12.3. The Registrar shall require QBs to surrender their Certificates of Registration for cancellation for purposes of ensuring that such certificates may no longer be used for reliance by other Registrars. Notwithstanding the cancellation of the Certificates of Registration, the Registrar shall inform its QBs that their assigned QBIDs and Certificates of Registration shall remain valid with respect to the Registrar(s) currently relying on such registration until the expiration of the one (1) year extended validity or up to the validity of their QB registration whichever comes first.

39.1.4.12.4. The Registrar shall likewise inform its QBs without Relying Registrars that their QB status shall no longer be valid upon the effective cessation date.

39.1.4.12.5. The Registrar shall advise its existing QBs, through written or electronic communication, provided they intend to retain existing holdings and/or exempt transactions with other Registrars or otherwise continue engaging in transactions requiring QB status after the expiration of the one (1) year extended validity or up to the validity of their QB registration whichever comes first, to undergo a new application as QB to one (1) of the Authorized Registrars.

39.1.4.12.6. The Registrar shall require QBs to acknowledge receipt of Notice of Cessation and cancellation of their QB status. through electronic or written communication prior to the intended cessation date.

39.1.4.12.7. The Registrar shall submit to the Commission an attestation certified under oath that it has complied with all the foregoing requirements for cessation, that all its QBs have acknowledged the Notice of Cessation, and that it has no pending liabilities and responsibilities to its QBs.

39.1.4.12.8. The cessation shall take effect only upon approval by the Commission, after confirmation that the Registrar has fully complied with the foregoing requirements. The Commission shall issue a Notice of Cessation and likewise inform the Relying Registrars regarding the cessation through electronic communication.

39.1.4.12.9. Upon effectivity of the Registrar cessation, QBs who intend to execute transactions with another Registrar shall undergo a new application, including review, resubmission of documents, and issuance of new QBIDs and Certificates of Registration.

Notwithstanding the cessation of its Registrar functions, an entity shall continue to comply with its record-keeping obligations under these rules.

39.1.5. Rules Governing Credit Rating Agencies

39.1.5.1. Definition

A **credit rating agency (CRA)** means any corporation principally and regularly engaged in the business of performing credit evaluation of corporations and business projects or of debt issues with the intention of assessing the overall creditworthiness or of ascertaining the willingness and ability of the issuer to pay its financial obligations as they fall due, and which assessment is translated by credit ratings periodically and publicly announced.

39.1.5.2. Scope and Limitations

39.1.5.2.1. The accreditation of a CRA does not relieve it from its liabilities and responsibilities.

39.1.5.2.2. The Commission shall not be liable for any liability or loss that may arise from the selection of the said CRA by any issuer.

39.1.5.2.3. The accreditation of a CRA shall continue until suspended or revoked by the Commission after due notice and hearing.

39.1.5.2.4. No person or entity shall, under pain of sanctions under the Code, hold itself out as an accredited credit rating agency or otherwise regulated in providing credit rating services unless it has been accredited by this Commission under these rules.

39.1.5.3. Requirements for Accreditation

39.1.5.3.1. To qualify for accreditation, a credit rating agency shall submit proof of compliance with the following requirements:

- 39.1.5.3.1.1. The CRA must be a stock corporation;
- 39.1.5.3.1.2. It has a paid-up capital of at least Ten Million Pesos (PhP10,000,000.00);
- 39.1.5.3.1.3. It has qualified and independent officers and personnel to conduct the rating activities;
- 39.1.5.3.1.4. It has no conflict of interest with prospective clients;

39.1.5.3.2. The CRA must submit among others, the following supporting documents:

- 39.1.5.3.2.1. List of shareholders and their corporate affiliations;
- 39.1.5.3.2.2. List of other business activities, if any;
- 39.1.5.3.2.3. Copies of the company's Articles of Incorporation and By-Laws;
- 39.1.5.3.2.4. A statement pertaining to ownership structure and possible conflict/s of interest;
- 39.1.5.3.2.5. Names, professional qualification and independence of staff involved in the rating decision ("rating specialists");
- 39.1.5.3.2.6. A written code of conduct which insures the independence of the rating specialists and the rating agency from the issuers it is rating;
- 39.1.5.3.2.7. Disclosure of affiliations, training, assistance or support it receives from international rating agencies, if any;
- 39.1.5.3.2.8. Rating scales, criteria, measurements, symbols and the like, which it has in use;
- 39.1.5.3.2.9. Operating procedures, rating policies, rating criteria and other rationale used in arriving at a rating;

39.1.5.3.2.10. Copy of model written agreement with issuers; and

39.1.5.3.2.11. Manual on Corporate Governance.

An applicant may request confidentiality of the foregoing information except its operating procedures, rating policies and rating criteria.

39.1.5.3.3. All applications for accreditation shall be accompanied by an initial filing fee of Sixty Thousand Pesos (PhP60,000.00) or such amount as the Commission may determine through its Scale of Fees and Charges.

39.1.5.3.4. All accredited credit rating agencies shall ensure that the information set forth in their application form and all documents appended thereto are current, true and correct. Any change in such information shall be filed with the Commission no later than ten (10) business days from the occurrence of such change.

39.1.5.3.5. An annual fee of Twelve Thousand Pesos (PhP12,000.00) or such amount as the Commission may determine, shall be paid yearly at least forty five (45) days prior to the anniversary date of the CRA's accreditation. If such annual fee is not paid, the registration of the CRA shall be suspended until payment is made, provided that if the same is not paid prior to the thirtieth (30th) day after the required payment date, such accreditation shall be automatically terminated and any issuer which has been rated by such rating agency shall be required to obtain a new credit rating within thirty (30) days after notification by such agency of such termination.

39.1.5.4. Operating Requirements¹¹⁵

39.1.5.4.1. Pre-Rating Requirements

39.1.5.4.1.1. A CRA and the entity it proposes to rate must sign a written contract, covering the CRA's obligation to render credit rating services.

This contract will list all CRA obligations included in the provision of credit opinion, the main service. A written contract enables the rated entity to better understand a CRA's deliverables, and is in line with high standards of ethical conduct. A well-drafted contract will avoid any disparity between a CRA and the rated entity regarding the responsibilities and obligations of each party, and will forge a formal legal relationship between the two. In the contract, the obligations of the rated entity for cooperation and provision of updated information to conduct periodic surveillance shall be clearly spelled out and the rights of the rated entity over the use of ratings clearly communicated. Conditions for contract termination, including withdrawal of assigned ratings, shall also be clearly spelled out.

This contract shall also be the underlying legal document for arbitration between a CRA and the entity, shall the need arise. Each CRA shall have a standardized version of such a document for each type of rating, and use it consistently.

39.1.5.4.1.2. A CRA shall not promise, assure, or guarantee a particular rating outcome — either implicitly or explicitly — while soliciting business.

Considering that ratings shall be based on an analytical decision by a rating committee and not the subjective view of an individual, no rating outcome shall be promised or committed either implicitly or explicitly to the rated entity and/or the arranger while soliciting business. No employee with business development responsibility or any other representative of the CRA shall be allowed to promise, assure, or guarantee — either implicitly or explicitly — a particular rating outcome. Any employee who does shall face disciplinary proceedings, including possible dismissal.

CRAs shall provide objective and fair credit opinions for use by debt market investors. The assignment of a rating shall therefore be derived purely from independent and unbiased views based on the determinants of credit quality and not on any assurance or guarantee given beforehand.

¹¹⁵ The following best practices as provided in Asian Development Bank's Handbook on International Best Practices in Credit Rating (2008) are hereby adopted as part of this Rule and must be observed by a credit rating agency accredited by the Commission.

39.1.5.4.1.3. Rating definitions, policy for use, and rating criteria shall be explained to the rated entity before rating services are engaged.

A CRA shall explain to an entity that is being rated the scope and use of the ratings, as well as the broad credit assessment framework followed. This shall be done before or at the time the CRA is engaged to enable the entity to make an informed decision about that engagement. This shall be communicated using standard presentations, brochures, and other materials, and disclosed on the CRA's website to minimize misinterpretation.

A CRA shall clearly communicate the rating definition and the rating scale. It shall also make clear that the ratings do not constitute recommendations to buy, hold, or sell any security, and shall inform the entity how to use the rating. Policies for use of ratings, conditions for withdrawal, and possible circumstances for rating actions shall also be clearly communicated.

39.1.5.4.1.4. The basic policies, practices, and methodologies used for assignment of ratings shall be published and freely available in print and on the website.

Each CRA shall make a well-defined rating policy and rating methodology freely available to entities being rated, investors, market intermediaries, regulators, and other interested parties. Such disclosure shall help develop — among investors and issuers — an understanding of the credit risk assessment framework and related policies and practices.

A CRA's policy for assigning, revising, and withdrawing ratings shall be clearly outlined and made public. The validity of the rating shall be stated up front. A CRA shall institute a policy of not withdrawing any rating until the instrument that is rated has been redeemed in full; this shall allow the agency to fulfill its role of communicating the credit quality of the rated instrument at all times to investors.

No ratings shall be withdrawn until redemption of a rated instrument except when the CRA requests the Commission to withdraw ratings and the same is approved due to local market conditions and CRA's publication of a notice to the market about the withdrawal, the reason for it, and the rating outstanding on the instrument as of the date prior to withdrawal. Depending on the reason of withdrawal, the Commission may require the CRA keep its rating on "notice of withdrawal" for some pre-specified period, and withdraw the rating once this period has expired. Accredited CRAs shall publish their withdrawal policies and ensure strict compliance with disclosed policies.

39.1.5.4.1.5. Adequate resources shall be made available.

A CRA must devote sufficient resources to ensure the high analytical quality of all its credit risk assessments. These resources shall include personnel with adequate skills, and facilities such as access to required information and tools and software to analyze information. Moreover, a CRA shall invest regularly in personnel training.

A CRA shall allocate financial resources for business development functions, outreach activities, and surveillance processes.

In addition to its initial capital stock, a CRA shall build up its resources by increasing its paid-up capital to at least PhP15 Million after three (3)-years reckoned from date of its accreditation or from the effectivity of this Rule for those already accredited. After said period, the Commission may prescribe additional capital taking into account the volume of rating activities of the accredited CRA.

39.1.5.4.1.6. The organizational structure and design of the rating process shall ensure that rating decisions are not influenced by rating fees, any other revenues or business potential from the rated entity, or the consequences of a rating action.

The rating process must ensure that the final rating assigned is not influenced by the amount of rating fees received from the rated entity. A CRA shall publicly disclose its broad fee structure, including the minimum and maximum rating fees charged for any issue or issuer.

Personnel with business development responsibility shall be separate from those with analytical responsibility to ensure that business pressures do not influence ratings assigned. Compensation of CRA's rating analysts shall be independent of rating fees and the final rating assigned. Analytical staff and rating committee members shall not know the rating fee charged for the specific issues that they rate.

The business relationship of an entity with a CRA shall in no way influence the process of assigning a rating to that entity or any of its group entities. Business relationships should be kept completely isolated from the analytical process. All CRAs shall remove employees with business development responsibility from the analytical process to prevent influence of the business development viewpoint on the credit risk assessment.

If complete segregation of responsibilities between business development and analytical process is not doable considering the size and structure of the company, sufficient measures shall be established to eliminate or reduce the threat of influence of fees over the process of assigning ratings. These measures shall be clearly provided in the CRA's manual of operation.

39.1.5.4.2. Rating Definitions and Recognition of Default

39.1.5.4.2.1. A CRA should disclose whether its ratings indicate the probability of default on the rated instrument, issuer, or expected loss (which factors in recoveries post-default).

Ratings shall indicate either probability of default or expected loss. A CRA shall adopt the probability of default approach for ease of operation and due to the lack of data and experience in assessing recoveries after default in most economies in the region. The rating communication and all communications in relation to rating symbols shall clearly state what the particular rating indicates.

39.1.5.4.2.2. A missed payment on a debt obligation on a due date or after a pre-specified grace period (if any) shall constitute default.

A CRA shall adopt a consistent and uniform default definition. Such definition of default shall be rigorous and transparent to make a CRA's ratings more meaningful and accurate. It shall be clearly articulated and strictly applied.

Considering that CRAs accredited by the Commission cater primarily to bond market investors, a missed payment on a debt obligation as on a due date or after a pre-specified grace period (if any) shall constitute default. The filing of bankruptcy before any missed payment on debt obligations, and involuntary rescheduling of debt obligations that is harmful to investor interest (such as lower coupon, extension of maturity, and interest waiver), shall also be considered a default.

A CRA shall adhere to its disclosed definition of default without exception, ensuring easier recognition of default. Such a definition shall not include any subjective grace period, and the resulting default statistics shall therefore not be influenced by any subjective factors and may be used by investors as an important input for credit pricing and provisioning requirements.

In case a CRA adopts a default definition that is divergent from the above requirement, such a divergence shall be disclosed and highlighted in all CRA communications relating to default. The CRA shall also provide the rationale for adopting a particular default definition; ensuring that investors are clear about the ideology behind the rating.

Irrespective of whether a CRA adopts an expected loss or probability of default approach for the assessment of credit quality, it shall adhere strictly to its objective default definition and ensure that default statistics are computed and published based on this definition.

39.1.5.4.2.3. Policies and Processes for Ratings

39.1.5.4.2.3.1. The CRA's operations manual shall have robust rating policies and methodologies and shall be consistently applied across ratings.

The credit rating process shall detail the various steps and activities involved in assigning a credit rating, starting from the signing of the rating agreement, to the assignment of the rating and subsequent actions such as rating dissemination and surveillance. Every CRA shall have an operations manual that provides step-by-step Rule for rating analysts to conduct rating assignments and that formalizes the rating process. Each step in the process shall also adhere to a strict timeline. Since lack of cooperation from the issuer can delay assignment execution, barring such exceptions, all CRAs shall adopt well- defined timelines for completion of each rating assignment.

A CRA shall strictly adhere to timelines not only for new ratings, but also for subsequent rating actions. However, a CRA shall not compromise analytical quality to arrive at quick rating decisions. A CRA shall publicize the approximate timeline of the rating process to set market expectations. It shall ensure transparent dissemination of information about rating policies and methodologies. It shall endeavor to increase awareness by users about its rating process, policies, and methodologies.

39.1.5.4.2.3.2. A CRA should have well-defined and updated credit rating criteria, which are uniformly applicable across companies.

Every CRA shall refine its criteria and benchmarks proactively, taking into account changes in the market environment. Robust criteria assist in accurate assessment of credit risk for an entity. Ratings are subjective credit opinions based on various qualitative and quantitative factors; the robustness of ratings can be preserved only through consistent application of updated rating criteria.

Besides developing criteria for in-house use, CRAs shall publicize a broad criteria framework. They shall ensure consistent application of criteria for easier comparison of ratings and meaningful default and transition statistics.

39.1.5.4.2.3.3. A CRA shall have a well-planned training program for all its employees.

A CRA shall target each year a minimum number of training days for all employees and centrally monitor them to ensure programs are fully implemented. CRAs shall ensure training programs are given high priority at all times. To ensure adequate funding, a CRA shall allocate a separate budget for training programs, monitoring it strictly for any underuse.

39.1.5.4.2.3.4. For interactive ratings, the rating process shall include a detailed meeting with the management of the issuer to gain a better perspective of the rated entity.

Open dialogue between a CRA and an issuer shall be made to gain deeper insight into the issuer's governance, policies, and corporate strategy. It shall help the analyst to understand factors such as financial and business plans and management policies, which can have a critical bearing on the rating. It shall likewise provide a forum for analysts to arrive at a qualitative assessment of management competence.

Although the issues discussed in a management meeting can vary, key issues shall be listed for such management meetings to gain maximum advantage.

Insights that can emerge from management meetings for rating assignments in manufacturing and services sector include: the status and prospects of the issuer's industry; the issuer's financial policies and objectives, the reasoning behind them, and its plans for achieving them; a broad overview of the issuer's major business segments, and comparisons with competitors; and, an issuer's capital expenditure plans and alternative financing options, both in its own right and as a means of assessing the management's risk appetite.

Although a CRA shall not be influenced by the financial projections of the issuer or the issuer's view of its prospects, these projections shall be considered as valuable tool in the rating process because they serve as a fair indicator of: management plans; management's assessment of possible challenges; and its planned solutions to deal with such problems.

39.1.5.4.2.3.5. Policy relating to active dependence on third parties.

While executing rating assignments, analysts often rely on third-party certifications, such as the auditor's report on annual accounts, along with reports and representations from bankers, solicitors, valuers, actuaries, and other professionals. Each CRA shall adopt a uniform and consistent policy on the degree of reliance it will place on such third-party information and certification. This aspect shall be disclosed in the rating rationale to highlight the role clarity plays between a CRA and such third parties.

39.1.5.4.2.3.6. Rating analysts should be competent to perform their tasks.

A CRA's rating analysts shall have the necessary skills to perform their tasks and are well-versed in risk assessment methods. A CRA shall not employ any analyst with a tainted reputation as it can impact credibility. It shall disclose the name of the analyst in its rating rationale, along with a declaration of any interests (such as shareholding) that the analyst may have in the rated entity.

39.1.5.4.2.3.7. Formal rating committees shall decide ratings.

The existence of the rating committee as the final decision-making body shall be considered by a CRA as one of most important safeguards for the independence of rating decisions. All rating decisions shall be made by a duly constituted committee(s). The rating committee must comprise of members who have the professional competence to assess credits and have no interest in the entities being rated. The Chairman and Senior Members of the committee shall have extensive experience in relevant areas in the domestic financial markets; global exposure will also help. The other members of the committee are expected to have sufficient background on said areas.

The rating committee may also include outside experts provided they fully adhere to a CRA's code of ethical conduct and sign a confidentiality agreement.

The name and personal credentials of the permanent rating committee members shall be published on the CRA's website.

The rating committee shall be responsible in taking final decision on assignment of ratings to ensure objectivity. Such decision shall be the result of a collective thinking of a group of experts analyzing the risks pertaining to the particular entity. Analysts shall prepare a written credit analysis report for the deliberation of the rating committee. A credit rating shall be valid for a period decided by the rating committee. The proceedings of the rating committee shall be minuted and maintained for future reference.

Although voting rights in rating committee decisions shall be limited only to members of the committee and the analytical team, discussions during the committee shall be open to all CRA analytical personnel to ensure knowledge and committee insights are widely disseminated within the organization and rating decisions are transparent. To keep the rating independent of any issuer influence, members with business development responsibilities shall not have voting rights in the rating committee.

To avoid any bias from rating committee members and enhance rating committee integrity and credibility, the rating decision shall be based on voting by a minimum of three members.

39.1.5.4.2.3.8. A credit rating announcement shall be accompanied by a report giving the principal reasons for the rating.

A credit rating shall be an informed opinion resulting from in-depth analysis of various credit rating factors. The opinion shall take into account information obtained from the issuer and secondary sources and CRA's in-house experts, which should be assessed within clearly spelled out rating criteria. Each rating therefore has to be accompanied by a rating report that details the above.

A credit rating report shall discuss the basis of a CRA's rating decision. With every rating action accompanied by such a report, it shall also reflect the quality and consistency of analysis. The report shall highlight the key factors affecting the rating and provide forward-looking opinions on these factors. Because such a report is the only public

document available to the investor, it shall represent the highest standards of quality in content, accuracy, and timeliness.

Each CRA shall create and maintain a website for investors, issuers, and other stakeholders, and make credit rating reports available there, either free of charge or at a nominal fee. A credit rating and the rating report shall be current and updated to reflect credit quality at any given point of time.

39.1.5.4.2.3.9. The rating committee's decisions shall be subject to a clearly described review or appeal process.

In the event that the issuer disagrees with the initial rating, and has additional information that it believes can make a material difference to its rating, the issuer shall have recourse to an appeal process. A CRA shall clearly articulate this process in public and include it in the written rating agreement between the rated entity and the CRA.

Upon receiving valid information, the rating committee shall discuss the merits of the case and may or may not decide to modify the rating. Each CRA shall have a clearly-articulated and well-defined appeal process because appeals may bring about new or fresh perspectives with bearing on the rating. This shall ensure that rating committee decisions are robust, accurate, and fair. While an appeal process is critical for the initial rating, a CRA shall ensure that such an appeal process is not misused by the issuer to delay a rating action in the case of rating reviews, especially rating downgrades.

The committee that decides the appeal shall have at least one member who did not participate in the original rating to bring in a fresh perspective.

39.1.5.4.2.3.10. All rating actions shall be announced promptly, and a list of outstanding ratings made freely available on a CRA's website.

After the issuer accepts the rating, its dissemination shall not be delayed. Acceptance from the issuer may be needed when the rating is assigned the first time; but no further acceptance is needed for subsequent rating actions. A CRA shall formulate a time-to-release procedure to be followed after the initial rating acceptance. Similarly, a time-to-release procedure has to be put in place for revisions of ratings that are already public.

There shall be strict timelines for communicating the rating to the issuer, receiving acceptance, and preparing the media release and release of the rating. This assumes particular significance when bond markets become more liquid and rating information may affect trading prices. A 5-day time frame shall be adopted for the entire cycle. A CRA shall have a well-defined internal policy for public dissemination of rating information.

When ratings are changed, delay by the issuer in responding shall not hinder a CRA from publicizing the revised rating.

39.1.5.4.2.3.11. Every rating shall be kept under surveillance until it is withdrawn.

A credit rating on an instrument must reflect credit quality throughout the period when the rating is outstanding. It is a CRA's responsibility to ensure this objective is met. To this end, after the initial rating has been assigned, the issuer's performance and economic environment must be constantly monitored by the CRA.

Steps in the rating surveillance process shall include:

- 39.1.5.4.2.3.11.1.** Communicating with the entity at regular intervals to understand developments and trends in performance to help analysts compare company performance against their own and the company's expectations, as well as against peers;
- 39.1.5.4.2.3.11.2.** Checking the status of issues that may affect the entity's credit quality (such as an initial public offering), exploring

the probability of such issues arising in the near future, and assessing the management's perspective on such issues;

39.1.5.4.2.3.11.3. Discussing financial performance with the entity on the declaration of interim financial results; and

39.1.5.4.2.3.11.4. Understanding strategic plans or new initiatives that could have rating implications.

Surveillance shall also enable analysts to stay abreast of current developments, to discuss potential problem areas, be apprised of any changes in the issuer's plans, and to distinguish between realistic and over-optimistic management expectations.

39.1.5.4.2.3.12. A CRA shall conduct formal reviews involving meetings with issuers.

A CRA shall adopt a formal policy of conducting continuous and periodic reviews. It shall keep all rated credits under continuous surveillance until withdrawal of ratings. However, a CRA can also choose to conduct periodic surveillance. Such a policy shall ensure that every rated credit is tracked at least annually and the rating on such a credit continues to reflect the inherent credit quality.

For such a review to be effective, it shall include meetings with the management. Such review meetings shall focus on critical developments over the period since the last meeting and the outlook for the coming year. In between such annual reviews, a CRA shall also assess an entity's interim financial performance.

39.1.5.4.2.3.12.1. The broad outline of these reviews could involve:

39.1.5.4.2.3.12.1.1. Tracing the effects of various developments in the business;

39.1.5.4.2.3.12.1.2. Addressing any concerns on governance; and

39.1.5.4.2.3.12.1.3. Analyzing the impact of any change in management policy or stance.

In addition, immediate rating reviews shall be undertaken whenever any event or development takes place (such as an acquisition or merger) that may affect the credit quality of the rated entity or instrument. Such immediate reviews may be mostly event-driven and be performed as the need arises.

39.1.5.4.2.3.12.2. Possible causes for such a review include:

39.1.5.4.2.3.12.2.1. Significant changes in top management;

39.1.5.4.2.3.12.2.2. Significant corporate action such as merger, acquisition, equity offering, or buyback;

39.1.5.4.2.3.12.2.3. Significant differences between actual and projected performance;

39.1.5.4.2.3.12.2.4. New developments in the industry; and

39.1.5.4.2.3.12.2.5. Changes in applicable criteria.

At times, the issuer may not provide sufficient information for surveillance. If so, the CRA wherever possible, shall conduct surveillance on a best-effort basis and all rating communications shall prominently disclose this fact. But if a CRA feels constrained in its rating view, even on a best-effort basis, it can suspend the rating until such time that the issuer furnishes information. This suspension shall be made public.

The requirement of ensuring periodic surveillance until the rating withdrawal and the publication of surveillance reports signals to the market that the rating is current and accurate, and can be relied upon for investment decisions.

39.1.5.4.2.3.13. If a rating is assigned to a related entity this shall be adequately disclosed in all rating communication.

If a rating is assigned to an entity in which any member of a CRA's board or senior management has a direct or indirect interest or involvement, such a person shall be excluded from voting on the rating, even if he or she is part of the rating committee. The relevant details about the involvement shall also be adequately disclosed in every rating communication. This is to avoid any possible influences or biases and to signal that the rating has been arrived at through an unbiased process.

39.1.5.4.2.3.14. Maintenance of records.

A CRA shall maintain all records pertaining to a rating exercise for a reasonable period of time, or as warranted by regulations. Such records have to be maintained for all ratings, including unaccepted ones. Maintenance of records of the rating assignments and the related working papers shall be visible proof that the CRA exercised abundant caution and requisite due diligence.

39.1.5.4.2.3.15. Rating disclaimers.

A CRA shall provide sufficient explanation to users of ratings that these are forward-looking assessments and provide a broad sense of an issuer's expected performance, and therefore, shall not be used as an absolute indicator. A CRA must make the users aware that ratings are not the last word on a company's track record or its future performance. A CRA shall accompany its ratings with sufficient description of the meaning and limitations of ratings. Such descriptions, by way of disclaimers, shall specifically refer to what factors ratings do not address and the proper perspective for looking at ratings.

39.1.5.4.2.3.16. A CRA shall have separate functional groups, each having specific responsibilities in the rating process.

Separate functional groups shall be formed within a CRA to ensure that the execution and follow-through of the rating assignment is smooth and efficient. The following groups shall be established:

- 39.1.5.4.2.3.16.1. Business development group.** Responsible for obtaining mandates from prospective entities, this group shall handle all business communication and finalize the commercial terms of the rating assignment. A CRA's business development group shall be separated from its analytical group.
- 39.1.5.4.2.3.16.2. Analytical group.** This group handles all analytical responsibilities for a rating assignment and for assessing credit risk for the relevant entity. It shall not be involved in any commercial discussions with the entity. This group shall be responsible for the rating process from receipt of written consent for a rating until the time the rating is made public. It shall also be responsible for surveillance and review of ratings.
- 39.1.5.4.2.3.16.3. Rating administration.** The existence of a separate functional group for the administration of the rating process will ensure it is followed, and that timelines are strictly respected. This group shall look after the progress of a rating assignment from the initiation stage until the dissemination of the final rating to the public. This group shall also maintain a list of all outstanding ratings and proper documentation to support credit opinions, and shall handle external dissemination of ratings and rating reports.
- 39.1.5.4.2.3.16.4. Criteria group.** This group shall be responsible for formulating, maintaining, and refining the criteria framework under which the various types of issuance will be rated. This group will ensure, before implementation

that any new criteria proposed are thoroughly discussed from both an analytical and market impact perspective.

These functional groups, although separate, shall be collectively responsible for the successful implementation of the rating process. They should help a CRA build up a substantial base of information on its ratings, present a transparent approach to the financial markets, and help the CRA if it is subjected to regulatory inspection.

If the setting up of functional groups is not practicable due to the size and structure of the CRA, sufficient alternative procedures shall be established to ensure that the execution and follow-through of the rating assignment is smooth and efficient. These procedures shall be clearly provided in the CRA's manual of operation.

39.1.5.4.2.4. Confidentiality Requirements

39.1.5.4.2.4.1. All information submitted by a related entity or an issuer in connection with a credit rating assignment shall be presumed confidential and shall be kept so at all times.

The information provided by the company may be highly sensitive and confidential and may be provided by the issuer to a CRA only for the purpose of arriving at the ratings. Every CRA must maintain such information in strict confidence and cannot use it for any purpose other than rating. When the assigned rating is made public, the CRA shall ensure that the rating report accompanying the rating and the other information about the entity present in the report shall not breach this confidentiality. Contact with bankers, auditors, and others — if made as part of rating process — shall be with the ratee's consent.

Every CRA must have a confidentiality policy to ensure that the confidential information shared by the issuer is not disclosed outside of the ratings business. The fact that an issuer has sought a rating is in itself confidential information, and is to be made public only when an accepted initial rating is released. In case the initial rating is not accepted, the assignment shall remain confidential and shall be disclosed only to regulatory or government organizations (if required). However, in all such cases, the ratee shall be informed in advance about the disclosure.

39.1.5.4.2.4.2. The confidentiality requirement must be binding on all company officers and employees who have or may have access to such confidential information, and acknowledged in writing.

Confidentiality of information is of paramount importance to a CRA, and relevant measures and processes must be in place in the organizational structure to maintain confidentiality of such information at all points in time. All employees who may have access to such confidential information must, without exception, acknowledge compliance with the code of confidentiality in writing. Such an affirmation by way of self-certification shall be obtained from the employees on a periodic basis as a legally binding undertaking, and shall be enforced even after termination of employment or association with the CRA.

39.1.5.4.2.4.3. Members of the board of directors shall not have access to confidential information submitted by the rated entity unless a director is a member of the rating committee.

To ensure that confidentiality is not breached, there shall be a policy in a CRA that even members of the CRA board of directors will not have privileged access to a ratee's confidential information, unless they are part of the rating committee.

39.1.5.4.2.4.4. Confidentiality of information is a contractual obligation and shall be formally documented in the agreement to perform credit rating services.

Confidentiality of information shall be part of the contractual obligations of a CRA and documented in rating agreements.

39.1.5.4.2.5. Independence and Avoidance of Conflicts of Interest

To manage conflicts of interest and communicate proactively to the market, a CRA must have a clearly articulated policy and a public stance on the conflicts of interest that it may face and the efforts that the management will take to control them. This policy should cover the following:

- 39.1.5.4.2.5.1.** A CRA shall not refrain from taking a rating action because of the potential effect of the action on the CRA, an issuer, an investor, or other market participant.
- 39.1.5.4.2.5.2.** The determination of a credit rating shall be influenced only by factors relevant to the credit assessment.
- 39.1.5.4.2.5.3.** A CRA shall adopt a definition of what constitutes a conflict of interest, publish it, and all company officers and employees shall avoid such conflicts. Clarity on conflicts of interest will help ensure rating decisions are without bias and personal influence.
- 39.1.5.4.2.5.4.** CRA disclosures of actual and potential conflicts of interest shall be complete, clear, and prominent.
- 39.1.5.4.2.5.5.** Rules for avoiding conflicts of interest shall be applied to all employees who participate directly or indirectly in the credit rating process, particularly to analyst and rating committee members. The board of directors, upon election, shall affirm its adherence to the CRA's code of conduct.
- 39.1.5.4.2.5.6.** Any potential conflicts of interest from any member of the rating team must be declared before participating in a credit rating engagement. Where a conflict of interest exists as defined by company policy and rules, the employee concerned shall refrain from participating in the rating assignment and rating committee proceedings.
- 39.1.5.4.2.5.7.** In order to maintain analysts' neutrality and to prevent employees from making gain through misuse of confidential information, a CRA shall adopt a trading and investment declaration policy. This could categorize possible investment avenues into classes: acceptable, acceptable with prior permission, and unacceptable. The securities that fall into each of these categories shall be based on an articulated policy that is well disseminated within the organization.
- 39.1.5.4.2.5.8.** Ratings assigned by a CRA to an issuer or issue shall not be affected by the existence of, or potential for, a business relationship between the CRA and the issuer (or its affiliates) or any other party, or the absence of such a relationship.
- 39.1.5.4.2.5.9.** In instances where rated entities (for example, governments) have, or are simultaneously pursuing oversight functions related to a CRA, the CRA shall deploy different employees (than those involved in oversight issues) to conduct its rating exercise.
- 39.1.5.4.2.5.10.** No CRA employee shall participate in or otherwise influence the determination of a rating of any particular entity or obligation if the employee:
 - 39.1.5.4.2.5.10.1.** Has had recent employment or another significant business relationship with the rated entity that may cause or be perceived as causing a conflict of interest;
 - 39.1.5.4.2.5.10.2.** Has an immediate relation (such as a spouse, partner, parent, child, or sibling) currently working for the rated entity; or

39.1.5.4.2.5.10.3. Has or had, any other relationship with the rated entity or any related entity thereof that may cause or may be perceived as causing a conflict of interest.

39.1.5.4.2.5.11. All CRA employees shall be prohibited from soliciting money, gifts, or favors from anyone with whom the CRA does business and shall be prohibited from accepting gifts in cash or gifts exceeding minimal monetary value as specified by the CRA.

39.1.5.4.2.5.12. A CRA shall periodically and publicly disclose its ownership pattern, including the details of promoters and other shareholders along with the extent of their shareholding. A CRA shall also clearly and unequivocally disclose affiliations and technical partnerships it has with any international rating agency.

39.1.5.4.2.5.13. A CRA analyst who becomes involved in a personal relationship, creating the potential for real or apparent conflict of interest, shall be required to disclose that relationship to the appropriate manager or officer of the CRA, as determined by CRA compliance policies.

39.1.5.4.2.5.14. CRA employees shall take all reasonable measures to protect all property and records belonging to or in possession of the CRA from fraud, theft, or misuse.

39.1.5.4.2.5.15. A CRA or its employees shall not selectively disclose non-public information about its rating opinions or possible future rating actions, except to the issuer or its designated agents.

39.1.5.4.2.5.16. CRA employees shall not share confidential information entrusted to the CRA with employees of affiliated entities.

39.1.5.4.2.5.17. A CRA shall ensure that compensation for analytical personnel is not linked to revenues earned from the ratings that are executed by the analyst's concerned. This will nurture a neutral analytical atmosphere which revenues earned on the assignment will not influence ratings.

39.1.5.4.2.5.18. A CRA shall disclose whether any issuer, originator, arranger, subscriber, or other client and its affiliates make up more than 10% of total CRA revenue.

39.1.5.4.2.5.19. Each CRA shall adopt a formal policy of disclosure when it rates securities issued by its promoter. The policy in such cases shall ensure that adequate disclosure of the shareholding is made in all rating communications so the market is aware of the potential conflict of interest.

39.1.5.4.2.5.20. A CRA shall establish policies and procedures for reviewing the past work of analysts that leave the employ of the CRA and join an issuer.

39.1.5.4.2.5.21. A CRA shall periodically review analyst remuneration policies to ensure they do not compromise the objectivity of the rating process.

39.1.5.4.2.5.22. A CRA shall define what is considered ancillary business and reasons for the same.

39.1.5.4.2.6. Policies for Private, Unsolicited, and Unaccepted Ratings

39.1.5.4.2.6.1. Private ratings. A CRA may be requested, either by issuers or by third parties, to assign private ratings. In such cases, the CRA shall not publicly disclose the ratings. To formalize this, and to ensure that the facility is not misused, a CRA shall adopt a specific policy of complete confidentiality in such cases. The policy shall clearly

articulate the non-publication and non- dissemination of the private rating. At the same time, because the rating is private, no specific public debt may be raised using the private rating because the CRA will not be able to disclose any subsequent change in credit quality through public release.

39.1.5.4.2.6.2. Unsolicited ratings.

Unsolicited ratings are those that the rated entity does not consent to or participate in. Wherever a CRA assigns unsolicited ratings, it shall distinguish them—using some sort of notation—from interactive ratings. A clear distinguishing prefix or suffix (such as "pi" to denote public information rating) will help the user make an informed judgment about using the rating.

A CRA that assigns unsolicited ratings that are not directly revenue generating shall have adequate justification for doing so. More specifically, a CRA shall not resort to conservative unsolicited ratings as a way of coercing issuers to obtain higher interactive ratings for which they will need to pay. A minimum of 2 years between initiating coverage through an unsolicited rating and the first interactive rating of the same issuer shall be observed.

39.1.5.4.2.6.3. Unaccepted ratings.

Initially, in an interactive rating, the issuer will normally be given the choice of accepting or not accepting the rating. In such cases, it is prohibited to disclose the rating without obtaining written consent. But once the rating is accepted for the first time, a CRA shall not seek acceptance before publicizing changes in the rating.

A CRA shall have a published policy regarding the non-disclosure of unaccepted ratings. Where the rating is interactive and the rated entity has not accepted the initially assigned rating, the information pertaining to the entity shall be held in the strictest confidence and shall not be disclosed in CRA rating lists. Such unaccepted ratings may only be shared with regulators or a court of law, upon specific request to provide such information.

39.1.5.4.2.7. General Code of Conduct

39.1.5.4.2.7.1. A CRA shall adopt its own code of ethical conduct applicable to all employees and board members.

A CRA shall adopt a code of conduct, drafted and modified as per CRA requirements and scope of operations. This code, with assurance of rigorous compliance, shall be published on the CRA's website.

39.1.5.4.2.7.2. A CRA shall formally adopt the IOSCO Code of Conduct and the prescribed code of conduct

To the extent that current legislation, policy, regulatory arrangements, or prevalent market practices may impede adherence to these principles, a CRA shall strive to make appropriate changes. There is often no single correct approach to such changes, and they shall reflect local market conditions and historical development. Wherever these principles cannot be adopted in *verbatim* due to specific market conditions or existing practices, a CRA shall highlight the extent of non- adoption along with specific reasons for such deviation.

39.1.5.4.2.7.3. The chief executive officer or president and all other employees of the company will be required to affirm in writing their compliance with the company's code of ethical conduct.

An affirmation must be obtained from all employees, legally binding them to the company's code of ethical conduct. All CRA employees must ensure strict adherence.

CRAs shall also undertake outreach initiatives such as discussion forums for investors, conference calls after major rating actions to provide additional clarity to investors, periodic publication of criteria, frequently asked questions, analytical opinion pieces, and research articles. These measures can enhance CRA credibility among investors, issuers, and regulators.

39.1.5.4.2.8. Compliance with Policies and Processes

39.1.5.4.2.8.1. Process audit. Each CRA shall set up rigorous audit checkpoints to ensure adopted best practices, policies, and procedures are carried out. Such checkpoints must be manned by independent professionals with extensive knowledge and experience in credit ratings. Such an audit group must be headed by a senior professional who reports directly to the chief rating officer or to an equivalent position.

The audit group shall provide feedback to operating groups such that any corrective action can be taken on a periodic basis.

If the setting up of an internal audit group is not practicable due to the size and structure of the CRA, sufficient alternative mechanism shall be established to determine whether adopted best practices, policies, and procedures are carried out. These procedures shall be clearly provided in the CRA's manual of operation.

39.1.5.4.2.8.2. Compliance officer. A CRA must have an officer to ensure compliance with all code of conduct provisions. The compliance officer shall report to the CRA board or chief executive officer or president. This officer shall continuously monitor for violations of the code by any employee and be expected to prepare and submit regular status reports on compliance with CRA regulations and the code of ethical conduct.

39.1.5.4.2.8.3. Whistle-blower policy. A CRA must have detailed whistle-blower policies encouraging all employees to report (with complete confidentiality) any unethical practice or grave misconduct to a designated authority. All reported events shall be taken seriously and investigated promptly. The investigation report shall be submitted within a stipulated time frame (as specified by the CRA) from the receipt of the complaint. There shall be provisions to prevent discrimination, retaliation, or harassment against any whistle-blower or participant in the investigation process.

39.1.5.4.2.9. Education Campaign

A CRA shall publish articulate reports on matters of industry-wide importance with the broad objective of educating and enhancing the depth of the markets in which it operates. Ratings consistency studies, financial comparative studies such as median analysis, and other data-mining studies can be pursued and possibly made into regular featured publications.

39.1.5.4.2.10. Reportorial Obligations

39.1.5.4.2.10.1. A copy of the Credit Rating Report (CRR) shall be furnished to the Commission through the Office of the General Accountant, simultaneous to its submission to the issuer-ratee. A CRR shall be in two (2) formats, notice form and long-form report.

39.1.5.4.2.10.1.1. The notice form of CRR shall be used for public announcement of the rating and it shall indicate the highlight of the factors considered for the rating.

39.1.5.4.2.10.1.2. The long- form CRR shall provide a discussion of all the basis underlying the factors considered including the source documents relied upon. It shall likewise contain the information prescribed under SRC Rule 39.1.5.4 of these Guidelines.

39.1.5.4.2.10.1.3. Both forms shall be signed by an authorized officer of the CRA who shall likewise indicate his consent on the use of such report for evaluation and documentation as part of the registration statement of the issuer- ratee.

39.1.5.4.2.10.2. In addition to the annual financial statements and general information sheet, a credit rating agency accredited by the Commission must submit the following documents within ninety (90) days from the end of its fiscal year:

39.1.5.4.2.10.2.1. A report on the rating activities conducted during the most recently completed fiscal year. It shall include the name of the rates, issue, ratings given, and other relevant information;

39.1.5.4.2.10.2.2. A duly accomplished scorecard indicating its compliance with each of the best practices required under SRC Rule 39.1.5.4 of this Rule.

39.1.5.4.2.10.3. In relation to the requirements under SRC Rule 39.1.5.4.2.3.12, a change in credit rating as a result of a review by the CRA or a failure to access information from the issuer shall trigger the mandatory submission to the Commission by the CRA of a report disclosing the matter within five (5) business days from the date of change or from the date of denial by the issuer to provide sufficient information.

39.1.6. Fees and Charges of SROs and other Securities Related Organizations

Unless the rates of fees and charges are provided by law, the Commission shall have the authority to review approve or discontinue fees imposed by SROs and other securities- related organizations on their clients and investors.

SROs and other securities-related organizations shall disclose to their prospective clients and investors their schedule of fees and charges as approved by the Commission.

RULE 40.1 - Approval of Registration of Self-Regulatory Organizations

Upon the filing of an application for registration as an Exchange under Section 33, a registered securities association under Section 39 of the Code, a registered clearing agency under Section 42 of the Code, or other self-regulatory organization under this Section, the Commission shall have ninety (90) days within which to either grant registration or institute a proceeding to determine whether registration should be denied. In the event proceedings are instituted, the Commission shall have two hundred seventy (270) days within which to conclude such proceedings at which time it shall, by order, grant or deny such registration.

RULE 40.2 - Compliance of Self-Regulatory Organizations with the Code

Every self-regulatory organization shall comply with the provisions of the Code, the rules and regulations thereunder, and its own rules, and enforce compliance therewith, notwithstanding any provision of the Corporation Code to the contrary, by its members, persons associated with its members or its participants.

RULE 40.3 - Commission Review Procedures

40.3.1. An SRO shall submit to the Commission for prior approval any proposed rule or amendment thereto (hereinafter collectively referred to as "proposal"), together with a concise statement of the reason and effect of the proposal. If the Commission believes that such proposal is of major significance, at least thirty (30) days before approving such proposal, the Commission shall direct the SRO to publish the text of the proposal and a statement of the reasons and effect in a newspaper of general circulation and/or by some other means to guarantee the public circulation thereof, and shall afford interested persons an opportunity to submit written data, views and arguments; Provided that, the comment period shall not exceed a period of twenty (20) days. The SRO shall file with the Commission a written summary of the comments received, along with responses thereto, no later than thirty (30) days after the end of the comment period. Where the comments cause the SRO proposal to be changed in a material manner, a new review period shall be triggered.

40.3.2. Except as provided in SRC Rule 40.3.3, within sixty (60) days after submission of the proposal or summary of comments required to be filed with the Commission pursuant to SRC Rule 40.3.1, the Commission shall, by order, approve the proposal, or institute proceedings to determine whether the proposal should be disapproved. If the Commission does not institute proceedings to disapprove the proposal within such period, the proposal may be declared effective by the SRO. If a proceeding is instituted, the Commission shall provide notice to the SRO of the proposed grounds for

disapproval, and an opportunity for hearing, at the conclusion of which the Commission shall grant or deny approval of the proposal. The Commission shall approve a proposal where it finds that the proposal is consistent with the requirements of the securities law. If the proceeding is not concluded within ninety (90) days following its commencement, the proposal shall be made effective by the SRO.

40.3.3. Notwithstanding SRC Rule 40.3.2, a proposed course of action that concerns purely administrative matters or such other matters authorized by the Commission, may take effect within ten (10) business days after submission to the Commission, unless the Commission, within ten (10)-day period, provides written notice to the SRO of its determination to review such a proposal for prior approval pursuant to SRC Rules 40.3.1 and 40.3.2 above.

40.3.4. Notwithstanding any other provision of this section, in an emergency requiring action for the protection of investors, the maintenance of fair and orderly markets, or the safeguarding of securities and funds, the SRO may summarily put into effect a proposal; Provided, however, that the proposal made effective shall be promptly submitted to the Commission pursuant to SRC Rule 40.3.1, which case, the Commission, may upon proper finding, affirm, amend, disallow or order the discontinuance of the SRO's proposal.

RULE 40.4 - Commission Directions Regarding Rulemaking

40.4.1. The Commission may direct that the SRO effect on its own behalf specified changes in its rules and practices which are necessary or appropriate for the protection of investors, to ensure fair dealing in securities traded on the SRO, ensure fair administration of the SRO, conform and harmonize SRO rules to the requirements set forth in the securities law, or to otherwise further the purposes of the securities law on such matters as:

- 40.4.1.1. Safeguards in respect of the financial responsibility of members and adequate provision against the evasion of financial responsibility through the use of corporate forms or special partnerships;
- 40.4.1.2. Supervision of trading practices;
- 40.4.1.3. Listing or delisting any security;
- 40.4.1.4. Hours of trading;
- 40.4.1.5. Manner, method and place of soliciting business;
- 40.4.1.6. Fictitious accounts;
- 40.4.1.7. Time and method of making settlements, payments and deliveries and of closing accounts;
- 40.4.1.8. Transparency of securities transactions and prices;
- 40.4.1.9. Fixing of reasonable rates of fees, interest, listing and other charges but not rates of commission;
- 40.4.1.10. Minimum units of trading;
- 40.4.1.11. Odd-lot purchases and sales;
- 40.4.1.12. Minimum deposits on margin accounts; and
- 40.4.1.13. Supervision, auditing and disciplining of members or participants.

40.4.2. If after making such instructions in writing to the SRO, and after due notice of the reasons and effects of the proposed changes and opportunity for a hearing, the Commission determines that the SRO has not made the changes so requested, the Commission may alter, abrogate, or supplement the SRO's rules, with such changes to be made effective immediately upon adoption by the Commission.

RULE 40.5 - Commission Powers over Exchanges, Clearing Agencies and Self-Regulatory Organizations

40.5.1. Subject to SRC Rules 40.5.2 through 40.5.6, the Commission may, when it is satisfied that it is in the interest of the investing public, or is appropriate to do so for the protection of investors, and after due notice and a hearing:

- 40.5.1.1. Suspend registration of an Exchange, clearing agency and/or self-regulatory organization (hereinafter collectively "Exchange") upon findings that such Exchange has willfully violated or is unable to comply with any provision of the Code, or the rules and regulations hereunder, or its own rules, or has failed to enforce compliance therewith by a member of, person associated therewith, or a participant in such Exchange; or
- 40.5.1.2. Suspend any or all officers of said Exchange and appoint an independent administrator knowledgeable in capital market operations to take over the management of the Exchange, and/or suspend any and all member/s of the board of directors and appoint new director/s to serve during the suspension period, upon findings that such officer/s and/or director/s have willfully violated any provision of the Code, any other law administered by the Commission, the rules or regulations thereunder, or the rules of such Exchange, or abused his authority, or without reasonable justification or excuse has failed to enforce compliance with any of such provisions.

40.5.2. Upon discovery of any of the above-mentioned violations or failures, the Commission shall notify the Exchange, officer/s and/or director/s thereof and set a period of time in which such violation or failure shall be rectified, which period shall be no less than ten (10) days nor more than ninety (90) days.

40.5.3. In the event that an Exchange fails to rectify such violation or failure within the stated period, which the Commission may extend the rectification period only once based on its finding that such extension is in the public interest or for the protection of investors, the Commission, after due notice and a hearing, may undertake the necessary remedies to correct the same.

40.5.4. For as long as an order suspending any officer/s and/or director/s is in effect under this rule, none of the functions to which the order relates shall be performed, by said suspended officer or director.

40.5.5. Where an independent administrator is appointed under this rule, such administrator shall immediately prepare a workplan which shall be submitted to the Commission for approval and/or amendment, to address the underlying reason for the suspension. Such workplan shall include a timetable for compliance with the Code which shall not be later than the period of suspension.

40.5.6. At the end of the suspension period, or upon expiration of the period set forth in the workplan approved by the Commission, the Commission may: (a) lift the suspension order and reinstate the Exchange's registration; (b) revoke such registration pursuant to the Code; (c) reinstate the Exchange's officer/s and/or board member/s; and/or (d) issue an order prohibiting officers and/or members of the board who have been suspended from serving in such capacity for a stated period.

40.5.7. Immediately after the issuance of a decision to revoke registration, no new transactions shall be effected, except as necessary to protect investors.

RULE 40.6 - Powers of Self-Regulatory Organization over its Members

40.6.1. A self-regulatory organization is authorized to discipline a member of or participant in such self-regulatory organization, or any person associated with a member, including the suspension or expulsion of such member or participant, and the suspension or bar from being associated with a member, if such person has engaged in acts or

practices inconsistent with just and equitable principles of fair trade or in willful violation of any provision of the Code, any other law administered by the Commission, the rules or regulations thereunder, or the rules of the self-regulatory organization. In any disciplinary proceeding by a self-regulatory organization (other than a summary proceeding pursuant to SRC Rule 40.6.2) the self-regulatory organization shall bring specific charges, provide notice to the person charged, afford the person charged with an opportunity to defend against the charges, and keep a record of the proceedings. A determination to impose a disciplinary sanction shall be supported by a written statement of the offense, a summary of the evidence presented and a statement of the sanction imposed.

40.6.2. A self-regulatory organization may summarily: (i) Suspend a member, participant or person associated with a member who has been or is expelled or suspended from any other self-regulatory organization; or (ii) Suspend a member who the self-regulatory organization finds to be in such financial or operating difficulty that the member or participant cannot be permitted to continue to do business as a member with safety to investors, creditors, other members, participants or the self-regulatory organization: Provided, That the self-regulatory organization immediately notifies the Commission of the action taken. Any person aggrieved by a summary action pursuant to this SRC Rule shall be promptly afforded an opportunity for a hearing by the association in accordance with the provisions of paragraph a) of this subsection. The Commission, by order, may stay a summary action on its own motion or upon application by any person aggrieved thereby, if the Commission determines summarily or after due notice and hearing (which hearing may consist solely of the submission of affidavits or presentation of oral arguments) that a stay is consistent with the public interest and the protection of investors.

RULE 40.7 - Procedures on the Actions of Self-Regulatory Organizations

A self-regulatory organization shall promptly notify the Commission of any disciplinary sanction on any member thereof or participant therein, any denial of membership or participation in such organization, or the imposition of any disciplinary sanction on a person associated with a member or a bar of such person from becoming so associated. Within thirty (30) days after such notice, any aggrieved person may appeal to the Commission from, or the Commission on its own motion within such period, may institute review of, the decision of the self-regulatory organization, at the conclusion of which, after due notice and hearing (which may consist solely of review of the record before the self-regulatory organization), the Commission shall affirm, modify or set aside the sanction. In such proceeding the Commission shall determine whether the aggrieved person has engaged or omitted to engage in the acts and practices as found by the self-regulatory organization, whether such acts and practices constitute willful violations of this Code, any other law administered by the Commission, the rules or regulations thereunder, or the rules of the self-regulatory organization as specified by such organization, whether such provisions were applied in a manner consistent with the purposes of the Code, and whether, with due regard for the public interest and the protection of investors the sanction is excessive or oppressive.

RULE 40.8 - Extent of Powers of the Commission

The powers of the Commission under this section shall apply to organized exchanges and registered clearing agencies.

TITLE XI

Acquisition and Transfer of Securities and Settlement of Transactions in Securities

RULE 41- Prohibition on Use of Unregistered Clearing Agency¹¹⁶

It shall be unlawful for any broker, dealer, salesman, associated person of a broker or dealer, or clearing agency, directly or indirectly, to make use of any facility of a clearing agency in the Philippines to make deliveries in connection with transactions in securities or to reduce the number of settlements of securities transactions or to allocate securities settlement responsibilities or to provide for the central handling of securities so that transfers, loans and pledges and similar transactions can be made by bookkeeping entry or otherwise to facilitate the settlement of securities transactions without physical delivery of securities certificates, unless such clearing agency is registered as such under Section 42 of the Code or is exempted from such registration upon application by the clearing agency because, in the opinion of the Commission, by reason of the limited volume of transactions which are settled using the clearing agency, it is not practicable and not necessary or appropriate in the public interest or for the protection of investors to require such registration.

RULE 42- Registration of Clearing Agencies and Securities Depositories

42.1. Registration¹¹⁷

42.1.1. An application for registration as a clearing agency and/or securities depository or any amendment thereto shall be filed with the Commission on SEC Form 42-CA in accordance with the instructions contained therein along with the prescribed registration fee; Provided, however, that an applicant for registration as clearing agency and/or securities depository may also, at the same time, apply for registration as an SRO pursuant to SRC Rule 39.1.2 on SEC Form 42-SRO; Provided, further, that any registered clearing agency and/or securities depository existing prior to the effectivity of these Rules shall, within 45 days from effectivity of these Rules, comply with all the requirements provided under this Rule, which were not provided for in its original registration.

The following exhibits shall accompany the duly accomplished SEC Form 42-CA/SEC Form 42-SD/SEC Form 42-SRO:

- 42.1.1.1. Board resolution attesting to particulars in the application;
- 42.1.1.2. Copies of identity cards/passports of directors and persons who control more than ten percent 10% of the applicant;
- 42.1.1.3. A copy of the Articles of Incorporation indicating that the purpose of the applicant is to engage in the business of a clearing agency and/or securities depository and copy of the By-Laws;
- 42.1.1.4. A copy of proposed SRO rules shall be submitted to the Commission for approval pursuant to procedures set forth in the Code and IRR;
- 42.1.1.5. A copy of the Articles of Incorporation with all amendments thereto, and existing by-laws or rules or instruments corresponding thereto of each affiliate and subsidiary listed in answer to Item 9 of the Statement;
- 42.1.1.6. Original signed copy of the audited balance sheet and statement of income and expenses of the applicant, and all notes and schedules thereto as of the end of the last fiscal year;
- 42.1.1.7. Projected balance sheet and statement of income and expenses for the first five (5) years, including assumptions, in its capacity as (i.)

¹¹⁶ See Official List of SEC-registered Clearing Agencies.

¹¹⁷ See Forms and Fees Applicable to Secondary Licensee.

clearing and settlement agent only, (ii.) depository only; and (iii.) both depository and clearing agency;

- 42.1.1.8. Detailed narrative and graphical description of the proposed business and/or operational model and procedures (e.g., lodgment and upliftment processes, corporate action processes, dividend distribution, proxy issuance, pledge, etc.), recording of ownership and movements of share ownership.
- 42.1.1.9. Detailed plan of operation and economic justification for operating a clearing agency/securities depository. The plan should describe and analyze the industry and the market area from which the clearing agency/securities depository expects to draw majority of its business and establish a strategy for its ongoing operation. It should also describe how the business will be organized and controlled internally. It should disclose the plan's target security instrument/s, e.g., equities listed in an Exchange, etc. and target participants. e.g., broker dealer, custodian, etc.
- 42.1.1.10. Target security instrument/s (e.g., equities listed in an Exchange, etc.)
- 42.1.1.11. Target participants (e.g., broker dealer, custodian, etc.)
- 42.1.1.12. Copies of proposed participation agreement/s;
- 42.1.1.13. Concise statement of the reason for said business proposal and effect of the proposal on the current clearing and settlement environment;
- 42.1.1.14. Statement on whether the business and/or operational model of the applicant would require, directly or indirectly, all companies listed in an Exchange to exclusively engage the services of the applicant;
- 42.1.1.15. Organization Chart, indicating filled and unfilled positions and the identity of persons presently occupying the title or position. The Chart should be accompanied by the list of qualifications/requirements and Statement of Duties and Responsibilities for each position/item;
- 42.1.1.16. List of the names of participants and of current applications to become participants;
- 42.1.1.17. Written undertaking to comply and enforce compliance by its participants with relevant provisions of the Code and any amendments thereto, and the implementing rules and regulations and the clearing agency/securities depository rules, as well as with any terms and conditions imposed by the Commission in connection with the registration of the applicant;
- 42.1.1.18. Copies of all clearing agency/securities depository rules indicating the date/s approved by the Commission or, where not so approved, an indication to this effect. Such rules should include rules which are required under Section 42.2 (d) and (f) of the Code; Provided, however, that drafts of new rules should be provided to the Commission for approval before becoming effective. All rules should reflect new requirements under the Code and rules and regulations adopted thereunder.
- 42.1.1.19. Identification and description of any qualifications or criteria that have the effect of denying or limiting access or use by any person, including broker dealer and custodian participant or their clients, of the clearing/securities depository system. If such qualifications or criteria are in the rules and procedures already, quote the specific provisions;

- 42.1.1.20. Identification and description of fair procedures for disciplining clearing/securities depository participants and the penal and/or schedule of sanctions, including suspension and expulsion of participants, quoting the specific provisions of the rules and procedures;
- 42.1.1.21. Identification and description of procedures and systems to be used, if any, to prevent and/or detect fraudulent and manipulative acts and practices. If these are in the rules and procedures already, quote the specific provisions;
- 42.1.1.22. Statement of Readiness and Undertaking to link the proposed system with other capital market participants, within and outside of the Philippines;
- 42.1.1.23. Comprehensive Information Technology Plan, to include among others, a list and brief description of the following:
 - 42.1.1.23.1. Software and hardware to be primarily used in its clearing/depository function and their location;
 - 42.1.1.23.2. Back-up system or subsystem and their location;
 - 42.1.1.23.3. Security system and procedures to be employed;
 - 42.1.1.23.4. Procedures to check sufficiency of system's capacity and expansion program, if necessary; and
 - 42.1.1.23.5. IT system maintenance schedule.
- 42.1.1.24. Business Continuity and Disaster Recovery Plan;
- 42.1.1.25. Risk Management Manual and Internal Control Procedures;
- 42.1.1.26. Insurance plan to cover any operational risks and other risks, specifying the type, total amount and risk area;
- 42.1.1.27. Copies of service contracts/proposed contract of any activities or services that will be outsourced, if any;
- 42.1.1.28. List and brief justification of proposed schedule of dues, fees and charges for clearing, settlement and/or depository activities;
- 42.1.1.29. Study made as to comparative fees and charges imposed by other clearing agencies/depositories, if any;
- 42.1.1.30. Business plan setting forth future plans to ensure prompt and accurate clearance and settlement of securities trading on an Exchange/efficient and accurate securities depository system; and,
- 42.1.1.31. Brief description as to any material pending legal proceeding affecting the applicant directly or to which any of its properties or assets, directors, or officers is part of the case.
- 42.1.1.32. Undertaking to subject the information technology, business continuity and disaster recovery, and risk management systems to regular review and audit by independent firm at least once every three (3)-years and such other frequency that the Commission may deem necessary. The results of said review and audit shall be submitted to the Commission within thirty (30) days from completion of the audit.

The clearing agency and/or securities depository shall pay an annual fee in an amount prescribed or ordered by the Commission.

Any change in information filed under the registration shall be reported to the Commission within seven (7) days from occurrence of such change.

- 42.1.2.** After reviewing an application for registration as a clearing agency and/or securities depository, or an amendment thereto, the Commission shall:
- 42.1.2.1. Grant registration or approve the amendment;
 - 42.1.2.2. Require a change in the Articles of Incorporation, By-laws, contracts, rules or procedures (hereinafter "rules") to ensure their fair administration or to make them conform to the requirements of the Code and rules and regulations adopted under it;
 - 42.1.2.3. Deny registration or the amendment if:
 - 42.1.2.3.1. The clearing agency and/or securities depository does not have the capacity and resources to enforce compliance with its rules as proposed or amended; or
 - 42.1.2.3.2. The rules or any amendment thereto would be inconsistent with provisions of the Code, or rules and regulations adopted under it or with the development and operation of a prompt and accurate clearance and settlement system and the safeguarding of money and securities in its custody, within its control or for which it is responsible; or
 - 42.1.2.3.3. The application for registration or an amendment thereto is incomplete, inaccurate or misleading; or
 - 42.1.2.3.4. Exempt from registration due to the limited volume of transactions and based on findings that it is not practicable and necessary or appropriate in the public interest or for the protection of investors to require such registration.
- 42.1.3.** If any of the information reported on SEC Form 42-CA/SEC Form 42-SD becomes inaccurate, misleading or incomplete or requires updating for any reason, including changes to rules and the list of directors and officers, the Issuer shall correct the information by filing an amendment within seven (7) days after the date on which the information contained in the application became inaccurate, misleading or incomplete. Amendments to SEC Form 42-CA/SEC Form 42-SD which update the Issuer's list of directors, officers, partners or shareholders shall be deemed to satisfy Section 26 of the Corporation Code¹¹⁸ of the Philippines.
- 42.1.4.** For registered Clearing Agency/Securities Depository whose fiscal year ends on December 31, SEC Form 42-AR shall be filed with the Commission depending on the last numerical digit of its registration number as prescribed by the Commission. Clearing Agency/Securities Depository whose fiscal year ends on a date other than December 31 shall file SEC Form 42-AR 110 calendar days after the close of such fiscal year.
- 42.1.5.** Nothing in this Rule shall be construed as precluding the Commission from requiring an applicant for registration or a registered clearing

¹¹⁸ Now Section 25 of the Revised Corporation Code. "SEC. 25. *Report of Election of Directors, Trustees and Officers, Non-holding of Election and Cessation from Office.* – Within thirty (30) days after the election of the directors, trustees and officers of the corporation, the secretary, or any other officer of the corporation, shall submit to the Commission, the names, nationalities, shareholdings, and residence addresses of the directors, trustees, and officers elected. ..."

agency/securities depository to submit other requirements it may deem reasonably necessary to effectively regulate and supervise the clearing agency/securities depository and/or to protect the interest of the investing public.

42.2. Reports from Clearing Agencies/Securities Depository

If a registered clearing agency/securities depository at any time becomes aware of any development relating to a participant that leads such clearing agency/securities depository to believe that (1) such participant has breached, is in breach, or is about to breach the clearing agency's/securities depository's rules; or (2) the participant has experienced, is experiencing, or is about to experience material operational or financial difficulties, which breach or difficulties may adversely affect such participant, such registered clearing agency/securities depository shall immediately notify the Commission and provide any documentation or evidence leading the clearing agency/securities depository to such determination.

42.3. Registration and Annual Fees¹¹⁹

In addition to the prescribed registration fee prescribed above and for the privilege of doing business for the preceding calendar year or any part thereof, every clearing agency/securities depository shall pay to the Commission not later than the fifteenth (15th) day following the end of its fiscal year, an annual fee based on value turnover.

RULE 43 - Issuance of Uncertificated Securities

43.1. All corporations covered by Section 43 of the Code may issue uncertificated ("scripless") securities:

43.1.1. The board of directors *motu proprio*, with the consent of the concerned shareholder, investor or securities intermediary or upon written request of a shareholder, investor or securities intermediary to the Corporate Secretary of the relevant corporation, may adopt a resolution to issue scripless securities to such shareholder, investor or securities intermediary, without prejudice to the right of the securities intermediary subsequently to require the corporation to issue a certificate in respect of any shares recorded in its name.

43.1.2. The corporation shall, prior to the adoption of a resolution on scripless securities, ensure that all cash and stock dividends due and payable to shareholders have been paid. The Corporate Secretary shall within five (5) days from the adoption of the resolution, certify under oath the corporation's compliance with these requirements.

43.2. All corporations covered by Section 43 of the Code shall, within one (1) year from the effectivity of this Rule, adopt an electronic system to allow for the issuance of uncertificated securities, which system must be submitted to and approved by the Commission prior to its implementation. Such system shall include an electronic registry whereby ownership of securities and transfers thereof, including any other transaction affecting the uncertificated securities such as pledge, shall be recorded and registered. Subject to the approval of the Commission, such electronic registry shall have the same legal status as a stock and transfer book of the corporation insofar as uncertificated shares are concerned.

RULE 44- Records of Clearing Agencies

44.1. All transactions between a clearing agency and its participants must be recorded by book entries.

¹¹⁹ See MC 3-2017 RE: Consolidated Fees and Charges dated 7 March 2017. Check the SEC Website for regular updates or announcements.

44.2. The corporate secretary's or the stock transfer agent's receipt of the report of such transactions from a clearing agency shall be deemed a recording by the corporate secretary or the transfer agent of the transactions in the books of the corporation. However, the ultimate beneficial owner of the securities may prove his rights, title and entitlement to the relevant securities as against the participant so recorded as owner of the securities.

RULE 45- Pledging of Uncertificated Securities

45.1. If an uncertificated security is pledged, the pledgor shall submit the corresponding pledge agreement over the shares to the corporate secretary, stock transfer agent or the securities intermediary maintaining the electronic registry of shares pledged.

45.2. Within three (3) calendar days from receipt of the pledge agreement over the shares, the corporate secretary, stock transfer agent or the securities intermediary, as the case may be, shall indicate by book entry that a pledge has been created over the pledged securities.

45.3. The clearing agency that recorded the agreement shall within three (3) calendar days after such recording notify the corporate secretary or stock transfer agent of the pledge either by mail, email, facsimile or such other manner as the Commission may prescribe from time to time. The receipt by the corporate secretary or stock transfer agent of the report from the clearing agency shall be deemed a recording of the pledge in the books of the corporation.

RULE 46- Issuer's Responsibility for Wrongful Transfer to Registered Clearing Agency

An instruction by a registered clearing agency for registration of a transfer of a security shall be acted upon by the corporation or its transfer agent within five (5) business days from receipt of instruction. Within the said period, the corporation or transfer agent shall: (a) confirm the registration of the transfer and immediately issue the security in the name of the transferee; or (b) notify by mail, email, facsimile or such other means as the Commission may prescribe, the clearing agency, the registered owner and the adverse claimant, if any, of a discrepancy in the records of the corporation. In case of such discrepancy, the corporation or transfer agent shall maintain the *status quo* until the discrepancy is settled.

RULE 47- Power of the Commission with Respect to Securities Ownership

The Commission is authorized, having due regard to the public interest and the protection of investors, to promulgate rules and regulations which:

- 47.1. Validate the transfer of securities by book-entries rather than the delivery of physical certificates;
- 47.2. Establish when a person acquires a security or an interest therein and when delivery of a security to a purchaser occurs;
- 47.3. Establish which records constitute the best evidence of a person's interests in a security and the effect of any errors in electronic records of ownership;
- 47.4. Codify the rights of investors who choose to hold their securities indirectly through a registered clearing agency and/or other securities intermediaries;
- 47.5. Codify the duties of securities intermediaries (including clearing agencies) who hold securities on behalf of investors; and
- 47.6. Give first priority to any claims of a registered clearing agency against a participant arising from a failure by the participant to meet its

obligations under the clearing agency's rules in respect of the clearing and settlement of transactions in securities, in a dissolution of the participant, and any such rules and regulations shall bind the issuers of the securities, investors in the securities, any third parties with interests in the securities, and the creditors of a participant of a registered clearing agency.



TITLE XII

Margin and Credit

RULE 48.1 - Margin

48.1.1. A Broker Dealer shall not extend credit to a customer in an amount that exceeds fifty percent (50%) of the current market value of the security at the time of the transaction. In no event shall new or additional credit be extended to an account in which the equity is less than Fifty Thousand Pesos (PhP50,000.00).

48.1.2. The margin maintained in a margin account of a customer shall be no less than twenty five percent (25%) of the current market value of all securities "long" in the account and thirty percent (30%) of the current market value of securities "short" in the account.

48.1.3. When there is an insufficiency of margin, a call for additional margin shall be issued promptly by the Broker Dealer to the customer. A call for initial margin shall be satisfied within five (5) business days from receipt of the call. A call for maintenance margin shall be satisfied within twenty four (24) hours after the call is received. No purchase or sell order from the customer on the margin account shall be executed by the Broker Dealer from the time of insufficiency up to the satisfaction of the call.

48.1.4. If a margin call is not satisfied within the time prescribed in SRC Rule 48.1.3, the Broker Dealer shall liquidate securities sufficient to meet the margin call or eliminate the margin deficiency existing on the day such liquidation is required, whichever is less. The Broker Dealer shall liquidate the securities through the Exchange in which it is traded before the close the next trading day.

48.1.5. The required payment date for a call for initial margin may be extended by seven (7) days upon written application delivered by hand, facsimile transmission, email or equally prompt means by the Broker Dealer to an Exchange, in the case of members of that Exchange, or to the Commission, in the case of non-Exchange members. In granting such an extension, the Exchange or Commission will take into consideration whether the Broker Dealer and the customer are acting in good faith and whether exceptional circumstances warrant such extension. Application for the extension must be received and acted upon before the expiration of the original payment period or the expiration of any previous extension.

RULE 48.2- Prohibitions on Extension of Credit

No member of an Exchange or broker or dealer shall, directly or indirectly, extend or maintain credit or arrange for the extension or maintenance of credit to or for any customer:

48.2.1. On any security unless such credit is extended and maintained in accordance with the rules and regulations which the Commission shall prescribe under this Section including rules setting credit in relation to net capital of such member, broker or dealer;

48.2.2. Without collateral or on any collateral other than securities, except (i) to maintain a credit initially extended in conformity with the rules and regulations of the Commission and (ii) in cases where the extension or maintenance of credit is not for the purpose of purchasing or carrying securities or of evading or circumventing the provisions of SRC Rule 48.2.1.

RULE 48.3 - Coverage of Rules on Margin and Credit

Any person not subject to Subsection 48.2 of the Code shall extend or maintain credit or arrange for the extension or maintenance of credit for the purpose of purchasing or carrying any security, only in accordance with such rules and regulations as the

Commission shall prescribe to prevent the excessive use of credit for the purchasing or carrying of or trading in securities in circumvention of the other provisions of this Section. Such rules and regulations may impose upon all loans made for the purpose of purchasing or carrying securities limitations similar to those imposed upon members, brokers, or dealers by Subsection 48.2 of the Code and the rules and regulations thereunder. This subsection and the rules and regulations thereunder shall not apply: (a) To a credit extension made by a person not in the ordinary course of business; (b) To a loan to a dealer to aid in the financing of the distribution of securities to customers not through the medium of an Exchange; or (c) To such other credit extension as the Commission shall exempt from the operation of this subsection and the rules and regulations thereunder upon specified terms and conditions or for stated period.

RULE 49.1 - Restrictions on Borrowings by Trading Participants, Brokers, and Dealers

49.1.1. Risk Based Capital Adequacy Requirement¹²⁰

Risk Based Capital Adequacy ("RBCA") Requirement shall refer to the ratios and other financial requirements set by the Commission after taking into account the Broker Dealer's total risk exposure.

49.1.1.1. Every Broker Dealer shall at all times comply with the RBCA Requirements set by the Commission.

49.1.1.2. Every Broker Dealer shall make a computation of RBCA requirements on a daily basis. Such computations, upon request, shall immediately be provided in written form to the Commission and/or SRO if such Broker Dealer is a Trading Participant.

49.1.1.3. Every Broker Dealer covered by the RBCA Requirements shall prepare its RBCA Report and file the same with Commission and the SRO (if such Broker Dealer is a Trading Participant) on or before the 20th of the month, for RBCA Report covering the period 1st to 15th day of the month and on the 5th of the following month, for RBCA Report covering the period 16th to 30th/end of the month. The RBCA Report shall be certified by the firm's Associated Person and president/nominee director and a copy submitted to the Broker Dealer's Audit Committee or in lieu thereof, its Board of Directors.¹²¹

49.1.1.4. Every Broker Dealer shall take all necessary action to increase its Net Liquid Capital or immediately reduce its total risk exposure if any of the RBCA Requirement set by the Commission is breached.

49.1.1.5. Net Liquid Capital Rule

49.1.1.5.1. Every Broker Dealer shall at all times have and maintain a Net Liquid Capital (NLC) amounting to whichever is the higher of the following:

49.1.1.5.1.1. NLC of at least Five Million Pesos (PhP5,000,000.00) sufficient to maintain Risk-Based Capital Adequacy Requirement/Ratio of 1.1 pursuant to the RBCA Rules, including any amendments thereto, if any, or Two Million Five Hundred Thousand Pesos (PhP2,500,000.00) for Broker Dealers dealing only with proprietary shares and who do not keep shares under its custody; or

49.1.1.5.1.2. Five percent (5%) of its aggregate indebtedness, or only two and one-half percent (2.5%) of its aggregate indebtedness for Broker Dealers dealing only with

¹²⁰ See MC 16-2004 Re : Adoption of the Risk Based Capital Adequacy Requirement/Ratio (RBCA) for Brokers Dealers dated 11 November 2004, as amended by MC 11-2023 Re: Amendments on the 2015 Implementing Rules and Regulations of the Securities Regulation Code (The "2015 SRC Rules"), dated 11 August 2023.

¹²¹ See MC 12-2017 Re: Online Submission of Risk-Based Capital Adequacy (RBCA) Reports dated 9 October 2017, for guidelines on online submission of RBCA Reports.

proprietary shares and who do not keep shares under its custody.

In computing NLC, all non-allowable assets/equities, and collateralized liabilities will be deducted and allowable liabilities and equities are added to Equity per Books.

49.1.1.5.2. Equity Eligible for Net Liquid Capital shall be the sum of the following:

49.1.1.5.2.1. Equity as per Books;

49.1.1.5.2.2. Liabilities of the Broker Dealer which are subordinated to the claims of creditors pursuant to a satisfactory subordination agreement in conformity with SRC Rule 49.1.2 and in accordance with the following schedule:

Period remaining from RBCA Computation date to maturity date	Allowable Inclusion
3 years 1 day to 4 years	100%
2 years 1 day to 3 years	75%
1 year 1 day to 2 years	50%
1 year or less	0%

49.1.1.5.2.3. In the case of a Broker Dealer who is a sole proprietor, the excess of liabilities which have not been incurred in the course of business as a Broker Dealer over assets not used in the business.

49.1.1.5.2.4. Deposit for Futures Stock Subscription for which an application for increase in capital stock or request for exemption for registration has been filed with the Commission and the subscription, which is in the form of Allowable Assets, shall not be withdrawn prior to SEC approval of the application/request. For net capital purposes, the same shall be considered part of aggregate indebtedness unless there is evidence that such amount is a deposit but an irrevocable subscription or a subordinated loan agreement has been entered into with the subscriber.

Provided, further, that deferred income tax, revaluation reserves, and minority interest and any outside investment in affiliates and associates shall be excluded from Eligible Equity for Net Liquid Capital.

49.1.1.5.3. **Computation of Net Liquid Capital (NLC)**

In computing NLC, the Equity Eligible for Net Liquid Capital of a Broker Dealer is adjusted by the following, provided, however, that in determining net worth, all long and all short securities position shall be marked to their market value:

49.1.1.5.3.1. Adding unrealized profits (or deducting unrealized losses) in the accounts of the Broker Dealer.

49.1.1.5.3.2. Deducting fixed assets and assets which cannot be readily converted into cash [less any indebtedness excluded in accordance with SRC Rule of the Definition of the term Aggregate Indebtedness] including, among other things:

49.1.1.5.3.2.1. Real estate; furniture and fixtures; Exchanges memberships/trading rights; prepaid rent,

insurance and other expenses; goodwill, organization expenses;

- 49.1.1.5.3.2.2. All unsecured advances and loans; deficits in customers' and non-customers' unsecured and partly secured notes; deficits in special omnibus accounts or similar accounts carried on behalf of another Broker Dealer, after application of calls for margin, marks to the market or other required deposits that are outstanding two (2)¹²² business days or less; deficits in customers' and non-customers' unsecured and partly secured accounts after application of calls for margin, marks to the market or other required deposits that are outstanding two (2)¹²³ business days or less, except deficits in cash accounts for which not more than one extension respecting a specified securities transaction has been requested and granted; the market value of stock loaned in excess of the value of any collateral received therefore; and any collateral deficiencies in secured demand notes in conformity with SRC Rule 49.1.2 above.

For the purpose of the above, a loan or any other form of receivables shall be considered "unsecured" unless the following conditions exist:

49.1.1.5.3.2.2.1. the receivable is secured by collateral which is otherwise unencumbered provided, however, That such Receivable will be considered secured only to the extent of the market value of such collateral after application of such percentage deductions as may be prescribed by the Commission;

49.1.1.5.3.2.2.2. the collateral is in the possession or control of the Trading Member; and

49.1.1.5.3.2.2.3. the Broker Dealer has a legally enforceable written security agreement executed by the debtor in its favor under which the Trading Member shall have the power to readily sell or otherwise convert the collateral into cash.

49.1.1.5.3.2.2.4. the collateral is liquid in nature and in any of the following forms: Cash deposit in Philippine peso; Cash deposit in foreign currency acceptable to the Commission; Securities listed in the Exchange or other recognized stock exchanges unless specified by the Commission as not having ready market; Government bonds or other debt instruments which have a ready market; and any other collaterals which may be specified by the Commission as having a ready market;

- 49.1.1.5.3.2.3. Interest receivable, floor brokerage receivable, commissions receivable from other Broker Dealers, and management fees receivable from registered investment companies, all of which receivables are outstanding longer than thirty (30) days from the

¹²² MC 11-2023, supra note 120.

¹²³ *Id.*

date they arose; dividends receivable outstanding longer than thirty (30) days from the payable date;

- 49.1.1.5.3.2.4. Insurance claims which, after fifteen (15) business days from the date the loss giving rise to the claim is discovered, are not covered by an opinion of an outside counsel that the claim is valid and is covered by insurance policies presently in effect; insurance claims which after thirty (30) business days from the date the loss giving rise to the claim is discovered and which are accompanied by an opinion of outside counsel described above, have not been acknowledged in writing by the insurance carrier as due and payable; and insurance claims acknowledged in writing by the carrier as due and payable outstanding longer than twenty (20) business days from the date they are so acknowledged by the carrier;
- 49.1.1.5.3.2.5. All other unsecured receivables; all assets doubtful of collection less any reserves established therefore; the amount by which the market value of securities failed to receive outstanding longer than thirty (30) days exceeds the contract value of such fails to receive;
- 49.1.1.5.3.2.6. Any receivable from an affiliate of the Broker Dealer (not otherwise deducted from net worth) and the market value of any collateral given to an affiliate (not otherwise deducted from net worth) to secure a liability over the amount of the liability of the Broker Dealer unless the books and records of the affiliate are made available for examination when requested by the Commission or the Exchange, where the Broker Dealer is a member for the Broker Dealer, in order to demonstrate the validity of the receivable or payable, or when the affiliate is an financial intermediary or entity duly registered and regulated by another government agency and that the receivable arises from an arms length transaction. The provisions of this subsection shall not apply where the affiliate is a Broker Dealer;
- 49.1.1.5.3.2.7. A future income tax benefit (Deferred Income Tax)
- 49.1.1.5.3.2.8. Any deposit with or loan to a person other than:
 - 49.1.1.5.3.2.8.1. A deposit or loan with a deposit taking institution duly authorized and registered with the Bangko Sentral ng Pilipinas (BSP);
 - 49.1.1.5.3.2.8.2. A deposit or loan to the extent the balance is secured by collateral which is Liquid, evidenced in writing and valued at the Marked to Market value or another valued approved by the Commission;
 - 49.1.1.5.3.2.8.3. A deposit of funds as a margin to the extent that those funds relate to an open position;
- 49.1.1.5.3.2.9. A deposit with a third party clearing organization, unless approved by the Commission;

- 49.1.1.5.3.2.10. A Related Party/Associated Person Balance to the extent that the balance is not secured by collateral which is Liquid, evidenced in writing and valued at the Marked to Market value or to another value approved by the Commission;
- 49.1.1.5.3.2.11. A debt which was reported or created more than 30 days previously other than a debt:
 - 49.1.1.5.3.2.11.1. From another Broker Dealer that is not a Related Party or Associated Person; or
 - 49.1.1.5.3.2.11.2. which is secured by collateral which is Liquid, evidenced in writing and valued at the Marked to Market value or to another value approved by the Commission;
- 49.1.1.5.3.2.12. Any prepayment which is not Liquid;
- 49.1.1.5.3.2.13. A Liquid Asset which has been restricted for the purpose of obtaining or creating a non-allowable or illiquid asset or set aside for use outside the ordinary course of the Broker Dealer's securities business;
- 49.1.1.5.3.2.14. All other assets which are not Liquid and those prescribed by the Commission as such;
- 49.1.1.5.3.3. Deducting general guarantees and indemnities for loans and indebtedness other than those incurred by the Broker Dealer, unless otherwise permitted by the Exchange and Commission. Provided, however, that where the Broker Dealer guarantee is given to a company within the Broker Dealer's group of companies, that company's assets and liabilities (to the extent that they are covered by the Broker Dealer's guarantee) shall be taken into account as being part of the Broker Dealer's assets and liabilities for purposes of computing NLC, and in such case the guarantee shall not be deducted from the computation unless the Exchange or Commission provides otherwise.
- 49.1.1.5.3.4. Deducting long and short securities differences as follows:
 - 49.1.1.5.3.4.1. Deducting the market value of all short securities differences (which shall include securities positions reflected on the securities record which are not susceptible to either count or confirmation) unresolved after discovery.
 - 49.1.1.5.3.4.2. Deducting the market value of any long securities differences, where such securities have been sold by the Broker Dealer before they are adequately resolved, less any reserves established therefore;
 - 49.1.1.5.3.4.3. For an Exchange member, the Exchange, and in the case of a Broker Dealer that is not a member of an Exchange, the Commission may extend the periods in SRC Rule 49.1.1.5.3.2.2 for up to ten (10) business days if it finds that exceptional circumstances warrant an extension.

49.1.2. Satisfactory Subordination Agreements

49.1.2.1. This rule sets forth minimum and non-exclusive requirements for satisfactory subordination agreements ("subordination agreement"). The Commission, Exchange or Broker Dealer may require or include such other provisions as may be

deemed necessary to the extent that such provisions do not cause the subordination agreement to fail to meet the minimum requirements of this Rule.

49.1.2.2. The subordination agreement shall be approved by the Exchange, if affecting an Exchange Broker Dealer, or by the Commission, if affecting a non-Exchange Broker Dealer. Said agreement shall take effect upon approval.

49.1.2.3. A subordination agreement may be either a subordinated loan agreement or a secured demand note agreement.

49.1.2.3.1. "Subordinated loan agreement" shall mean a notarized agreement evidencing or governing a subordinated borrowing of cash.

49.1.2.3.2. "Secured demand note agreement" shall mean a notarized agreement (including the related secured demand note) evidencing or governing the contribution of a secured demand note to a Broker Dealer and the pledge of securities and/or cash with the Broker Dealer as collateral to secure payment of such secured demand note. The secured demand note agreement may provide that neither the lender, his heirs, executors, administrators or assigns shall be personally liable on such note and that, in the event of default, the Broker Dealer shall look for payment of such note solely to the collateral then pledged to secure the same.

The secured demand note shall be a promissory note executed by the lender and shall be payable on the demand of the Broker Dealer to which it is contributed; Provided, however, that the making of such demand may be conditioned upon the occurrence of any of certain events which are acceptable to the Commission in the case of non-Exchange Broker Dealer and to an Exchange for an Exchange Broker Dealer.

49.1.2.3.3. If such note is not paid upon presentment and demand as provided for therein, the Broker Dealer shall have the right to liquidate all or any part of the securities then pledged as collateral to secure payment of the same and to apply the net proceeds of such liquidation, together with any cash then included in the collateral, in payment of such note. Subject to the prior rights of the Broker Dealer as pledgee, the lender, as defined herein, may retain ownership of the collateral and have the benefit of any increases and bear the risks of any decreases in the value of the collateral and may retain the right to vote securities contained within the collateral and any right to income therefrom or distributions thereon, except, the Broker Dealer shall have the right to receive and hold as pledgee all dividends payable in securities and all partial and complete liquidating dividends.

49.1.2.3.4. Subject to the prior rights of the Broker Dealer as pledgee, the lender may have the right to direct the sale of any securities included in the collateral, to direct the purchase of securities with any cash included therein, to withdraw excess collateral or to substitute cash to other securities as collateral, provided that the net proceeds of any such sale and the cash so substituted and the securities so purchased or substituted are held by the Broker Dealer, as pledgee, and are included within the collateral to secure payment of the secured demand note, and provided further that no such transaction shall be permitted if, after: giving effect thereto, the sum of the amount of any cash, plus the collateral value of the securities, then pledged as collateral to secure the secured demand note would be less than the unpaid principal amount of the secured demand note.

49.1.2.3.5. Upon payment by the lender, as distinguished from a reduction by the lender or reduction by the Broker Dealer as provided for in "Annex 49.1-2"¹²⁴ of this rule, of all or any part of the unpaid principal amount of the secured demand note, a Broker Dealer shall issue to the lender a subordinated loan agreement in the amount of such payment (or in the case of a Broker Dealer that is a partnership, credit a capital account of the lender) or preferred or common stock(s) of the Broker Dealer in the amount of such payment, or any combination of the foregoing, as provided for in the secured demand note agreement.

¹²⁴ Annex E of SRC Rules, see Annexes to SRC.

Lender shall mean the person who lends cash to a Broker Dealer pursuant to a subordinated loan agreement and the person who contributes a secured demand note to a Broker Dealer pursuant to a secured demand note agreement.

49.1.2.4. Recourse to the Subordination Agreements is viewed as a temporary relief to address net capital requirements of Broker Dealers and is not intended to replace the permanent infusion of capital by stockholders. Thus, subordinated loans shall be for a period of one (1) year and is renewable annually but for a period not exceeding two (2) years or for such shorter period as the Commission deems appropriate; Provided, however, that a capital buildup plan shall be a requirement for the renewal of the subordinated loan. Advances or Agreements that have been outstanding for more than three (3)-years would require conversion to capital.

49.1.2.5. In order to ensure financial viability of the Broker Dealer, the Exchange, for Exchange Broker Dealers, or the Commission, for non-Exchange Broker Dealers, may impose additional requirements to regulate the resort to financing by way of subordination agreements and may exercise discretion in the approval of such agreements.

49.1.2.6. The Minimum requirements for Subordination Agreements and Miscellaneous Provisions are set forth in Annex 49.1-2.¹²⁵

RULE 49.2 - Customer Protection Reserves and Custody of Securities

49.2.1. Physical Possession or Control of Securities

49.2.1.1. Broker Dealer on a daily basis shall obtain and shall thereafter maintain the physical possession or control of all fully paid securities and excess margin securities carried by a Broker Dealer for the account of customers.

49.2.1.2. A Broker Dealer shall not be deemed to be in violation of the provisions of SRC Rule 49.2.1.1 regarding physical possession or control of customers' securities if, solely as the result of normal business operations, temporary lags occur between the time when a security is required to be in the possession or control of the Broker Dealer and the time that it is placed in the firm's physical possession or under the firm's control; Provided, the Broker Dealer takes timely steps in good faith to establish prompt physical possession or control. The burden of proof shall be on the Broker Dealer to establish that the failure to obtain physical possession or control of securities carried for the account of customers is merely temporary and solely the result of normal business operations including same day receipt and redelivery (turnaround), and to establish that the Broker Dealer has taken timely steps in good faith to place them in the Broker Dealer's physical possession or control.

49.2.1.3. A Broker Dealer shall not be deemed to be in violation of the provisions of SRC Rule 49.2.1.1 regarding physical possession or control of fully- paid or excess margin securities borrowed from any person; Provided, that the Broker Dealer and the lender, at or before the time of the loan, enter into a written agreement that, at a minimum:

49.2.1.3.1. Sets forth in a separate schedule or schedules the basis of compensation for any loan and generally the rights and liabilities of the parties as to the borrowed securities;

49.2.1.3.2. Provides that the lender will be given a schedule of the securities actually borrowed at the time of the borrowing of the securities;

49.2.1.3.3. Specifies that the Broker Dealer shall:

49.2.1.3.3.1. Provide to the lender, upon the execution of the agreement or by the close of the business day of the loan if the loan occurs subsequent to the execution of the agreement, collateral consisting exclusively of cash

¹²⁵ *Id.*

or Republic of the Philippines Treasury bills and Treasury notes or an irrevocable letter of credit issued by a bank which fully secures the loan of securities, and;

- 49.2.1.3.3.2. Must mark the loan to the market not less than daily and, in the event the market value of all the outstanding securities loaned at the close of trading at the end of the business day exceeds 100 percent (100%) of the collateral then held by the lender, the borrowing Broker Dealer must provide additional collateral of the type described in SRC Rule 49.2.1.3.3.1 to the lender by the close of the next business day as necessary to equal, together with the collateral then held by the lender, not less than one hundred percent (100%) of the market value of the securities loaned.

49.2.2. Control of Securities. Securities under the control of a Broker Dealer shall be deemed to be securities which:

- 49.2.2.1.** Are represented by one or more certificates in the custody or control of a clearing agency registered with the Commission in accordance with Section 42 of the Code the delivery of which certificates to the Broker Dealer does not require the payment of money or value, and if the books or records of the Broker Dealer identify the customers entitled to receive specified number or units of the securities so held for such customers collectively; or
- 49.2.2.2.** Are carried for the account of any customer by a Broker Dealer and are carried in a special omnibus account in the name of such Broker Dealer with another Broker Dealer, such securities being deemed to be under the control of such Broker Dealer to the extent that it has instructed such carrying Broker Dealer to maintain physical possession or control of them free of any charge, lien or claim of any kind in favor of such carrying Broker Dealer or any person claiming through such carrying Broker Dealer; or
- 49.2.2.3.** Are the subject of *bona fide* items of transfer; provided that securities shall be deemed not to be the subject of *bona fide* items of transfer if, within forty (40) days after they have been transmitted for transfer by the Broker Dealer to the issuer or its transfer agent, new certificates conforming to the instructions of the Broker Dealer have not been received by him, he has not received a written statement by the issuer or its transfer agent acknowledging the transfer instructions and the possession of the securities or he has not obtained a revalidation of a window ticket from a transfer agent with respect to the certificate delivered for transfer; or
- 49.2.2.4.** Are in the custody of a foreign depository, foreign clearing agency or foreign custodian bank which the Commission upon application from a Broker Dealer, an Exchange or upon its own motion, shall designate as a satisfactory control location for securities; or
- 49.2.2.5.** Are in the custody or control of a bank, the delivery of which securities to the Broker Dealer does not require the payment of money or value and the bank having acknowledged in writing that the securities in its custody or control are not subject to any right, charge, security interest, lien or claim of any kind in favor of a bank or any person claiming through the bank; or
- 49.2.2.6.** (i) Are held in or are in transit between offices of the Broker Dealer; or
(ii) Are held by a corporate subsidiary if the Broker Dealer owns and exercises a majority of the voting rights of all of the voting securities of such subsidiary, assumes or guarantees all of the subsidiary's

obligations and liabilities, operates the subsidiary as a branch office of the Broker Dealer, and assumes full responsibility for compliance by the subsidiary and all of its salesmen and other personnel with the provisions of the Code and rules and regulations adopted thereunder as well as for all of the other acts of the subsidiary and such persons; or

- 49.2.2.7.** Are in transit to or from Broker Dealers, banks, custodians, registered transfer agents and registered clearing agencies which are otherwise good control locations pursuant to the term of this Rule; Provided, such items shall have been in transit from or to the Broker Dealer for a period of not more than five (5) business days from the day they are first put in transit; and Provided, further, the books and records of the Broker Dealer clearly account for such items. An "in transit" account may be used for this purpose; or
- 49.2.2.8.** Are held in such other locations as the Commission shall upon application from a Broker Dealer or an Exchange to which a Broker Dealer is a member find and designate to be adequate for the protection of customer securities.

49.2.3. Requirement to Subject Securities to Possession or Control

49.2.3.1. Not later than the next business day, a Broker Dealer, as of the close of the preceding business day, shall determine from its books or records the quantity of fully paid securities and excess margin securities in its possession or control and the quantity of fully paid securities and excess margin securities not in its possession or control. In making this daily determination, inactive margin accounts (accounts having no activity by reason of purchase or sale of securities, receipt or delivery of cash or securities or similar type events) may be computed not less than once weekly. If such books or records indicate, as of the close of the business day, that the Broker Dealer has not obtained physical possession or control of all fully paid and excess margin securities as required by this SRC Rule and there are securities of the same issue and class in any of the following non-control locations:

- 49.2.3.1.1.** Securities subject to a lien securing monies borrowed by the Broker Dealer or securities loaned to another Broker Dealer, then the Broker Dealer shall, not later than the business day following the day on which such determination is made, issue instructions for the release of such securities from the lien or return such loaned securities and obtain physical possession or control of such securities within two (2) business days following the date of issuance of the instructions in the case of securities subject to lien securing borrowed monies and within five (5) business days following the date of issuance of instructions in the case of securities loaned; or,
- 49.2.3.1.2.** Securities included on his books or records as failed to receive more than thirty (30) days, then the Broker Dealer shall, not later than the business day following the day on which such determination is made, take prompt steps to obtain physical possession or control of securities so failed to receive through a buy-in procedure or otherwise; or,
- 49.2.3.1.3.** Securities receivable by the Broker Dealer as a stock dividend receivable, stock split, or similar distribution for more than forty five (45) days, then the Broker Dealer shall, not later than the business day following the day on which such determination is made, take prompt steps to obtain physical possession or control of securities so receivable through a buy-in procedure or otherwise.

49.2.3.2. A Broker Dealer which is subject to the requirements of this rule with respect to physical possession or control of fully paid and excess margin securities shall

prepare and maintain a current and detailed written description of the procedures which it utilizes to comply with the possession or control requirements set forth in this rule.

49.2.3.3. A Broker Dealer which is subject to this rule shall record information relating to physical possession and control of fully paid and excess margin securities on a quarterly basis and submit such record to an Exchange, in the case of a member of that Exchange, or to the Commission, in the case of a non-member, in accordance with the format set forth in "Annex 49.2-A."¹²⁶

49.2.4. Special Reserve Bank Account for the Exclusive Benefit of Customers

49.2.4.1. Every Broker Dealer shall maintain with a bank/s at all times when deposits are required or hereinafter specified as "Special Reserve Bank Account for the Exclusive Benefit of Customers" (hereinafter referred to as the "Reserve Bank Account"), and it shall be separate from any other bank account of the Broker Dealer. Such Broker Dealer shall at all times maintain in the Reserve Bank Account, through deposits made therein, cash (by maintaining separate bank deposit account) and/or qualified securities (by opening a custody account) in amounts computed in accordance with the formula attached hereto as "Annex 49.2-B."¹²⁷

A Broker Dealer, in addition to or in lieu of maintaining a Reserve Bank Account, may, upon proper application with and approval by the Commission, deposit qualified securities with duly accredited or recognized entities exercising custodianship functions. For this purpose, the Commission may prescribe other conditions that shall govern deposits of cash and/or qualified securities outside the banking system and with affiliated companies.

49.2.4.2. It shall be unlawful for any Broker Dealer to accept or use any of the amounts under items comprising Total Credits under "Annex 49.2-B" except for the specified purposes indicated under items comprising Total Debits under the formula, and, to the extent Total Credits exceed Total Debits, the net amount thereof shall be maintained in the Reserve Bank Account required by "Annex 49.2-B".

49.2.4.3. (i) Computations necessary to determine the amount required to be deposited pursuant to "Annex 49.2-B" above shall be made weekly, as of the close of the last business day of the week and the deposit so computed shall be made no later than one (1) hour after the opening of banking business on the second following business day; Provided, however, a Broker Dealer which has aggregate indebtedness not exceeding eight hundred percent (800%) of net capital as defined in SRC Rule 49.1 and which carries aggregate customer funds as computed at the last required computation pursuant to this rule, not exceeding Twenty Five Million Pesos (PhP25,000,000.00), may, in the alternative, make the computation monthly, as of the close of the last business day of the month, and in such event, shall deposit not less than one hundred five percent (105%) amount so computed no later than one (1) hour after the opening of banking business on the second following business day.

(ii) If a Broker Dealer, computing on a monthly basis, has, at the time of any required computation, aggregate indebtedness in excess of eight hundred percent (800%) of net capital, such Broker Dealer shall thereafter compute weekly as aforesaid until four successive weekly computations are made, none of which were made at a time when his aggregate indebtedness exceeded eight hundred percent (800%) of his net capital.

(iii) Computations in addition to the computations required in this SRC Rule 49.2.4.3, may be made as of the close of any other business day, and the deposits so computed shall be made no later than one (1) hour after the opening of banking business on the second following business day.

(iv) The Broker Dealer shall make and maintain a record of each such computation made pursuant to SRC Rule 49.2.4.3 and submit such computation quarterly

¹²⁶ Annex F of SRC Rules, see Annexes to SRC.

¹²⁷ Annex G of SRC Rules, see Annexes to SRC.

to an Exchange, in the case of a member of that Exchange, or to the Commission in the case of a non-member.

49.2.5. Notifications of Banks and Entities with custodianship arrangements

A Broker Dealer required to maintain the Reserve Bank Account prescribed by SRC Rule 49.2.4 shall obtain and preserve in accordance with Rule 52.1.2 a written notification from each bank in which the firm has its Reserve Bank Account that the bank and/or entity with custodianship arrangements ("custodian") was informed that all cash and/or qualified securities deposited therein are being held by the bank and/or custodian for the exclusive benefit of customers of the Broker Dealer in accordance with the rules and regulations of the Commission, and are being kept separate from any other accounts maintained by the Broker Dealer with the bank and/or custodian, and the Broker Dealer shall have a written contract with the bank and/or custodian which provides that the cash and/or qualified securities shall at no time be used directly or indirectly as security for a loan to the Broker Dealer by the bank and/or custodian and shall be subject to no right, charge, security interest, lien or claim of any kind in favor of the bank, and/or custodian, or any person claiming through the bank and/or custodian.

The Broker Dealer shall at all times file with the Commission and the Exchange a copy of the notifications duly received by the bank and/or custodian.

49.2.6. Withdrawals from the Reserve Bank Account

A Broker Dealer may make withdrawals from the firm's Reserve Bank Account if and to the extent that at the time of the withdrawal the amount remaining in the Reserve Bank Account is not less than the amount then required by SRC Rule 49.2.4. A bank and/or custodian may presume that any request for withdrawal from a Reserve Bank Account is in conformity and compliance with this SRC Rule. On any business day on which a withdrawal is made, the Broker Dealer shall make a record of the computation on the basis of which the firm makes such withdrawal and the Broker Dealer shall preserve such computation in accordance with Rule 52.1.2.

49.2.7. Buy-In of Short Security Differences

A Broker Dealer shall within ten (10) days after the date of the examination, count, verification and comparison of securities pursuant to Rule 52.1.10, preparation of the annual report of financial condition in accordance with SRC Rule 52.1.5, or for any other purpose, buy-in all short security differences which are not resolved during the ten (10)-day period. This requirement is without prejudice to the independent determination by the Commission or the Exchange of the Broker Dealer's liability pursuant to the other provisions of the Code and the Rules.

49.2.8. Notification in the Event of Failure to Make a Required Deposit

If a Broker Dealer shall fail to make in its Reserve Bank Account a deposit, as required by this rule, the Broker Dealer shall by fax, telegram, email or other equally prompt means, immediately notify the Commission and an Exchange, and shall promptly thereafter confirm such notification in writing, including the reasons for such failure.

49.2.9. Exemptions

49.2.9.1. The provisions of this rule shall not be applicable to a Broker Dealer who carries no margin accounts, promptly transmits all customer funds and delivers all securities received in connection with its activities as a Broker Dealer and does not otherwise hold funds or securities for, or owe money or securities to, customers.

49.2.9.2. Upon written application by a Broker Dealer, the Commission, may exempt such Broker Dealer from the provisions of this rule, either unconditionally or on specified terms and conditions, if the Commission or the Exchange finds that the Broker Dealer has established safeguards for the protection of funds and securities of customers comparable with those provided for by this rule and that it is not necessary in the public interest or for the protection of investors to subject the particular Broker Dealer to the provisions of this rule.

49.2.10. Delivery of Securities

Nothing in this rule shall be construed as affecting the absolute right of a customer of a Broker Dealer to receive in the course of normal business operations following demand made on the Broker Dealer, the physical delivery of certificates for:

49.2.10.1. Fully paid securities to which he is entitled, and

49.2.10.2. Margin securities upon full payment by such customer to the Broker Dealer of his indebtedness to the Broker Dealer and, subject to the right of the Broker Dealer to retain collateral for the firm's own protection beyond the requirements of Rule 48.1, excess margin securities not reasonably required to collateralize such customer's indebtedness to the Broker Dealer.

49.2.11. Extensions of Time

If an appropriate committee of the Exchange is satisfied that a Broker Dealer which is a member of that Exchange is acting in good faith in making the application and that exceptional circumstances warrant such action, such committee, on application of the Broker Dealer, may extend any period specified in SRC Rules 49.2.3.1.1 and 49.2.3.1.3, SRC Rule 49.2.7 and SRC Rule 49.2.11, relating to the requirement that such Broker Dealer take action within a designated period of time to buy-in in a security, for one or more limited periods commensurate with the circumstances. Each such committee shall make and preserve for a period of not less than five (5) years a record of each such extension granted which shall contain a summary of the justification for the granting of the extension.

49.2.12. Definitions. For the purpose of this rule:

49.2.12.1. Customer shall mean any person from whom or on whose behalf a Broker Dealer has received or acquired or holds funds or securities for the account of that person. The term shall not include a Broker Dealer nor shall it include general partners or directors or principal officers of the Broker Dealer or any other person to the extent that the person has a claim for property or funds which by contract, agreement or understanding, or by operation of law, is part of the capital of the Broker Dealer or is subordinated to the claims of creditors of the Broker Dealer. The term "customer", however, shall include another Broker Dealer (the initiating Trading Participant as defined in SRC Rule 34.1 hereof) wherein the latter maintains separately a Dealer account and a special omnibus account in behalf of his customer with the former.

49.2.12.2. Securities carried for the account of the customer (also "**customer securities**") shall mean:

49.2.12.2.1. Securities received by or on behalf of a Broker Dealer for the account of any customer and securities carried long by a Broker Dealer for the account of any customer; and

49.2.12.2.2. Securities sold to, or bought for, a customer by a Broker Dealer.

49.2.12.3. Fully paid securities shall include all securities carried for the account of a customer in a cash account or a margin account if they have been fully paid for; Provided, however, that the term "fully paid securities" shall not apply to any securities which are purchased in transactions for which the customer has not made full payment.

49.2.12.4. Margin securities shall mean those securities which have been purchased by a customer on the basis of credit extended by a Broker Dealer pursuant to the provisions of Section 48 of the Code and SRC Rule 48.1.

- 49.2.12.5. Excess margin securities** shall mean margin securities having a market value in excess of one hundred forty percent (140%) of the total of the debit balances in the customer's account/s encompassed by SRC Rule 49.2.12.4 which the Broker Dealer identifies as not constituting margin securities.
- 49.2.12.6. Qualified security** shall mean a security issued by the Republic of the Philippines or a security in respect of which the principal and interest are guaranteed by the Government of the Philippines.
- 49.2.12.7. Free credit balances** shall mean liabilities of a Broker Dealer to customers which are subject to immediate cash payment to customers on demand, whether resulting from sales of securities, dividends, interest, deposits, or otherwise.
- 49.2.12.8. Other credit balances** shall mean cash liabilities of a Broker Dealer to customers other than free credit balances.
- 49.2.12.9.** Funds carried for the account of any customer (also "**customer funds**") shall mean all free credit and other credit balances carried for the account of the customer.
- 49.2.12.10. Principal officer** shall mean the president, executive vice president, treasurer, secretary or any other person performing a similar function with the Broker Dealer.
- 49.2.12.11.** Household members and other persons related to principals include husbands or wives, children, sons-in-law or daughters-in-law and any household relative to whose support a principal contributes directly or indirectly. For purpose of this SRC Rule, a principal shall be deemed to be a director, general partner or principal officer of the Broker Dealer.
- 49.2.12.12. Affiliated person** includes any person who directly or indirectly controls a Broker Dealer or any person who is directly or indirectly controlled by or under common control with the Broker Dealer. Ownership of ten percent (10%) or more of the common stock of the relevant entity will be deemed *prima facie* control of that entity for purposes of this SRC Rule.
- 49.2.12.13. Omnibus account** shall mean an account in which a Broker Dealer effects transactions for its customer through another Broker Dealer.

49.2.13. Information relating to Possession and Control Requirements and the Formula for Determination of Reserve Requirements of Broker Dealers under SRC Rule 49.2 are set forth as Annexes 49.2-A and 49.2-B, respectively.

RULE 49.3 - Lending and Voting Customers Securities

A Broker Dealer shall not, without the written consent of the customer, lend the latter's securities to itself or to anyone else, or vote them as if they were his own.

RULE 50 - Purchases and Sales in Cash Account

50.1. Purchases by a customer in a cash account shall be paid in full within two (2)¹²⁸ business days after the trade date.

50.2. If full payment is not received within the required time period, the Broker Dealer shall cancel or otherwise liquidate the transaction, or the unsettled portion thereof, starting on the next business day but not beyond ten (10) business days following the last day for the customer to pay, unless such sale cannot be effected within said period

¹²⁸ *Id.*

for justifiable reasons in which case, notification in writing shall be made with the Exchange and the Commission.

50.3. If a transaction is cancelled or otherwise liquidated as a result of non-payment by the customer, prior to any subsequent purchase during the next ninety (90) days, the customer shall be required to deposit sufficient funds in the account to cover each purchase transaction prior to execution.

50.4. If the amount of money due from a customer in a cash account is less than Ten Thousand Pesos (PhP10,000.00) the Broker Dealer may choose not to take the action required by SRC Rule 50.2.

50.5. Exceptions to SRC Rules 50.1, 50.2, and 50.3 include when the security purchased is unissued or where the purchase is made by the customer with the understanding that payment is to be made upon delivery.

50.6. Written application for an extension of the period of time required for payment under SRC Rule 50.1 may be made by the Broker Dealer to the Exchange in the case of a member of that Exchange or to the Commission, in the case of a non-member of the Exchange. Applications for the extension must be based upon exceptional circumstances and must be filed and acted upon before the expiration of the original payment period or the expiration of any subsequent extension.

50.7. If a Broker Dealer executes a sell order of a customer (other than an order to execute a sale of securities which the seller does not own) and if for any reason whatsoever the Broker Dealer has not obtained possession of the securities from the customer on the next business day after settlement date but not beyond ten (10) business days for the customer to deliver the securities, the Broker Dealer shall immediately thereafter close the transaction with the customer by purchasing securities of like kind and quantity, unless such purchase cannot be effected within said period for justifiable reasons in which case, notification in writing shall be made with the Exchange and the Commission

50.8. If the Broker Dealer is required to take the action required by SRC Rule 50.7, prior to any subsequent sale during the next ninety (90) days, the customer will be required to place the securities on deposit in the account prior to execution of the transaction.

RULE 51 - Liabilities of Controlling Persons, Aider and Abettor and Other Secondary Liability

51.1. Every person who, by or through stock ownership, agency, or otherwise, or in connection with an agreement or understanding with one or more other persons, controls any person liable under the Code or the rules or regulations of the Commission thereunder, shall also be liable jointly and severally with and to the same extent as such controlled persons to any person to whom such controlled person is liable, unless the controlling person proves that, despite the exercise of due diligence on his part, he has no knowledge of the existence of the facts by reason of which the liability of the controlled person is alleged to exist.

51.2. It shall be unlawful for any person, directly or indirectly, to do any act or thing which it would be unlawful for such person to do under the provisions of the Code or any rule or regulation thereunder.

51.3. It shall be unlawful for any director or officer of, or any owner of any securities issued by, any issuer required to file any document, report or other information under the Code or any rule or regulation of the Commission thereunder, without just cause, to hinder, delay or obstruct the making or filing of any such document, report, or information.

51.4. It shall be unlawful for any person to aid, abet, counsel, command, induce or procure any violation of the Code, or any rule, regulation or order of the Commission thereunder.

51.5. Every person who substantially assists the act or omission of any person primarily liable under Sections 57, 58, 59 and 60 of the Code, with knowledge or in reckless disregard that such act or omission is wrongful, shall be jointly and severally liable as an aider and abettor for damages resulting from the conduct of the person primarily liable; Provided, however, That an aider and abettor shall be liable only to the extent of his relative contribution in causing such damages in comparison to that of the person primarily liable, or the extent to which the aider and abettor was unjustly enriched thereby, whichever is greater.

RULE 52.1 - Accounts and Records, Reports, Examination of Exchanges, Members, and Others

52.1.1. Books and Records Rule¹²⁹

52.1.1.1. A Broker Dealer shall make, keep current and maintain in its principal office the following books and records relating to its business:

52.1.1.1.1. Blotter and Similar Records — A Broker Dealer shall have blotters or books of original entry containing a historical account of all the daily transactions of the Broker Dealer or its customers. The Broker Dealer may keep a number of different blotters to record separate types of transactions, provided that the Broker Dealers shall have at least:

52.1.1.1.1.1. A Purchase and Sales Blotter setting forth for each transaction the purchaser and seller, subject security, confirmation invoice number, quantity, price, amount, any interest or commission, net amount of proceeds from the transaction, trade date, and settlement date;

52.1.1.1.1.2. An In/Out Receipts Book setting forth the receipt and delivery of securities to and from other Broker Dealers and securities depository in case of stock dividend distribution, including information on the date of receipt or delivery of the securities to or from Broker Dealers, the In/Out Receipt number, name of security, number of shares, and description of such receipt and delivery of securities (e.g., lodgment or upliftment of shares, transfer request by a customer). If the receipt and delivery of shares refer to a transfer of shares by a customer from/to his account with the Broker Dealer to/from his other account with another Broker Dealer, the Broker Dealer should obtain a written transfer request from the customer prior to executing the transfer and keep the document on file;

52.1.1.1.1.3. A Stock Debit Memo (SDM)/Stock Credit Memo (SCM) book setting forth the receipt and delivery of securities to and from customers of the Broker Dealer, including information on the date of receipt and delivery of the securities, the SDM/SCM number, name of security, number of shares, and a short description of such receipt and delivery of securities; and

52.1.1.1.1.4. Cash Receipts/Disbursement Book setting forth the receipt and disbursement of cash, including information on the official receipt/check voucher number, check number, bank account from which cash was withdrawn or deposited, utilization of the cash and accounting entries at the end of each month.

¹²⁹ Annex H of SRC Rules, see Annexes to SRC.

The IN/OUT Receipts, SDM/SCM and Official Receipts/Check Vouchers shall be utilized in chronology according to their control numbers.

- 52.1.1.1.2. **General Ledger** — A Broker Dealer shall have a General Ledger reflecting all its assets and liabilities, and its income and expense and capital accounts, and from which a trial balance can be abstracted in order to prepare financial statements showing the Broker Dealer's condition. (Annex 52.1-A)
- 52.1.1.1.3. **Subsidiary Ledgers** — A Broker Dealer shall have an individual Subsidiary Ledger of all its asset and liability accounts, and its income and expense and capital accounts which shall set forth the itemized account activity and entries. (Annex 52.1-A)
- 52.1.1.1.4. **Journal Book** — A Broker Dealer shall have a Journal Book which shall set forth all entries showing the asset, liability, income, expense, or capital accounts debited and credited, the amounts and the journal voucher control numbers and the description of such entries. Journal vouchers shall be utilized in chronology according to their control numbers.
- 52.1.1.1.5. **Customer's Ledger** — A Broker Dealer shall have a Customer's Ledger, which shall set forth the itemized account activity and the securities positions and money balances (beginning and ending positions and balances) of the customer. A complete set of the statements of account of a customer on file with the Broker Dealer can be the Customer's Ledger.
- 52.1.1.1.6. **Detailed Collateral Valuation Schedule** — A Broker Dealer shall have a Detailed Collateral Valuation Schedule, which shall set forth the name of the customer, money balance, name of security, number of shares, market value of position, and percentage of total market value of position of customer over money balance classified as follows:
 - 52.1.1.1.6.1. More than 250%;
 - 52.1.1.1.6.2. At least 200% but not more than 250%;
 - 52.1.1.1.6.3. At least 150% but not more than 200%;
 - 52.1.1.1.6.4. At least 100% but not more than 150%;
 - 52.1.1.1.6.5. Less than 100%; and
 - 52.1.1.1.6.6. Fully Secured. (from RBCA Rules)
- 52.1.1.1.7. **Securities in Transfer Ledger** — A Broker Dealer shall have a Securities in Transfer Ledger, which shall show the number of the transfer receipts received from the transfer agent, the number of shares, name of security, name of previous owner, name of new owner, date sent out to transfer agent, old certificate number, date received back from transfer, and new certificate number. (Annex 52.1-A)
- 52.1.1.1.8. **Dividends and Interest Received Ledger** — A Broker Dealer shall have a Dividends and Interest Received Ledger, which shall show the name of the security, the ex-dividend date (or interest date), the rate per share, and the payment date. (Annex 52.1-A)
- 52.1.1.1.9. **Securities Borrowed and Securities Loaned Record** — A Broker Dealer shall have a record of securities borrowed to make deliveries against sales and securities lent to other Broker Dealers. Said record shall state the borrowing or lending date, name of borrowing or lending Broker Dealer, number of shares, name of security, price,

amount, the date returned, and any interest or other compensation. As securities are marked to market, resulting in additional monies paid or collected, the record should reflect that money movement in order to balance the daily cash blotter and reflect the appropriate money amount to be paid or collected when the loan is paid. (*Annex 52.1-A*)¹³⁰

- 52.1.1.1.10. **Record of Monies Borrowed, Monies Loaned, etc.** — A Broker Dealer shall have a record of all borrowings, regardless of whether customers' or its securities are pledged as collateral. This record should show the name of the bank, the date of payment, and particulars of the collateral, if any. (*Annex 52.1-A*)
- 52.1.1.1.11. **Record of Securities and Monies Failed to Receive or Failed to Deliver** — A Broker Dealer shall have a record of securities and monies, which the Broker Dealer failed to receive or deliver. In case of failure to receive securities and monies, the Broker Dealer shall state in said record the date on which delivery was due but not made, number of securities or amount of money, name of security, purchase price, Broker Dealer from whom delivery is due, and date received. In case of failure to deliver securities and monies, the Broker Dealer shall state in such record the date on which delivery was due, number of shares or amount of money, name of security, Broker Dealer to whom securities were sold, sale price and date on which delivery is made. (*Annex 52.1-A*)
- 52.1.1.1.12. **Securities Record or Ledger** — A Broker Dealer shall have securities record or ledger or position book, which shall state separately for each security all long or short positions (including securities in safekeeping) carried by the Broker Dealer either for its account or for the account of its customers. Said record or ledger shall state the location of all securities "long", the offsetting position to all securities "short", and in all cases the name or designation of the account in which each position is carried. (*Annex 52.1-A*)
- 52.1.1.1.13. **Order Ticket** — A Broker Dealer shall have a memorandum of each order and any other instruction, which the Broker Dealer, on its behalf or on behalf of its customer, gave or received for the purchase or sale of securities, whether executed or unexecuted. The memorandum shall state the terms and conditions of the order or instructions and of any modification or cancellation thereof, the account for which entered, the time of entry (i.e., the time the order was transmitted by the Broker Dealer and received by the relevant party), the price at which executed, and, to the extent feasible, the time of execution or cancellation. Orders entered pursuant to the exercise of discretionary power by the Broker Dealer shall be so designated. A Broker Dealer may adopt an electronic form for the order ticket with the approval of the Commission.
- 52.1.1.1.14. **Confirmations and Notices** — A Broker Dealer shall have copies (Broker's copies and copies acknowledged by customers) of (i) confirmations of all purchases and sales of securities and (ii) copies of notifications of all other debits and credits for cash and/or securities for the account of customers.
- 52.1.1.1.15. **Records on Cash and Margin Accounts** — A Broker Dealer shall have, in respect of each cash and margin account, a record containing the name and address of the beneficial owner of the account, and, in the case of a margin account, the signature of the owner, subject to the following rules:

¹³⁰ See MC 07-2006 Re: Rules on Securities Borrowing and Lending, dated 9 June 2006.

- 52.1.1.1.15.1. In case of a joint account or an account of a corporation, the record shall only be in respect of the person or persons authorized to transact business for such account;
- 52.1.1.1.15.2. In case of a Done-Through Account and for purposes of record keeping, only the Broker Dealer maintaining said account with another Broker Dealer shall be regarded as the beneficial owner; the customers of the Broker Dealer maintaining the account shall not be customers of the Broker Dealer with whom the Done Through Account is maintained. Transactions of a done-through account, however, should be executed in accordance with the "Customer First" policy and in compliance with SRC Rule 34.1.1; and
- 52.1.1.1.15.3. Where a trustee, nominee or other fiduciary opens and maintains an account with a Broker Dealer as a representative of one or more particular beneficiaries and where all transactions effected in that trust are solely for the particular predetermined beneficiaries for whom the account is maintained, such beneficiaries (who thus have ownership of the account itself as distinguished from an interest in particular securities or credits which may happen to be recorded therein) shall be beneficial owners of the account. Where the agent's or trustee's transactions on behalf of a trust or particular individuals are of such volume and importance as to warrant the opening of a separate account for the particular trust or individuals, the Broker Dealer shall obtain the name and address either of the particular trust or of the beneficiaries.

52.1.1.1.16. **Monthly Trial Balances and RBCA Computation** — A Broker Dealer shall prepare at least once a month a current record of (a) the proof of money balances in all ledger accounts in the form of trial balances; and (b) the computations of the aggregate indebtedness, net liquid capital and RBCA ratio as of the trial balance date; Provided, however, that the computation of the aggregate indebtedness net capital and RBCA ratio shall be made on a daily basis and available for review when required by the Commission or the Exchange.

52.1.1.1.17. A Broker Dealer shall have on file its **written supervisory procedures** (WSP) detailing the operating procedures established by the Broker Dealer and other internal procedures adopted in compliance with the requirements and provisions of the SRC, these Rules and other relevant regulations. A Broker Dealer shall always update these internal procedures to be compliant with the new rules and regulations issued by the Exchange, the Commission, Anti-Money Laundering Council and other relevant organizations.

A Broker Dealer shall have on file an employment questionnaire or application for each Associated Person and Salesman. Such questionnaire or application shall state material and relevant information on such person such as possible conflict of interest situations, and must be approved in writing by the designated Associated Person or other authorized agent of the Broker Dealer. A Broker Dealer shall retain a complete copy of the registration application of each Associated Person and salesman, stamped

"Received" by the Commission or such other proof of receipt as the Commission may prescribe.

52.1.1.1.18. A Broker Dealer shall have on file all Anti-Money Laundering Act (AMLA) Resolutions and such file shall be updated with any new AMLA resolutions released by the Anti-Money Laundering Council.

52.1.1.2. A Broker Dealer shall maintain a logbook on material compliance and non-compliance of Broker companies and the Compliance Reports maintained and/or submitted by the Associated Person pursuant to SRC Rule 30.2.6.5.

52.1.1.3. With the prior approval of the Commission and in addition to the computerized and effective recording and accounting system mandated by SRC Rule 28.1, a Broker Dealer may make, keep current and maintain the books and records in electronic form and/or medium (including electronic records, which the Exchange trading system may allow to be so made, kept current and maintained), Provided that, upon directive by the Commission, the Exchange, or any other party, who may be legally entitled or authorized to access said books and records, the Broker Dealer shall promptly and readily provide a comprehensible and certified true printed and/or electronic copy of the books and records or any part thereof. Failure to do so shall result in immediate suspension of the Broker Dealer's registration. Such suspension shall continue until such time as the books and records are made available to the requesting organization and the said organization has satisfied itself that the books and records have not been modified or otherwise changed or altered during the period of suspension.

52.1.1.4. All Broker Dealers shall comply with the International Accounting Standards (IAS) and the Philippine Financial Reporting Standards.

52.1.2. Records Retention Rule

52.1.2.1. Every Broker Dealer shall preserve for a period of not less than five (5) years, the first two (2) years in an easily accessible place.

52.1.2.2. All books and records required under the Books and Records Rule include but not limited to the following:

- 52.1.2.2.1. All records required to be made of the Books and Records Rule, SRC Rule 52.1-1;
- 52.1.2.2.2. All Check books, bank statements and passbooks, cancelled checks and cash reconciliations;
- 52.1.2.2.3. All bills receivable or payable (or copies thereof), paid or unpaid, relating to the business of such Broker Dealer as such;
- 52.1.2.2.4. Originals of all communications received and copies of all communications sent by such Broker Dealer (including inter-office memoranda, e-mails and other communications) relating to his business as such;
- 52.1.2.2.5. All trial balances, computations of aggregate indebtedness and net capital (and working papers in connection therewith), financial statements, branch office reconciliations and internal audit working papers, relating to the business of such Broker Dealer;
- 52.1.2.2.6. All guaranteed accounts and all powers of attorney and other evidence of the granting of any discretionary authority given in respect of any account, and copies of resolutions empowering an agent to act on behalf of a corporation;
- 52.1.2.2.7. All written agreements (or copies thereof) entered into by such Broker Dealer relating to his business as such, including client agreements;

- 52.1.2.2.8. Records which contain the following information in support of amounts included in the report prepared as of the audit date in annual audited financial statements required by SRC Rule 52.1.5:
- 52.1.2.2.8.1. Money balance and position, long or short, including description, quantity, price and valuation of each security, including contractual commitments in customer's accounts, in cash and fully secured accounts, partly secured accounts, unsecured accounts and in securities accounts payable to customers;
 - 52.1.2.2.8.2. Money balance and position, long or short, including description, quantity, price and valuation of each security, including contractual commitments in non-customers' accounts, in cash and fully secured accounts, partly secured and unsecured accounts and in securities accounts payable to non-customers;
 - 52.1.2.2.8.3. Money balance and position, long or short, including description, quantity, price and valuation of each security, including contractual commitments included in the computation of Risk Based Capital Adequacy (RBCA) Ratio as commitments, securities owned, securities owned not readily marketable, and other investments owned not readily marketable;
 - 52.1.2.2.8.4. Amount of secured demand note, description of collateral securing such secured demand note including quantity, price and valuation of each security and cash balance securing such secured demand note;
 - 52.1.2.2.8.5. Number of shares, description of security, exercise price, cost and market value of put and call options including short out of the money, having no market or exercise value, showing listed and unlisted put and call options separately;
 - 52.1.2.2.8.6. Quantity, price, and valuation of each security underlying the haircut for undue concentration made in the Computation for Net Capital;
 - 52.1.2.2.8.7. Description, quantity, price, and valuation of each security or contractual commitment, long or short, in each joint account in which the Broker Dealer has an interest, including each participant's interest and margin deposit;
 - 52.1.2.2.8.8. Description, settlement date, contract amount, market price, and valuation for each aged failed to deliver requiring a charge in the Computation of Net Capital;
 - 52.1.2.2.8.9. Detail of all items, not otherwise substantiated which are charged or credited in the Computation of Net Capital pursuant to the Net Capital Rule, such as cash margin deficiencies, deductions related to securities values and undue concentration, aged securities differences and insurance claims receivable; and

- 52.1.2.2.8.10. Details relating to information for possession or control requirements and computations for determination of reserve requirements under the Rule on Customer Protection-Reserves and Custody of Securities.
- 52.1.2.2.8.11. A detailed description of the procedures which the Broker Dealer utilizes to comply with requirements set forth in "Annex E".49.1-1-A.

52.1.2.3. Every Broker Dealer shall preserve for a period of not less than five (5) years after the closing of any customer's account, the client agreement, account statement and any other records which relate to the terms and conditions with respect to the opening and maintenance of such account, including but not limited to customer identification, account files and business correspondence, provided, that if criminal, civil, or administrative cases including money laundering cases, have been filed in a competent judicial or administrative body, or an investigation is being conducted in which the customer is involved or impleaded as a party to the case or investigation, the documents mentioned above must be retained beyond the five-year period until it is confirmed by final judgment that the case has been finally resolved or terminated by the judicial or administrative body.

52.1.2.4. Every Broker Dealer shall preserve during the life of the enterprise and of any successor enterprise all partnership articles or, in the case of a corporation, all articles of incorporation or charter, minute books and stock certificate books.

52.1.2.5. Every Broker Dealer shall maintain and preserve in an easily accessible place all records required under SRC Rule 52.1.1.1.12 of the Books and Records Rule until at least three (3)-years after the associated person or salesman has terminated his employment and any other connection with the Broker Dealer.

52.1.2.6. The records required to be maintained and preserved pursuant to this Rule may be immediately produced or reproduced on electronic form and/or medium and be maintained and preserved for the required time in that form. If such electronic form and/or medium substitution for hard copy is made by a Broker Dealer, it shall (a) at all times have available for the Commission, Exchange or SRO of which it is a member for examination of its records, facilities for immediate, easily readable projection of the electronic form and/or medium and for producing easily readable facsimile enlargements, (b) arrange the records and index and file the film in electronic form and/or medium in such a manner as to permit the immediate location of any particular record, (c) be ready at all times to provide and immediately provide, any facsimile enlargement which the Commission, Exchange or SRO by their examiners or other representatives may request, and (d) store separately from the original one other copies of the electronic form and/or medium for the time required.

52.1.2.7. Every Broker Dealer who ceases or suspends its trading operations voluntarily, shall preserve for a period of not less than five (5) years, from the date that the Exchange, SRO or Commission has approved the cessation or suspension, all records required to be maintained pursuant to the Books and Records Rule. The Broker Dealer shall inform the Exchange, SRO and the Commission of the names and addresses of at least two (2) persons responsible in the safekeeping of all the records, reporting any change in the person/s responsible, if there is any. For this purpose, the Broker Dealer and the named records custodians shall execute and file with the Commission a notarized undertaking to this effect. If administrative, civil or criminal cases have been filed in court or an investigation is being conducted or the customer is involved or impleaded as a party to the case or investigation, the books, records and trade-related assets shall be retained beyond the five-year period until it is confirmed by final judgment that the case has been finally resolved or terminated.

Every Broker Dealer who has been involuntarily suspended shall surrender all books and records and trade-related assets to the pertinent SRO. The SRO shall retain custody over these books, records and trade-related assets for a period of not less than five (5) years, from the date that the SRO or Commission issued the takeover order. If administrative, civil or criminal cases have been filed in court or an investigation is being

conducted on the Broker Dealer involved or impleaded as a party to the case or investigation, the SRO shall retain custody over these books, records and trade-related assets which must be retained beyond the five-year period until it is confirmed by final judgment that the case has been finally resolved or terminated.

52.1.2.8. If the records required to be maintained and preserved pursuant to the Books and Records Rule and Records Retention Rule are prepared or maintained by an outside service bureau, depository, bank or other recordkeeping service on behalf of the Broker Dealer required to maintain and preserve such records, such outside entity shall file with the SRO and the Commission a written undertaking in a form acceptable to the Commission, signed by a duly authorized person, to the effect that such records are the property of the Broker Dealer required to maintain and preserve such records and will be surrendered promptly on request of the Broker Dealer and including the following provision:

"With respect to any books and records maintained or preserved on behalf of [name of Broker Dealer], the undersigned hereby undertakes to permit examination of such books and records at any time or from time to time during business hours by representatives or designees of the Securities and Exchange Commission, and/or any SRO to which the Broker Dealer is a member and to promptly furnish to the Commission and that SRO or their designee true, correct, complete and current hard copy of any or all or any part of such books and records."

Agreement with an outside entity shall not relieve such Broker Dealer from the responsibility to prepare and maintain records as specified in this rule or in the Books and Records Rule.

52.1.2.9. Every Broker Dealer subject to this Rule shall furnish promptly to a representative of the Commission and any SRO to which the Broker Dealer is a member legible, true and complete copies of those records of the Broker Dealer which are required to be preserved under this Rule which are requested by the Commission or that SRO.

52.1.3. Keeping of Exchange Records

An Exchange shall keep complete and accurate records of all its proceedings, transactions and decisions and such records shall be made available for inspection by the Commission.

52.1.4. Reports of Exchange Members and Brokers or Dealers Trading Through Members

Every member of an Exchange and every Broker Dealer who transacts a business in securities through the medium of any such member shall, in the manner and form to be prescribed by the Commission, make such periodic, special or other reports as the Commission may by order require from time to time.

52.1.5. Annual Audited Financial Reports of Broker Dealers

52.1.5.1. Every Broker Dealer shall file with the Commission and SRO to which it is a member an Annual Audited Financial Report on SEC Form 52-AR, accomplished by a Commission-accredited independent certified public accountant, and a statement of management responsibility signed by chairman of the board of directors, chief executive officer and chief financial officer of the said Broker Dealer.

52.1.5.2. For Broker Dealer whose fiscal year ends on December 31, SEC Form 52-AR shall be filed with the Commission depending on the last numerical digit of its registration number as prescribed by the Commission. Broker Dealers whose fiscal year ends on a date other than December 31 shall file SEC Form 52-AR, 110 calendar days after the close of such fiscal year.

52.1.5.3. The report shall contain the Statement of Financial Condition, Statement of Comprehensive Income, Statement of Changes in Equity, Statement of Cash Flows, Statement of Management's Responsibility, Statement of Changes in Liabilities Subordinated to Claims of General Creditors, Computation of Risk Based Capital Adequacy Requirement, Information Relating to the Possession or Control Requirements under

Annex 49-2-A,¹³¹ Computation for Determination of Reserve Requirements Under Annex 49.2-B, a Report describing any material inadequacies found to exist or found to have existed since the date of the previous audit, Results of Monthly Securities Count Conducted pursuant to SRC Rule 52.1.10 as of the date of the balance sheet statement in the Annual Audited Financial Report.

52.1.5.4. All supporting papers pertaining to such report or statement shall be kept in the possession of the Broker Dealer for at least five (5) years and shall be made available for examination by the Commission and SRO.

52.1.5.5. For the purposes of this Rule, the term market value shall be understood to mean the last sale price of the security on the date of the report or statement; if no sale of the corresponding security is made on that date, it shall be understood to mean the bid price and, in the absence of any buyer, it shall be taken to mean the last sale price which is below the offer price on the date of the report or statement. For purposes of determining market value for a short position, where no sale of the corresponding security is made on that date, it shall be understood to mean the offer price and, in the absence of any seller, it shall be taken to mean the last sale price which is above the bid price on the date of the report or statement.

52.1.5.6. For the purposes of this Rule, the term **material inadequacy** encompasses either a material weakness in internal control or a material inadequacy in the practices and procedures for safeguarding securities.

A material inadequacy that is expected to be reported includes any condition that has either contributed substantially to or, if appropriate corrective action is not taken, could reasonably be expected to cause any of the following:

- 52.1.5.6.1. Inhibit a Broker Dealer from completing securities transactions or promptly discharging its responsibilities to customers or to other Broker Dealers or creditors;
- 52.1.5.6.2. Result in material financial loss;
- 52.1.5.6.3. Result in material misstatements of the Broker Dealer's financial statements;
- 52.1.5.6.4. Result in violations of the Commission's recordkeeping or financial responsibility rules to an extent that could reasonably be expected to result in the conditions described above.

If conditions believed to be material weaknesses are found to exist or have existed during the year, the report should disclose the nature of the weaknesses and the corrective action taken or proposed to be taken by the Broker Dealer. If management has implemented control procedures to correct the weaknesses, the auditor should not refer to this corrective action in his or her report unless the auditor is satisfied that the procedures are suitably designed to correct the weakness and are being applied as prescribed.

52.1.6. Customer Account Information Rule

52.1.6.1. Every Broker Dealer shall maintain for **each account**, the following information and requirements:¹³²

- 52.1.6.1.1. Customer's name, residence address, office address, principal business address and their corresponding phone numbers and email addresses, mobile phone number;
- 52.1.6.1.2. Trading Account Code;

¹³¹ Annex 49-2-A (Annex "F" of SRC Rules).

¹³² Annex I of SRC Rules, see Annexes to SRC.

- 52.1.6.1.3. Occupation of customer, and the name, address and phone number of employer, if employed;
- 52.1.6.1.4. At least one (1) of the following: Social Security Number, Government Service and Insurance System Number, Passport Number, Driver's License Number, Senior Citizen ID Number, Voter's ID Number or any government issued identification card number;
- 52.1.6.1.5. Sources of funds;
- 52.1.6.1.6. Nationality;
- 52.1.6.1.7. Signature of the salesman introducing the account and signature of the partner, officer or manager who accepts the account;
- 52.1.6.1.8. If the customer is a corporation, partnership or other legal entity: Articles of Incorporation/Partnership; By laws; Constitutive Documents of the entities; List of directors/partners and principal officers; List of stockholders owning at least two percent (2%) of the capital stock; Names of person/s authorized to transact business on behalf of the entity; Secretary's Certificate of board resolution authorizing the opening of the account with the Broker Dealer firm;
- 52.1.6.1.9. Specimen signatures;
- 52.1.6.1.10. Option whether confirmation of customer orders would be via courier, facsimile or electronically.
- 52.1.6.1.11. Where the customer is acting as agent of another person, the broker dealer shall validate the true and full identity of the principal on whose behalf a transaction is being conducted, and the name of such principal shall be indicated in said Customer Account Information Form ("CAIF"), otherwise said customer shall be considered as owner of the account.
- 52.1.6.1.12. Written authorization of the broker dealer and client for the duly authorized representatives of the Commission to examine and require the submission of the client records, accounts, orders, trades, positions, trading account codes and the names of clients corresponding to such trading account codes and any other information that the Commission may need at any time.
- 52.1.6.1.13. Taxpayer Identification Number and tax status.

52.1.6.2. For each account other than an institutional account, the Broker Dealer shall obtain in addition to the information and requirements under SRC Rule 52.1.6, prior to the settlement of the initial transaction in the account, the following information to the extent it is applicable to the account:

- 52.1.6.2.1. Whether the customer is employed by or otherwise associated with another Broker Dealer (*e.g.*, officer, director, salesman, shareholder);
- 52.1.6.2.2. Whether the customer is an officer or director of a company listed on an Exchange;
- 52.1.6.2.3. The customer's investment objective and other related information concerning the customer's financial situation and needs;
- 52.1.6.2.4. If duplicate confirmations are required to be sent to another person, the identity of that person and his relationship to the customer.

52.1.6.3. For discretionary accounts, the Broker Dealer shall in addition to the information and requirements under SRC Rule 52.1.6.1 also:

- 52.1.6.3.1. Obtain the signature of each person authorized to exercise discretion in the account;
- 52.1.6.3.2. Record the date such discretion is granted;
- 52.1.6.3.3. Attach discretionary agreement executed between the Broker Dealer and the customer indicating the terms and conditions and extent of discretion to be exercised.

52.1.6.4. For corporate or institutional accounts, the Broker Dealer shall in addition to the information and requirements under SRC Rule 52.1.6, obtain, prior to the settlement of the initial transaction in the account, the following information to the extent it is applicable to the account:

- 52.1.6.4.1. Beneficial owners, if any;
- 52.1.6.4.2. Verification of the authority and identification of the person purporting to act on behalf of the client;
- 52.1.6.4.3. Financial Information;
- 52.1.6.4.4. Investment objective.

52.1.6.5. If more than one party is named on the account, separate account information shall be obtained for each party.

52.1.6.6. If the account is a trust account, a copy of the trust agreement shall be required. The agreement shall specify the types of transactions that the trustee is allowed to perform. These accounts cannot be margin accounts unless specifically authorized by the trust agreement. In addition, the trust account must indicate the following information: (1) if it is common, collective or individual account; (2) the name/s of the beneficial owner/s; (3) the name/s of the account owner/s; (4) if acting for his own account or as agent; and (5) if acting as agent, the principal must be specified.

52.1.6.7. A Broker Dealer shall not maintain a numbered account for trading or investment purposes of a client or his own account. All existing numbered accounts shall comply with the requirements of these revised rules within thirty (30) days from effectivity thereof.

52.1.6.8. The Broker Dealer shall develop clear customer acceptance policies and procedures when conducting business relations or accommodating specific transactions and shall exercise due diligence in implementing its policies and procedures. Furthermore, it shall adopt adequate internal control measures for verifying and recording the true and full identity of their customers. It shall require customers to produce original documents of identity issued by an official authority, preferably bearing a photograph of the customer and where practicable, maintain file copies of documents of identity; otherwise, relevant details on the identity documents will be recorded.

52.1.6.9. In the case of corporate clients, the Broker Dealer shall require a system of verifying their legal existence and organizational structure, as well as the authority and identification of all persons purporting to act on their behalf and shall exercise due diligence in implementing its policies and procedures. It shall endeavor to ensure, prior to establishing business relationships, that the corporate entity has not been or is not in the process of being dissolved, wound up, liquidated, or voided, or that its business or operations has not been or is not in the process of being, closed, shut down, phased out, or terminated. Dealings with shell companies and corporations, being legal entities which have no business substance in their own right but through which financial transactions may be conducted, should be undertaken with extreme caution.

52.1.6.10. In addition to the requirements prescribed in the immediately preceding SRC Rules, in the case of customers who are acting as trustee, nominee, agent or in any capacity for and on behalf of another, the Broker Dealer shall verify and record the true and full identity of the person(s) on whose behalf a transaction is being conducted. In case of doubt as to whether such persons are being used as dummies in circumvention of existing laws, the firm shall immediately make the necessary inquiries to verify the status of the business relationship between the parties.

52.1.6.11. Anonymous accounts, accounts under fictitious names, and all other similar accounts shall be absolutely prohibited.

52.1.6.12. The Broker Dealer cannot create new accounts without a face-to-face meeting.

52.1.6.13. All existing CAIFs shall be updated within one hundred eighty (180) days after the effectivity of these amendments and every two (2) years subsequent thereto.

52.1.6.14. The Broker Dealer shall maintain an electronic database of the information as contained in the CAIF, including the trading account code or client code, in such form or system wherein any information may be easily obtained or extracted. Client information in the database shall be made and kept current or as the need arises. The database shall be made available to the Commission, the Exchange or SRO during the conduct of an audit or for valid reason or upon request at any time by the Commission.

52.1.6.15. It is the Broker Dealer's duty to know its clients well and, accordingly, it shall be primarily responsible in keeping current all material information contained in the CAIF.

52.1.6.16. The Broker Dealer, its directors, officers, and associated persons, are required to report any suspicious client transaction to the Anti-Money Laundering Council (AMLC), pursuant to the provisions of the Anti-Money Laundering Act (RA 9160, as amended).

For purposes of this section, a suspicious client transaction shall mean any transaction which causes any ordinary person to have a feeling of apprehension or mistrust about the transaction considering (a) its unusual nature or circumstances, or (b) the person or group of persons with whom they are dealing, and based on the bringing together of all relevant factors including knowledge or the person's or persons' business or background (as well as behavioral factors).

52.1.6.17. Broker Dealers shall comply with the provision on identification of customer's accounts and orders through the use of code, symbol or account number and multiple accounts.

52.1.6.18. Broker Dealers shall designate a unique or dedicated trading account/client code for each account maintained with the firm. Direct market access clients must be assigned unique client codes that will readily identify them as such.

The unbundling of bundled accounts whether there is a change in nationality flag or not should be made not later than 12:00 Noon on T+1 in the case of trades in the Philippine Stock Exchange or such other deadline as may be ordered by the Commission. Should a client of a particular trading participant is another broker (who may or may not be a TP of PSE), then for purposes of execution of the order of such broker client, to classify such order as a bundled account.

52.1.6.19. Broker Dealers, Exchanges, SROs and trading market operators shall adopt a unique identifier for each client which shall be used in their respective markets and will be recognizable across markets. These entities shall coordinate with each other to devise the unique or compatible format for the required client identifier within one (1) year from effectivity of these revised rules.

52.1.7. Order Ticket Rule

52.1.7.1. Every order received by a Broker Dealer or any other associated person or salesman of a Broker Dealer to buy or sell securities for customers shall be entered on an order form, which shall contain at the minimum, all the information required by this Rule. Each buying or selling order form shall be time stamped by the Broker Dealer or any other associated person or salesman of a Broker Dealer or any person acting on his behalf upon receipt of the customer's order and upon transmission to the trading floor, if necessary. Time recording of subsequent action on an order, whether for amendment, cancellation or actual matching thereof, shall be captured by the computerized trading system of the Exchange or by time stamping, for over-the-counter

transaction. Any such information captured by the computerized trading system of the Exchange shall be printed and made available for legal and/or audit purposes.

52.1.7.2. All the necessary time recordings shall be disclosed for the confirmation to the customer upon his request.

52.1.7.3. All Broker Dealers, who deal for their own account either directly or where a Member Broker Dealer, through another Member Broker, or trade for a discretionary account, as well as their partners, floor traders, officials and employees, shall record all purchase and sale orders on the same order form used by such brokers for their customers, and such order forms shall also be time-stamped as required by SRC Rule 52.1.7.1 hereof, and comply with SRC Rule 34.1.

52.1.7.4. Every Broker Dealer, associated person and salesman of a Broker Dealer, executing an order for a transaction in securities shall enter on the order ticket whether the transaction will be matched through the Exchange trading system or transacted as a block sale in accordance with SRC Rule 30.2.8, whether the firm is acting as agent or principal in connection with the transaction; Provided, however, Member Brokers are required to comply with SRC Rule 34.1 when placing orders for their own account.

52.1.7.5. In addition to the information required in SRC Rules 52.1.7.1, 52.1.7.2, 52.1.7.3, the order ticket shall reflect the terms and conditions of the order or instructions, including a notation if the order is a short sale, and any subsequent modification or cancellation, the name of the customer for which the order was entered, the name of the salesman who took the order, the price at which it is executed, and whether the order was solicited or unsolicited.

52.1.7.5.1. For purposes of this rule, an order is solicited or unsolicited depending on who first mentioned the name of the security. If mentioned first by the customer, the order should be marked unsolicited (regardless of who initiated the phone call or other communication). If mentioned first by the salesman, the order should be marked solicited.

52.1.7.5.2. The designation should be entered on real time on the order ticket and indicated on the confirmation.

No person shall solicit investments in securities and other investment products unless he is a registered broker or dealer or licensed salesman of a broker dealer. Solicitation is the act of seeking or asking for business or information and including the act of providing information about a security or investment product being offered for sale with the view of making another person a client or closing or bringing in a sale or purchase of security or investment product. The solicitor need not be a signatory to any contract relative to such offer or sale of the security.

52.1.7.6. All purchase and sale orders for the same security and under the same terms and conditions, including those placed by the Broker Dealer for its own account or for discretionary accounts and those placed by partners, floor traders, officials and employees, shall be executed by the Broker Dealer in the order in which they were received; Provided, however, Member Brokers shall comply with SRC Rule 34.1.2 regarding priority of customer orders.

52.1.7.7. All time stamping machines that are being used by Broker Dealers for the purposes of this Rule should be synchronized at all times in accordance with the official time of the Exchange and time stamping prints should always be clear.

52.1.7.8. Subject to prior approval by the Commission, a Broker Dealer may opt to maintain in electronic format the information required in this Rule. However, the Broker Dealer shall ensure that electronic copies of such information or its equivalent shall be kept current and made available to the Commission, the Exchange, or SRO concerned during the conduct of an audit or for any valid reason. Upon order of the Commission, or the request of the Exchange, or the SRO concerned, the Broker Dealer shall prepare in electronic form or printed hard copies of such information and submit such to the Commission or requestor without delay but in no case later than the period stated in the order or request.

52.1.8. Customer Account Statements

52.1.8.1. A Broker Dealer shall, at least once a month, send a statement of account containing a description of any securities positions, money balances, or account activity to each customer whose account has trades during the period since the last such statement was sent to the customer. Upon written request of the customer, the Broker Dealer may issue quarterly statements, in lieu of monthly statements, provided such written request shall be kept in the company's files for audit/investigation purposes.

52.1.8.2. Subject to prior approval by the Commission, a Broker Dealer may opt to use a statement of account in electronic format required in this Rule; Provided, that Broker Dealer shall provide his client a statement of account in paper format if requested by such client. A Broker Dealer shall ensure that the electronic copies of the account statement or the equivalent will be kept current and made available to the Commission, the Exchange, or SRO concerned during the conduct of an audit or for any valid reason, and upon the request of the Commission, the Exchange, or SRO concerned, prepare or print hard copies of such document and submit the same without delay.

52.1.8.3. The Broker Dealer shall be excused from the foregoing obligation if, after at least three (3) attempts, the statement sent by mail (with registry return cards), personal service, commercial courier or electronic mail is returned by the post office or commercial courier to the sender for failure to locate the addressee's whereabouts or it has not received any notification/indication that the customer has not received such electronic mail. In such cases, the Broker Dealer shall notify the Exchange of the status of these accounts and retain in its files the returned mail.

52.1.8.4. Notwithstanding the issuance of quarterly statements of account, the Broker Dealer shall maintain closing balances of customers' positions every end of the month. These balances shall be reflected and easily identified in the company's books and records. They shall be available for inspection by the Exchange, SRO and/or the Commission any time.

52.1.8.5. Such statements shall disclose that free credit balances are not segregated and may be used in the operation of the Broker Dealer and that such funds are payable on demand by the customer.

52.1.8.6. For purposes of this Rule, the term "account activity" shall include, but not be limited to, purchases, sales, interest credits or debits, charges or credits, dividend payments, transfer activity, securities receipts or deliveries, and/or journal entries relating to securities or funds in the possession or control of the Broker Dealer.

52.1.9. Customer Complaint Rule

52.1.9.1. Every Broker Dealer shall maintain and preserve in its respective offices separate files of all complaints from customers received by that office and the action taken by the Broker Dealer, properly indexed and referenced to the files containing the correspondence connected with such complaint.

52.1.9.2. Every Broker Dealer shall keep in its main office either a duplicate copy of all written complaints of customers received by all offices of the Broker Dealer and the action taken in respect thereto or a separate record of such complaints properly indexed and referenced to the files containing the correspondence connected with such complaint.

52.1.9.3. Every Broker Dealer shall notify in writing the SRO and the Commission of any written complaints received from the client and the action taken thereon by the Broker Dealer with respect thereto every 15th day of the month. Duplicate copies of the complaints shall be attached to the report.¹³³

52.1.9.4. Complaint shall mean any written statement and/or a transcript/written summary of the oral/verbal statements of a customer or any person acting on behalf of a customer alleging a grievance involving the activities of those persons under the control of the Broker Dealer in connection with the solicitation or execution of

¹³³ See MC 9-2016 Re: Guidelines on the Submission of Monthly Complaint Report dated 18 July 2016.

any transaction, the disposition of securities or funds of that customer or any other aspect of the Broker Dealer's business.

52.1.10. Monthly Securities Counts by Brokers Dealers

52.1.10.1. This rule shall apply to all Broker Dealers except those Broker Dealers who promptly transmit all funds and delivers all securities received in connection with its activities as a Broker Dealer, and who do not otherwise hold securities for itself or hold funds or securities for, or owe money or securities to, customers.

52.1.10.2. Any Broker Dealer who is subject to the provisions of this rule shall at least once a month:

52.1.10.2.1. If applicable, physically examine and count all securities held and compare the results with its records;

52.1.10.2.2. Account for and verify the discrepancies noted which may be caused by securities in transit, in transfer, pledged, loaned, borrowed, deposited, failed to receive, failed to deliver, subject to repurchase and reverse repurchase agreements, or otherwise subject to its control or direction but not in its physical possession.

52.1.10.2.3. Record on its books and records all unresolved discrepancies, setting forth the security involved, not later than the date when the securities count was made.

52.1.10.2.4. All unresolved securities differences shall be examined and accounted for within seven (7) business days after the date such differences were discovered.

52.1.10.2.5. Record on its books and records all unresolved differences setting forth the security involved and date of comparison in a security count difference account no later than seven (7) business days after the date of each required monthly security examination, count and verification in accordance with the requirements of SRC Rule 52.1.10.3; Provided, however, that no examination, count, verification and comparison for the purpose of this rule shall be made within fifteen (15) days following a prior examination, count, verification and comparison.

52.1.10.3. An independent quarterly examination, count, verification and comparison shall be conducted by the auditor. Such independent quarterly examination, count, verification and comparison may be made either as of a date certain or on a cyclical basis covering the entire list of securities. The provision of SRC Rule 52.1.10.2.4 shall apply for security differences noted.

52.1.10.4. The Commission and/or Exchange, if the Broker Dealer is a member of that Exchange, may, upon written request, exempt from the provisions of this rule, either unconditionally or on specified terms and conditions, any Broker Dealer who satisfies the Commission or that Exchange that it is not necessary in the public interest and for the protection of investors to subject that particular Broker Dealer to certain or all of the provisions of this rule because of the special nature of the Broker Dealer's business, the safeguards it has established for the protection of customers' funds and securities, or such other reasons as may be deemed appropriate.

52.1.11. Monthly Aging of Customers Receivable

52.1.11.1. Every Broker Dealer shall file with the Commission its Monthly Aging Schedule of Customers Receivable which shall be filed with the RBCA Report, certified to by the company's Associated Person and president/nominee director and also submitted to the Broker Dealer's audit committee or in lieu thereof, its board of directors.

52.1.11.2. The aging schedule shall indicate the monetary and securities collateral values of the customers' receivable as of end of month, broken down as follows:

Classification
T + 0 to T + 1 ¹³⁴
T + 2 ¹³⁵ to T + 12 ¹³⁶
T + 13 ¹³⁷ to T + 30
T + 31 up

52.1.11.3. Every Broker Dealer shall appropriate Allowance for Doubtful Accounts (ADA) using and in accordance with the following schedule:

Classification	Provision	Base
T + 0 to T + 1 ¹³⁸	0	Total Receivables (TR)
T + 2 ¹³⁹ to T + 12 ¹⁴⁰	2%	TR
T + 13 ¹⁴¹ to T + 30	50%	TR less collateral (net of haircut)
T + 31 up	100%	TR less collateral (net of haircut)

The ADA is computed by getting, for each doubtful account, an amount equivalent to the provision (see Table above) of the amount outstanding, net of collateral (net of haircut). Basis for the computation would be the individual accounts.

52.1.12. Access to Back Office Records

Broker dealers shall provide the Commission and the SRO concerned access to their back office records via electronic means or otherwise for monitoring, surveillance, examination, investigation and reconstruction of trade events and conduct of trade analysis, and upon the request of the Commission, or SRO concerned, prepare or print copies of such records and submit the same within twenty four (24) hours from receipt of request.

RULE 53 - Investigations, Injunctions and Prosecutions of Offenses

53.1. The Commission may, in its discretion, make such investigations as it deems necessary to determine whether any person has violated or is about to violate any provision of the Code, any rule, regulation or order thereunder, or any rule of an Exchange, registered securities association, clearing agency, other self-regulatory organization, and may require or permit any person to file with it a statement in writing, under oath or otherwise, as the Commission shall determine, as to all facts and circumstances concerning the matter to be investigated. The Commission may publish information concerning any such violations, and to investigate any fact, condition, practice or matter which it may deem necessary or proper to aid in the enforcement of the provisions of the Code, in the prescribing of rules and regulations thereunder, or in securing information to serve as a basis for recommending further legislation concerning the matters to which the Code relates; Provided, however, That any person requested or subpoenaed to produce documents or testify in any investigation shall simultaneously be notified in writing of the purpose of such investigation; Provided, further, That all criminal complaints for violations of the Code, and the implementing rules and regulations enforced or administered by the Commission shall be referred to the Department of

¹³⁴ MC 11-2023, *supra* note 120.

¹³⁵ *Id.*

¹³⁶ *Id.*

¹³⁷ *Id.*

¹³⁸ *Id.*

¹³⁹ *Id.*

¹⁴⁰ MC 11-2023, *supra* note 120.

¹⁴¹ *Id.*

Justice for preliminary investigation and prosecution before the proper court; Provided, furthermore, That in instances where the law allows independent civil or criminal proceedings of violations arising from the same act, the Commission shall take appropriate action to implement the same; Provided, finally, That the investigation, prosecution, and trial of such cases shall be given priority.

53.2. For the purpose of any such investigation, or any other proceeding under the Code, the Commission or any officer designated by it is empowered to administer oaths and affirmations, subpoena witnesses, compel attendance, take evidence, require the production of any book, paper, correspondence, memorandum, or other record which the Commission deems relevant or material to the inquiry, and to perform such other acts necessary in the conduct of such investigation or proceedings.

53.3. Whenever it shall appear to the Commission that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of the Code, any rule, regulation or order thereunder, or any rule of an Exchange, registered securities association, clearing agency or other self-regulatory organization, it may issue an order to such person to desist from committing such act or practice; Provided, however, That the Commission shall not charge any person with violation of the rules of an Exchange or other self-regulatory organization unless it appears to the Commission that such Exchange or other self-regulatory organization is unable or unwilling to take action against such person. After finding that such person has engaged in any such act or practice and that there is a reasonable likelihood of continuing, further or future violations by such person, the Commission may issue ex-parte a cease and desist order for a maximum period of ten (10) days, enjoining the violation and compelling compliance with such provision. The Commission may transmit such evidence as may be available concerning any violation of any provision of the Code, or any rule, regulation or order thereunder, to the Department of Justice, which may institute the appropriate criminal proceedings under the Code.

53.4. Any person who, within his power but without cause, fails or refuses to comply with any lawful order, decision or subpoena issued by the Commission under Subsection 53.2 or Subsection 53.3 or Section 64 of the Code, shall after due notice and hearing, be guilty of contempt of the Commission. Such person shall be fined in such reasonable amount as the Commission may determine, or when such failure or refusal is a clear and open defiance of the Commission's order, decision or subpoena, shall be detained under an arrest order issued by the Commission, until such order, decision or subpoena is complied with.

RULE 54 - Administrative Sanctions

54.1. If, after due notice and hearing, the Commission finds that: (a) There is a violation of the Code, its rules, or its orders; (b) Any registered broker or dealer, associated person thereof has failed reasonably to supervise, with a view to preventing violations, another person subject to supervision who commits any such violation; (c) Any registrant or other person has, in a registration statement or in other reports, applications, accounts, records or documents required by law or rules to be filed with the Commission, made any untrue statement of a material fact, or omitted to state any material fact required to be stated therein or necessary to make the statements therein not misleading; or, in the case of an underwriter, has failed to conduct an inquiry with reasonable diligence to insure that a registration statement is accurate and complete in all material respects; or (d) Any person has refused to permit any lawful examinations into its affairs, it shall, in its discretion, and subject only to the limitations hereinafter prescribed, impose any or all of the following sanctions as may be appropriate in light of the facts and circumstances:

- 54.1.1. Suspension, or revocation of any registration for the offering of securities;
- 54.1.2. A fine of no less than Ten thousand pesos (P10,000.00) nor more than One million pesos (P1,000,000.00) plus not more than Two thousand pesos (P2,000.00) for each day of continuing violation;

- 54.1.3. In the case of a violation of Sections 19.2, 20, 24, 26 and 27, disqualification from being an officer, member of the Board of Directors, or person performing similar functions, of an issuer required to file reports under Section 17 of the Code or any other act, rule or regulation administered by the Commission;
- 54.1.4. In the case of a violation of Section 34, a fine of no more than three (3) times the profit gained or loss avoided as a result of the purchase, sale or communication proscribed by such Section; and
- 54.1.5. Other penalties within the power of the Commission to impose.

54.2. The imposition of the foregoing administrative sanctions shall be without prejudice to the filing of criminal charges against the individuals responsible for the violation.

RULE 54.3 - Enforcement of Administrative Sanctions

In enforcing the provisions of Section 54 of the SRC and the payment of the fees and other dues collectible under the SRC, the following shall be observed.

54.3.1. No application for registration or licensing or amendment thereto, or request for exemptive relief or for reconsideration, or other similar requests filed by a non-paying delinquent or disobedient party shall be accepted by the Commission or any of its Operating Departments until a Decision, Order or Resolution being enforced is fully complied with.

A delinquent or disobedient party refers to a natural or juridical person who fails or refuses to comply with a Decision, Order or Resolution of the Commission or any court that is being enforced or executed.¹⁴²

54.3.2. The name of the non-paying, delinquent or disobedient party shall be included in a Watchlist to be maintained by the Information & Communications Technology Department (ICTD) upon recommendation by the Operating Department concerned.

Only upon full compliance, or partial compliance as may be directed by the Commission, shall the non-paying, delinquent or disobedient party be removed from the Watchlist upon recommendation by the Operating Department concerned to ICTD.

RULE 55.1 - Settlement Offers

55.1.1. Any person or entity (proposer), who has an investigation or proceeding instituted against him, or any party to a proceeding already instituted, before the Enforcement and Investor Protection Department (EIPD), may, at any time propose in writing to the Director of the EIPD an offer of settlement.

Only settlement offers equal to or more than fifty (50%) percent of the total imposable fine or damage caused shall be considered. However, if the violation involves fraud, deceit or manipulation, as determined by the handling staff/team, only settlement offers that are equal to or greater than one hundred percent (100%) of the total imposable fine or damage caused shall be considered. Settlement offers that are at least equal to 50% of the total imposable fine and/or damages shall be prioritized for resolution by the Commission.

A settlement offer can no longer be made after an Order resolving the case has become final and executory or the case is already pending with the courts.

Further, the following cases shall not be the subject of settlement:

¹⁴² See MC 12-2024, *supra* note 15, under SEC RENT, no registrant shall be allowed to undertake shelf registration and any subsequent offering if the registrant or any of its directors or officers, is a non-paying delinquent or disobedient party under this Rule.

- 55.1.1.1.** Non-filing of required reports;
- 55.1.1.2.** Late-filing of required reports;
- 55.1.1.3.** Cases involving the Foreign Investments Act of 1991;
- 55.1.1.4.** Fines for violation of the Corporation Code; and
- 55.1.1.5.** Violations of the Revised Penal Code and special laws.

55.1.2. An offer of settlement shall state that it is being made pursuant to Section 55 of the Code and SRC Rule 55.1 adopted thereunder, recite or incorporate as part of the offer the provisions of SRC Rules 55.1.3.4 and 55.1.3.5, and be signed by the person making the offer. If the proposer is a juridical person, the proper board resolution certified by the Corporate Secretary shall also be attached to the offer.

Upon submission of an offer of settlement, the proposer shall simultaneously tender the amount offered.

55.1.3. Consideration of Settlement Offers:

- 55.1.3.1.** In the evaluation of offers of settlement, the Director of the EIPD, upon consultation with the handling staff/team shall take into consideration the following, to wit:
 - 55.1.3.1.1. Whether the act or omission involved fraud;
 - 55.1.3.1.2. The amount of damage, actual or estimate, if any;
 - 55.1.3.1.3. Gravity of the offense;
 - 55.1.3.1.4. The time and other resources spent by or required of the Commission on the case;
 - 55.1.3.1.5. The amount of the imposable penalty and the financial capacity of the proposer to pay the same;
 - 55.1.3.1.6. The level of cooperation of the proposer in the investigation or proceedings;
 - 55.1.3.1.7. Whether the proposer has been found to have previously violated any laws or rules enforced by the Commission;
 - 55.1.3.1.8. The chances of success if the case were to go to trial;
 - 55.1.3.1.9. Public interest; and
 - 55.1.3.1.10. Other meritorious considerations (ex. age of the respondent, stature, etc.)
- 55.1.3.2.** The handling staff's/team's statements or position regarding the presence of fraud, deceit or manipulation, appropriateness of the offer of settlement or participation in a settlement conference shall not be construed by the proposer as bias or prejudgment by the handling staff/team regardless of the views expressed. Neither shall the Commission be bound by such statement or position.
- 55.1.3.3.** The Director of the EIPD shall present the offer of settlement to the Commission with its recommendations: *Provided, however,* that if the EIPD's recommendation is unfavorable, the same shall be made known in writing to the proposer. The offer shall not be presented to the Commission unless the proposer so requests in writing within five (5) days from receipt of the denial of the offer.
- 55.1.3.4.** By submitting an offer of settlement, the proposer waives, subject to the acceptance of the offer:

- 55.1.3.4.1. all hearings pursuant to the statutory provisions under which the investigation or proceeding is to be or has been instituted;
- 55.1.3.4.2. the filing of proposed findings of fact and conclusions of law;
- 55.1.3.4.3. proceedings before, and an initial decision by, the appropriate office or department of the Commission so delegated;
- 55.1.3.4.4. all post-hearing procedures; and
- 55.1.3.4.5. right to appeal the Order of the Commission.

55.1.3.5. By submitting an offer of settlement, the proposer further waives:

- 55.1.3.5.1. Such provisions of law as may be construed to prevent any member of the Commission's staff from participating in the preparation of, or advising the Commission as to, any order, opinion, finding of fact, or conclusion of law to be entered pursuant to the settlement offer;
- 55.1.3.5.2. Any right to claim bias or prejudgment by the Commission based on the consideration of discussions concerning settlement or all or any part of the proceeding.

55.1.3.6. If the Commission rejects the offer of settlement, the EIPD shall notify the proposer in writing of the Commission's action and the offer of settlement shall be deemed withdrawn. The rejected offer shall not constitute part of the record in any proceeding against the proposer; Provided, however, that rejection of an offer of settlement does not affect the continued validity of waivers pursuant to SRC Rule 55.1.3.5 with respect to any discussions concerning the rejected offer of settlement.

55.1.3.7. Final acceptance by the Commission of any offer of settlement shall occur only upon the issuance of a summary of findings, admission of fault or stipulation of facts, as the case may be, and the Order of the Commission shall become effective only upon public disclosure thereof on the Commission's website and/or in such other manner. The Order may be made without a determination of guilt or innocence on the part of the proposer and shall include the name of the proposer, sections of the Code and rules and regulations adopted hereunder involved, and other applicable conditions.

55.1.3.8. In any of the following instances, the Commission, may, in its discretion, require the proposer, to make an admission of fault or enter into stipulation of facts, as part of the terms of the settlement or as a condition for the acceptance of the settlement offer:

- 55.1.3.8.1. Where the violation committed by the proposer has caused widespread harm to the investing public;
- 55.1.3.8.2. When there is clear intention on the part of the proposer to violate the provisions of the law;
- 55.1.3.8.3. When the proposer, in order to avoid liability for violation of the provisions of the law enforced by the Commission, intentionally omits to provide material information and/or provides the Commission with false information or statements;

55.1.3.8.4. When the proposer employs means intended to obstruct, delay or defeat an ongoing SEC investigation and/or conceal the identity of the corporation, person or persons responsible for the said violation.

55.1.3.9. In cases wherein the proposer has caused damage to the public, the Commission, may, in its discretion, require the proposer, as a condition for the approval of the settlement offer, to disgorge all illegal gains.

55.1.3.10. In the absence of any period stated in the En Banc Resolution of the Commission, the proposer shall fully comply with the terms and conditions of the settlement within a period of fifteen (15) days upon receipt of a copy of the said Resolution.

55.1.3.11. In case the proposer shall fail to fully comply with any of the terms of the settlement offer within the period provided under the next preceding SRC Rule, the Resolution of the Commission on the settlement shall be considered withdrawn and the investigation or proceedings against the proposer shall be reinstated.

55.1.3.12. The approval of the settlement offer by the Commission and full compliance of the terms thereof by the proposer shall preclude the filing of criminal case.

55.1.4. The Commission may use the provisions of this Rule as guide in considering settlement offers made by a proposer who is a respondent or accused in a criminal complaint filed by the Commission in connection with any violation of the Code.

RULE 56 - Civil Liabilities on Account of False Registration Statement

56.1. Any person acquiring a security, the registration statement of which or any part thereof contains on its effectivity an untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make such statements not misleading, and who suffers damage, may sue and recover damages from the following enumerated persons, unless it is proved that at the time of such acquisition he knew of such untrue statement or omission:

56.1.1. The issuer and every person who signed the registration statement;

56.1.2. Every person who was a director of, or any other person performing similar functions, or a partner in, the issuer at the time of the filing of the registration statement or any part, supplement or amendment thereof with respect to which his liability is asserted;

56.1.3. Every person who is named in the registration statement as being or about to become a director of, or a person performing similar functions, or a partner in, the issuer and whose written consent thereto is filed with the registration statement;

56.1.4. Every auditor or auditing firm named as having certified any financial statements used in connection with the registration statement or prospectus.

56.1.5. Every person who, with his written consent, which shall be filed with the registration statement, has been named as having prepared or certified any part of the registration statement, or as having prepared or certified any report or valuation which is used in connection with the registration statement, with respect to the statement, report, or valuation, which purports to have been prepared or certified by him.

56.1.6. Every selling shareholder who contributed to and certified as to the accuracy of a portion of the registration statement, with respect to

that portion of the registration statement which purports to have been contributed by him.

56.1.7. Every underwriter with respect to such security.

56.2. If the person who acquired the security did so after the issuer has made generally available to its security holders an income statement covering a period of at least twelve months beginning from the effective date of the registration statement, then the right of recovery under this subsection shall be conditioned on proof that such person acquired the security relying upon such untrue statement in the registration statement or relying upon the registration statement and not knowing of such income statement, but such reliance may be established without proof of the reading of the registration statement by such person.

RULE 57 - Civil Liabilities Arising in Connection with Prospectus, Communications and Reports

57.1. Any person who:

57.1.1. Offers to sell or sells a security in violation of Chapter III of the Code; or

57.1.2. Offers to sell or sells a security, whether or not exempted by the provisions of the Code, by the use of any means or instruments of transportation or communication, by means of a prospectus or other written or oral communication, which includes an untrue statement of a material fact or omits to state a material fact necessary in order to make the statements, in the light of the circumstances under which they were made, not misleading (the purchaser not knowing of such untruth or omission), and who shall fail in the burden of proof that he did not know, and in the exercise of reasonable care could not have known, of such untruth or omission, shall be liable to the person purchasing such security from him, who may sue to recover the consideration paid for such security with interest thereon, less the amount of any income received thereon, upon the tender of such security, or for damages if he no longer owns the security.

57.2. Any person who shall make or cause to be made any statement in any report, or document filed pursuant to the Code or any rule or regulation thereunder, which statement was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, shall be liable to any person who, not knowing that such statement was false or misleading, and relying upon such statements shall have purchased or sold a security at a price which was affected by such statement, for damages caused by such reliance, unless the person sued shall prove that he acted in good faith and had no knowledge that such statement was false or misleading.

RULE 58 - Civil Liability for Fraud in Connection with Securities Transactions

Any person who engages in any act or transaction in violation of Sections 19.2, 20 or 26 of the Code, or any rule or regulation of the Commission thereunder, shall be liable to any other person who purchases or sells any security, grants or refuses to grant any proxy, consent or authorization, or accepts or declines an invitation for tender of a security, as the case may be, for the damages sustained by such other person as a result of such act or transaction.

RULE 59 - Civil Liability for Manipulation of Security Prices

Any person who willfully participates in any act or transaction in violation of Section 24 of the Code shall be liable to any person who shall purchase or sell any security at a price which was affected by such act or transaction, and the person so injured may sue to recover the damages sustained as a result of such act or transaction.

RULE 60 - Civil Liability with Respect to Commodity Futures Contracts

60.1. Any person who engages in any act or transaction in willful violation of any rule or regulation promulgated by the Commission under Section 11 or 16 of the Code, which the Commission denominates at the time of issuance as intended to prohibit fraud in the offer and sale of commodity future contracts or to prohibit fraud, manipulation, fictitious transactions, undue speculation, or other unfair or abusive practices with respect to commodity future contracts, shall be liable to any other person sustaining damage as a result of such act or transaction.

60.2. As to each such rule or regulation so denominated, the Commission by rule shall prescribe the elements of proof required for recovery and any limitations on the amount of damages that may be imposed.

RULE 61 - Civil Liability on Account of Insider Trading

61.1. Any insider who violates Subsection 27.1 of the Code and any person in the case of a tender offer who violates Subsection 27.4 (a) (i) of the Code, or any rule or regulation thereunder, by purchasing or selling a security while in possession of material information not generally available to the public, shall be liable in a suit brought by any investor who, contemporaneously with the purchase or sale of securities that is the subject of the violation, purchased or sold securities of the same class unless such insider, or such person in the case of a tender offer, proves that such investor knew the information or would have purchased or sold at the same price regardless of disclosure of the information to him.

61.2. An insider who violates Subsection 27.3 of the Code or any person in the case of a tender offer who violates Subsection 27.4 (a) of the Code, or any rule or regulation thereunder, by communicating material non-public information, shall be jointly and severally liable under Subsection 61.1 of the Code with, and to the same extent as, the insider, or person in the case of a tender offer, to whom the communication was directed and who is liable under Subsection 61.1 of the Code by reason of his purchase or sale of a security.

RULE 62 - Limitation of Actions

62.1. No action shall be maintained to enforce any liability created under Section 56 or 57 of the Code unless brought within two (2) years after the discovery of the untrue statement or the omission, or, if the action is to enforce a liability created under Subsection 57.1 (a) of the Code, unless brought within two (2) years after the violation upon which it is based. In no event shall any such action be brought to enforce a liability created under Section 56 or Subsection 57.1 (a) of the Code more than five (5) years after the security was *bona fide* offered to the public, or under Subsection 57.1 (b) of the Code, more than five (5) years after the sale.

62.2. No action shall be maintained to enforce any liability created under any other provision of this Code unless brought within two (2) years after the discovery of the facts constituting the cause of action and within five (5) years after such cause of action accrued.

RULE 63 - Amount of Damages to be Awarded

63.1. All suits to recover damages pursuant to Sections 56, 57, 58, 59, 60 and 61 of the Code shall be brought before the Regional Trial Court, which shall have exclusive jurisdiction to hear and decide such suits. The Court is hereby authorized to award damages in an amount not exceeding triple the amount of the transaction plus actual damages.

Exemplary damages may also be awarded in cases of bad faith, fraud, malevolence or wantonness in the violation of the Code or the rules and regulations promulgated thereunder.

The Court is also authorized to award attorney's fees not exceeding thirty percentum (30%) of the award.

63.2. The persons specified in Sections 56, 57, 58, 59, 60 and 61 of the Code hereof shall be jointly and severally liable for the payment of damages. However, any person who becomes liable for the payment of such damages may recover contribution from any other person who, if sued separately, would have been liable to make the same payment, unless the former was guilty of fraudulent representation and the latter was not.

63.3. Notwithstanding any provision of law to the contrary, all persons, including the issuer, held liable under the provisions of Sections 56, 57, 58, 59, 60 and 61 of the Code shall contribute equally to the total liability adjudged herein. In no case shall the principal stockholders, directors and other officers of the issuer or persons occupying similar positions therein, recover their contribution to the liability from the issuer. However, the right of the issuer to recover from the guilty parties the amount it has contributed under this Section shall not be prejudiced.

RULE 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.

64.2. Until the Commission issues a cease and desist order, the fact that an investigation has been initiated or that a complaint has been filed, including the contents of the complaint, shall be confidential. Upon issuance of a cease and desist order, the Commission shall make public such order and a copy thereof shall be immediately furnished to each person subject to the order.

64.3. Any person against whom a cease and desist order was issued may, within five (5) days from receipt of the order, file a formal request for a lifting thereof. Said request shall be set for hearing by the Commission not later than fifteen (15) days from its filing and the resolution thereof shall be made not later than ten (10) days from the termination of the hearing. If the Commission fails to resolve the request within the time herein prescribed, the cease and desist order shall automatically be lifted.

RULE 65 - Substituted Service upon the Commission

Service of summons or other process shall be made upon the Commission in actions or legal proceedings against an issuer or any person liable under the Code who is not domiciled in the Philippines. Upon receipt by the Commission of such summons, the Commission shall within ten (10) days thereafter, transmit by registered mail a copy of such summons and the complaint or other legal process to such issuer or person at his last known address or principal office. The sending thereof by the Commission, the expenses for which shall be advanced by the party at whose instance it is made, shall complete such service.

RULE 66 - Revelation of Information Filed with the Commission

66.1. All information filed with the Commission in compliance with the requirements of the Code shall be made available to any member of the general public, upon request, in the premises and during regular office hours of the Commission, except as set forth in this Section.

66.2. Nothing in the Code shall be construed to require, or to authorize the Commission to require, the revealing of trade secrets or processes in any application, report, or document filed with the Commission.

RULE 66.3 - Confidential Treatment of Information Filed with the Commission

66.3.1. Any person required to file any application, report or document (hereinafter collectively referred to as the "report") with the Commission under Section 8 or 17 of the Code may remove any confidential information pertaining to trade secrets and processes, commercial or financial information that has been prepared by analysts within or outside a company for strategic purposes, and similar information which raises concerns for business confidentiality from such required report, provided that he files with the Commission a complete report containing such confidential information prominently labeled "CONFIDENTIAL", together with a request for confidential treatment of the report and enumerate or state with particularity, in matrix form, the information or items it wants to be treated as confidential; state the justification for such request for each of the above- mentioned information or items and should answer the question "How will the public disclosure of this information adversely affect my interests?"; indicate the period of effectivity of confidential treatment; and complies with this Rule; provided, however, that the Commission may require disclosure of such confidential information.

66.3.2. For purposes of this Rule, confidential information shall include, but is not limited to, such matters as trade secrets, commercial or financial information that has been prepared by analysts within or outside a company for strategic purposes and similar information which raises concerns for business confidentiality.

66.3.3. The Commission shall maintain the confidentiality of the information contained in the supplemental report, pending a determination by the Commission as to the validity of the request for confidential treatment.

66.3.4. Within two (2) working days from receipt of the report, the MSRD shall evaluate the application for confidential treatment and present to the Commission En Banc its recommendation on whether or not to grant said request within five (5) working days from receipt of all requirements.

66.3.5. If it is determined by the MSRD that confidential treatment is not warranted with respect to all or part of the information in question, the person requesting confidential treatment of the information will be notified of this decision by telephone, facsimile, email or other equally prompt means followed up by written notification sent by mail. Such notice will also advise such person that he has the right, which shall be exercised no later than within ten (10) days of receipt of notification by telephone, to request that the Commission en banc reconsider such determination.

66.3.6. A request for reconsideration shall be in writing and include additional factors for the Commission en banc to consider.

66.3.7. The Commission en banc may reconsider such determination only once and its administrative decision shall not be subject to judicial review.

66.3.8. If the Commission en banc makes a determination that any or all of the information in the supplemental report is not entitled to confidential treatment, the person who submitted the request shall promptly make an amended filing with the Commission containing such information.

RULE 66.4

It shall be unlawful for any member, officer, or employee of the Commission to disclose to any person other than a member, officer or employee of the Commission or to use for personal benefit, any information contained in any application, report, or document filed with the Commission which is not made available to the public pursuant to Subsection 66.3 of the Code.

RULE 66.5

Notwithstanding anything in Subsection 66.4 of the Code to the contrary, on request from a foreign enforcement authority of any country whose laws grant reciprocal assistance as herein provided, the Commission may provide assistance in accordance with

this subsection, including the disclosure of any information filed with or transmitted to the Commission, if the requesting authority states that it is conducting an investigation which it deems necessary to determine whether any person has violated, is violating, or is about to violate any laws relating to securities or commodities matters that the requesting authority administers or enforces. Such assistance may be provided without regard to whether the facts stated in the request would also constitute a violation of law of the Philippines.

The SEC and its employees shall treat the information received or processed pursuant to this provision with utmost confidentiality and shall not reveal, in any manner, any information known to them by reason of their office. This prohibition shall apply even after their separation from the Commission.

The Commission shall formulate rules governing information exchange and dissemination, the security and confidentiality of such information, including procedures for handling, storage, and protection of, as well as access to such information.

RULE 67 - Effect of Action of Commission and Unlawful Representations with Respect Thereto

67.1. No action or failure to act by the Commission in the administration of the Code shall be construed to mean that the Commission has in any way passed upon the merits of or given approval to any security or any transaction or transactions therein, nor shall such action or failure to act with regard to any statement or report filed with or examined by the Commission pursuant to the Code or the rules and regulations thereunder to be deemed a finding by the Commission that such statements or report is true and accurate on its face or that it is not false or misleading. It shall be unlawful to make, or cause to be made, to any prospective purchaser or seller of a security any representation that any such action or failure to act by the Commission is to be so construed or has such effect.

67.2. Nothing contained in Subsection 67.1 of the Code shall, however, be construed as an exemption from liability of an employee or officer of the Commission for any nonfeasance, misfeasance or malfeasance in the discharge of his official duties.

RULE 68¹⁴³**PART I****General Financial Reporting Requirements****1. APPLICATION AND DEFINITION OF TERMS****A. Application of this Rule**

(i) This Rule (together with subsequent official pronouncements, interpretations, and rulings on accounting and reporting matters which may be issued by the Securities and Exchange Commission, hereinafter referred to as the "Commission") states the requirements applicable to the form and content of financial statements required to be filed with the Commission by corporations which meet the threshold, as follows:

- (a) Stock corporations with total assets or total liabilities of more than Three Million Pesos (P3,000,000), as prescribed under the Revised Corporation Code of the Philippines (RCC) and any of its subsequent revisions, or such amount as may be subsequently prescribed;¹⁴⁴
- (b) Non-stock corporations with total assets or total liabilities of more than Three Million Pesos (P3,000,000), as prescribed under the Revised Corporation Code and any of its subsequent revisions, or such amount as may be subsequently prescribed;¹⁴⁵
- (c) Branch offices/representative offices of stock foreign corporations with assigned capital in the equivalent amount of One Million Pesos (P1 Million) or more;
- (d) Branch offices/representative offices of non-stock foreign corporations with total assets in the equivalent amount of One Million Pesos (P1 Million) or more; and
- (e) Regional operating headquarters of foreign corporations with total revenues in the equivalent amount of One Million Pesos (P1 Million) or more.

(ii) Financial statements of branch offices of foreign corporations licensed to do business in the Philippines by the Commission shall comply with the requirements of this Rule unless otherwise determined by the Commission as not applicable.

(iii) The submission of financial statements shall be required for all corporations and organizations registered with the Commission as of the fiscal year end including those newly incorporated during the said year. Corporations and organizations with a fiscal year end of 31 December must submit their annual financial statements in accordance with the annual schedule of filing of financial statements. For those with a fiscal year end other than 31 December, their annual financial statements shall be due within one hundred twenty (120) days after the end of their fiscal year.

(iv) Additional requirements for financial statements of corporations covered under Section 17.2 of the SRC are set forth under Part II of this Rule.

B. Definition of Terms Used in this Rule

¹⁴³ This Rule is part of the Implementing Rules and Regulations (IRR) of the Securities Regulation Code (SRC), the latest revision of which was approved by the Commission *en banc* on 19 August 2019. For prior applicable versions of SRC Rule 68, see SRC Rule 68, as Amended dated 20 October 2011, applicable to financial years 2011 to 2018; Amendments to SRC Rules 68 and 68.1 dated 11 November 2005, applicable to financial years 2005 to 2010; SRC Rule 68 and Rule 68.1, as Amended dated 20 February 2003, applicable to financial years 2002 to 2004; and SRC Rule 68, as Amended (Rules and Regulations Covering Form and Content of Financial Statements) dated 22 February 2002, applicable to financial year 2001.

¹⁴⁴ Amended by MC No. 4-2026 Re: Amendments of the Application and Definition of Terms under the Revised SRC Rule 68 in Relation to the Adjustment of the Audit Threshold dated 20 January 2026. The amended threshold shall apply to financial statements covering fiscal years ending on or after 31 December 2025.

¹⁴⁵ *Id.*

(i) Unless otherwise used in a different context, the terms used in this Rule shall have the same meanings as defined in the accounting and auditing standards adopted by the Commission as part of this Rule.

(ii) **Financial reporting framework** means a set of accounting principles, standards, interpretations and pronouncements that must be adopted in the preparation and submission of the annual financial statements of a particular class of entities, as defined in this Rule by the Commission. This includes, but is not limited to, the Philippine Financial Reporting Standards (PFRSs), the Philippine Financial Reporting Standard for Small and Medium-Sized Entities (PFRS for SMEs) and the Philippine Financial Reporting Standard for Small Entities (PFRS for SEs).

The Commission shall have the authority, subject to prior consultation with concerned parties, to prescribe the most appropriate requirement that shall form part of the applicable financial reporting framework of corporations covered by this Rule. In prescribing the applicable financial reporting framework for a particular class or subclass of entities covered by this Rule, the Commission shall consider the pronouncements and interpretations of the Philippine Financial Reporting Standards Council. However, a financial reporting framework other than the PFRSs that complies with the regulatory reportorial requirements of the concerned regulatory agency such as the Bangko Sentral ng Pilipinas (BSP) or the Insurance Commission (IC) may be allowed by the Commission.

(iii) **Entity**, when used in this Rule, refers to a juridical person or a corporation registered under the Revised Corporation Code.

(iv) **Error** means an unintentional mistake in the financial statements which reduces or increases the related accounts by ten per cent (10%) or more. For issuers of securities to the public and public companies as identified under Section 3 (B) (i) (a) (1), (2) and (3) of Part I of this Rule, the test to be used shall be five per cent (5%). It may involve:

- (a) Mathematical or clerical mistakes in the underlying records and accounting data;
- (b) Oversight or misinterpretation of facts;
- (c) Unintentional misapplication of accounting principles and accounting policies; or
- (d) Inconsistency of accounting policies with the applicable financial reporting framework.

(v) **Fraud** means an intentional act by one or more individuals among management, employees, those charged with governance, or third parties involving the use of deception to obtain an unjust or illegal advantage that results in a misrepresentation of financial statements, which reduces or increases the related accounts by ten per cent (10%) or more. For issuers of securities to the public and public companies as identified under Section 3 (B) (i) (a) (1), (2) and (3) of Part I of this Rule, the test to be used shall be five per cent (5%). It may involve:

- (a) Manipulation, falsification or alteration of accounting records or supporting documentation from which the financial statements are prepared;
- (b) Misappropriation of assets;
- (c) Suppression or omission of the effects of transactions from records or documents;
- (d) Recording of transactions without substance;
- (e) Intentional misapplication of accounting principles relating to amounts, classification, manner of presentation, or disclosure;
- (f) Misrepresentation in, or intentional omission from, the financial statements of events, transactions or other significant information;

- (g) Collusion;
- (h) Forgery; or
- (i) Override of internal controls.

(vi) **Gross Negligence** means wanton or reckless disregard of the duty of due care in complying with Philippine Standards on Auditing (PSA)¹⁴⁶.

(vii) **Issuer** is any entity authorized by the Commission to offer to sell, sell or promote the sale to the public of its equity, bonds, instruments of indebtedness and other forms of securities.

(viii) **Key Audit Partners** pertain to the engagement partner (or in most cases, the signing partner), the engagement quality control reviewer and other audit partners, if any, on the engagement team who make key decisions or judgments on significant matters with respect to the audit of the financial statements on which the firm will express an opinion. Depending upon the circumstances and the role of the individuals on the audit, "other audit partners" might include, for example, audit partners responsible for significant subsidiaries or divisions, as defined in paragraph (x) below.

(ix) **Material Information**, for purposes of this Rule, means information whose omission or misstatement could influence the economic decisions of its users.

(x) **Significant Subsidiary** means a subsidiary, including its subsidiaries, which meets any of the following conditions:

- (a) The parent company's investments in and advances to its subsidiaries exceed twenty per cent (20%) of the consolidated assets as of the end of the most recently completed fiscal year.

The parent company and its subsidiaries' investments in and advances to the other subsidiaries exceed twenty per cent (20%) of the consolidated assets as of the end of the most recently completed fiscal year; or
- (b) The subsidiary's total assets, revenues or net income (loss) (after intragroup eliminations) exceed twenty per cent (20%) of the total consolidated assets, revenues or net income (loss) as of the most recently completed fiscal year.

Computational note: For purposes of making the prescribed income test, the following guidance shall be applied:

- [1] When a loss has been incurred either at the consolidated level or at the stand-alone financial statements of the tested subsidiary, but not both, the income or loss of the tested subsidiary shall be excluded from the consolidated income for purposes of the computation.
- [2] Where the test involves combined entities, as in the case of determining whether summarized financial data shall be presented, entities reporting losses shall not be aggregated with entities reporting income.

The Commission, however, may consider qualitative factors, depending on the circumstances, in identifying a significant subsidiary or division.

(xi) **SEC Oversight Assurance Review (SOAR) Inspection Program** refers to an on-site review of the quality control policies and procedures of the accredited auditing firms auditing companies with equity or debt securities listed in an Exchange and review of portions of the audit work of selected audit engagements from time to time. The

¹⁴⁶ The Commission has issued SEC Memorandum Circulars on the adoption and implementation of Philippine Financial Reporting Standards (PFRS) and other financial reporting and auditing standards, as may be amended or supplemented from time to time.

Commission, however, is not precluded from subjecting the independent auditors of other companies for inspection as the circumstances would warrant.¹⁴⁷

(xii) **Related accounts** pertain to the classification and aggregation on the face of the financial statements such as current assets, non-current assets, current liabilities, non-current liabilities, equity items, revenues, cost of sales, cost of service, administrative expenses or operating expenses, as the case may be.

2. GENERAL GUIDES TO FINANCIAL STATEMENTS PREPARATION

A. Financial Reporting Framework¹⁴⁸

The financial statements that shall be prepared and filed by entities covered by this Rule shall be in accordance with the financial reporting framework as prescribed under this Section.¹⁴⁹

(i) Large and/or Public Interest Entities

(a) For purposes of this Rule, **large entities** are those with total assets of more than Three Hundred Fifty Million Pesos (P350 Million) or total liabilities of more than Two Hundred Fifty Million Pesos (P250 Million).

(b) For purposes of this Rule, **public interest entities** are those that meet any of the following criteria:

- (1) Are holders of secondary licenses issued by regulatory agencies; or
- (2) Are required to file financial statements under Part II of SRC Rule 68; or
- (3) Are in the process of filing their financial statements for the purpose of issuing any class of instruments in a public market; or
- (4) Such other corporations that the Commission may consider in the future as imbued with public interest regardless of the lack of a requirement to obtain a secondary license from the Commission and may fall under the following criteria:
 - (i) Those grantees of legislative franchises;
 - (ii) Those engaged in nationalized or partly nationalized activities;
 - (iii) Those grantees or recipients of public funds; and
 - (iv) Those regulated by other government agencies other than the BSP or IC.

Subsequent issuances shall be made by the Commission to specifically identify corporations which it may consider as imbued with public interest.

(c) Large and/or public interest entities shall use the PFRSs, as adopted by the Commission, as their financial reporting framework. However, a set of financial reporting framework other than the full PFRSs may be allowed by the Commission for

¹⁴⁷ See MC 12-2021 Re: Revised Rules and Regulations on the Implementation of the SEC Oversight Assurance Review (SOAR) Inspection Program dated 9 December 2021.

¹⁴⁸ The Commission has issued SEC Memorandum Circulars on the adoption and implementation of PFRS and other financial reporting and auditing standards, as may be amended or supplemented from time to time; MC 1-2006; Re: Guidelines on the Filing of Functional Currency Financial Statements dated 11 January 2006 for corporations whose functional currency is other than the Philippine peso and which company file financial statements expressed in that functional currency; MC 12-2012; Re: Guidelines on the Disclosure of Transactions with Retirement Benefit Funds dated 20 December 2012, for the required disclosures on the transactions of reporting entities with a retirement fund of their employees; MC 9-2026; Re: 2026 Filing Of Annual Financial Statements And General Information Sheet dated 11 February 2026; and MC 14-2026.

¹⁴⁹ Under MC 32-2020; Re: Basis of Preparation of Audited Financial Statements for BSFIs dated 17 November 2020, the Commission *En Banc*, in consideration of the government's initiative to provide relief to industries impacted by the COVID-19 pandemic, approved the adoption of an industry-specific framework, to be referred to as the "PFRS, as modified by the application of the financial reporting reliefs issued by the BSP and approved by the SEC." Accordingly, Bangko Sentral ng Pilipinas (BSP) Supervised Financial Institutions (BSFIs) have the option to prepare their financial statements using said industry-specific framework or full PFRS for the duration and terms allowed by the BSP.

certain sub-class (*e.g.*, banks, insurance companies) of these entities upon consideration of the pronouncements or interpretations of any of the bodies listed in Section 1 (B) (ii) above.

(d) In the presentation of their PFRSs financial statements, all banks licensed by the BSP shall use as reference the account names/titles in the uniform chart of accounts per BSP's financial reporting package. A reconciliation schedule shall be attached to the said financial statements showing the difference between the presentation, recognition and measurement differences between the PFRSs and the BSP's financial reporting framework. This schedule need not be covered by an Auditor's Report.

(ii) **Medium-Sized Entities**

(a) Medium-sized entities are those that meet all of the following criteria:

- (1) Total assets of more than One Hundred Million Pesos (P100 Million) to Three Hundred Fifty Million Pesos (P350 Million) or total liabilities of more than One Hundred Million Pesos (P100 Million) to Two Hundred Fifty Million Pesos (P250 Million). If the entity is a parent company, the said amounts shall be based on the consolidated figures;
- (2) Are not required to file financial statements under Part II of SRC Rule 68;
- (3) Are not in the process of filing their financial statements for the purpose of issuing any class of instruments in a public market; and
- (4) Are not holders of secondary licenses issued by regulatory agencies.

(b) Medium-sized entities shall use as their financial reporting framework the PFRS for SMEs as adopted by the Commission. However, the following medium-sized entities shall be exempt from the mandatory adoption of the PFRS for SMEs and may instead apply, at their option, the full PFRSs:

- (1) An SME which is a subsidiary of a parent company reporting under the full PFRSs;
- (2) An SME which is a subsidiary of a foreign parent company which will be moving towards International Financial Reporting Standards (IFRSs) pursuant to the foreign country's published convergence plan;
- (3) An SME, either as a significant joint venture or associate, which is part of a group that is reporting under the full PFRSs;
- (4) An SME which is a branch office or regional operating headquarter of a foreign company reporting under the full IFRSs;
- (5) An SME which has a subsidiary that is mandated to report under the full PFRSs;
- (6) An SME which has a short-term projection that shows that it will breach the quantitative thresholds set in the criteria for an SME. The breach is expected to be significant and continuing due to its long-term effect on the company's asset or liability size;
- (7) An SME which has a concrete plan to conduct an initial public offering within the next two (2) years;
- (8) An SME which has been preparing financial statements using full PFRSs and has decided to liquidate;
- (9) Such other cases that the Commission may consider as valid exceptions from the mandatory adoption of PFRS for SMEs.

(c) An SME availing itself of any of the above-mentioned grounds for exemption shall provide a discussion in its Notes to Financial Statements of the facts supporting its adoption of the full PFRSs instead of the PFRS for SMEs.

(d) If an SME that uses the PFRS for SMEs in a current year breaches the floor or ceiling of the size criteria at the end of that current year, and the event that caused the change is considered "significant and continuing," the entity shall transition to the applicable financial reporting framework in the next accounting period. If the event is not considered "significant and continuing," the entity can continue to use the same financial reporting framework it currently uses.

(e) The determination of what is "significant and continuing" shall be based on management's judgment taking into consideration relevant qualitative and quantitative factors. As a general rule, twenty per cent (20%) or more of the consolidated total assets or total liabilities would be considered significant.

(iii) **Small Entities**

(a) Small entities are those that meet all of the following criteria:

- (1) Total assets or total liabilities exceeding Three Million Pesos (P3 Million) but not exceeding One Hundred Million Pesos (P100 Million). If the entity is a parent company, the said amounts shall be based on the consolidated figures;¹⁵⁰
- (2) Are not required to file financial statements under Part II of SRC Rule 68;
- (3) Are not in the process of filing their financial statements for the purpose of issuing any class of instruments in a public market; and
- (4) Are not holders of secondary licenses issued by regulatory agencies.

(b) Small entities shall use as their financial reporting framework the PFRS for SEs as adopted by the Commission. However, entities who have operations or investments that are based or conducted in a different country with different functional currency shall not apply this Framework and should instead apply the full PFRSs or PFRS for SMEs. The following small entities shall also be exempt from the mandatory adoption of the PFRS for SEs and may instead apply, as appropriate, the full PFRSs or PFRS for SMEs:

- (1) A small entity which is a subsidiary of a parent company reporting under the full PFRSs or PFRS for SMEs;
- (2) A small entity which is a subsidiary of a foreign parent company which will be moving towards IFRSs or IFRS for Small and Medium-Sized Entities (IFRS for SMEs) pursuant to the foreign country's published convergence plan;
- (3) A small entity, either as a significant joint venture or associate, is part of a group that is reporting under the full PFRSs or PFRS for SMEs;
- (4) A small entity which is a branch office or regional operating headquarter of a foreign company reporting under the full IFRSs or IFRS for SMEs;
- (5) A small entity which has a short-term projection that shows that it will breach the quantitative thresholds set in the criteria for a small entity. The breach is expected to be significant and continuing due to its long-term effect on the Company's asset size;
- (6) A small entity which has been preparing financial statements using full PFRSs or PFRS for SMEs and has decided to liquidate;
- (7) Such other cases that the Commission may consider as valid exceptions from the mandatory adoption of PFRS for SEs.

(c) A small entity availing of any of the above-mentioned grounds for exemption shall provide a discussion in its Notes to Financial Statements of the facts supporting its adoption of the full PFRSs or PFRS for SMEs instead of the PFRS for SEs.

¹⁵⁰ MC 4-2026, *supra* note 144.

(d) If a small entity that uses the PFRS for SEs in a current year breaches the floor or ceiling of the size criteria at the end of that current year, and the event that caused the change is considered "significant and continuing," the entity shall transition to the applicable financial reporting framework in the next accounting period. If the event is not considered "significant and continuing," the entity can continue to use the same financial reporting framework it currently uses.

(e) The determination of what is "significant and continuing" shall be based on management's judgment taking into consideration relevant qualitative and quantitative factors. As a general rule, twenty per cent (20%) or more of the consolidated total assets would be considered significant.

(iv) **Micro Entities**

(a) Micro entities are those that meet all of the following criteria:

- (1) Total assets and liabilities at or below Three Million Pesos (P3 Million);¹⁵¹
- (2) Are not required to file financial statements under Part II of SRC Rule 68;
- (3) Are not in the process of filing their financial statements for the purpose of issuing any class of instruments in a public market; and
- (4) Are not holders of secondary licenses issued by regulatory agencies.

(b) Micro entities have the option to use as their financial reporting framework either the income tax basis or PFRS for SEs, *provided however*, that the financial statements shall at least consist of the Statement of Management's Responsibility signed under oath, Statement of Financial Position, Statement of Income and Notes to Financial Statements, all of which cover the two (2)-year comparative periods, if applicable.¹⁵²

(c) If an entity uses a basis of accounting other than the PFRS for SEs in the preparation of its financial statements, its management shall assess the acceptability of such basis of accounting in the light of the nature of the entity and the objective of the financial statements, or the requirements of the law or regulators.

In the event where an entity breaches the prescribed threshold in terms of total assets or total liabilities and thus it falls within a different classification, the Audited Financial Statements (AFS) of said entity shall be prepared in accordance with the higher framework.

The Commission may from time to time prescribe other criteria for each of the above-stated financial reporting framework.

B. Responsibility for Financial Statements

(i) The financial statements filed with the Commission are primarily the responsibility of the management of the reporting company, and accordingly, the fairness of the representations made therein is an implicit and integral part of the management's responsibility. The Board of Directors, in discharging its responsibilities, reviews and approves the financial statements before these are submitted to the stockholders.

(ii) The SMR for Financial Statements that shall be attached to the financial statements shall read as follows:

STATEMENT OF MANAGEMENT'S RESPONSIBILITY FOR FINANCIAL STATEMENTS

The management of (name of reporting company) is responsible for the preparation and fair presentation of the financial statements including the schedules attached therein, for the year(s) ended (date), in accordance with the prescribed financial reporting framework indicated therein, and for such internal control as management determines is

¹⁵¹ *Id.*

¹⁵² *Id.*

necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is responsible for assessing the Company's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless management either intends to liquidate the Company or to cease operations, or has no realistic alternative but to do so.

The Board of Directors (Trustees) is responsible for overseeing the Company's financial reporting process.

The Board of Directors (Trustees) reviews and approves the financial statements including the schedules attached therein and submits the same to the stockholders or members.

(Name of auditing firm), the independent auditor appointed by the stockholders, has audited the financial statements of the company in accordance with Philippine Standards on Auditing, and in its report to the stockholders or members, has expressed its opinion on the fairness of presentation upon completion of such audit.

Signature _____

Printed Name of the Chairman of the Board _____

Signature _____

Printed Name of Chief Executive Officer _____

Signature _____

Printed Name of Chief Financial Officer _____

Signed this ___ day of _____

(iii) The SMR shall cover the comparative financial statements and shall indicate therein such periods.

(iv) The SMR shall be attached to the consolidated financial statements, if applicable, and to the stand-alone financial statements of the company.

(v) The Chairman of the Board, Chief Executive Officer and Chief Finance Officer shall all sign the SMR as prescribed by this Rule. If provided in the company's by-laws, persons holding equivalent positions as that of the aforementioned signatories shall sign the statement. Failure of any of the prescribed signatories to sign the SMR constitutes a material deficiency in the financial statements.

(vi) In case of branch offices, representative offices or regional operating headquarters of foreign corporations, the SMR shall be signed by its local manager who is in charge of its operations within the Philippines. The third and fourth paragraph of the SMR may be deleted since the Philippine branch does not have any local Board of Directors or Trustees.

(vii) The independent auditor's responsibility for the financial statements required to be filed with the Commission is confined to the expression of his opinion on such statements which he has audited.

(viii) In the audit of the company's financial statements, management shall provide the external auditor with the following documents:

- (a) Complete set of financial statements as prescribed under the applicable financial reporting framework of the entity, and if applicable, schedules and reconciliation forming part of the financial statements required under the existing rules of the Commission;
- (b) All information, such as records and documentation, and other matters that are relevant to the preparation and presentation of the financial

statements. These include schedules, computations, projections, reconciliations, reports, analyses and other financial information; and

- (c) Any additional information that the auditor may request from management and when appropriate, from those tasked to perform governance.

- (ix) Management shall provide unrestricted access to records and personnel of the entity from whom the auditor deems it necessary to obtain audit evidence.

- (x) All publicly-listed companies, as recommended under the SEC Code of Corporate Governance, shall establish a system that captures relevant information on related party transactions. The financial statements shall contain all information on such transactions as required under the financial reporting framework and under such guidelines as may be issued by the Commission. It shall include a disclosure on whether or not the corporation has an approval requirement and limits on the amount and extent of related party transactions.

- (xi) The Board of Directors or its Audit Committee, if applicable, shall determine and ensure itself of the independence and competence of the company's external auditor. For entities which are covered under the SEC Code of Corporate Governance, the scope, expenses of the audit, audit fees and non-audit services of the external auditor shall be approved by the Board of Directors or its Audit Committee, if applicable.

- (xii) The company shall neither allow nor require its independent auditor to prepare its financial statements and/or any of its supporting documents. The independent auditor's duty is to conduct an independent audit of the company's financial statements and supporting documents pursuant to the prescribed auditing standards.

- (xiii) To determine compliance by the company's management with its representations in the SMR, this Section and other relevant provisions of this Rule, the Commission may examine the company's books, records, systems and controls pursuant to the guidelines set by the Commission. For this purpose, the following requirements shall be observed:

- (a) All corporations covered by this Rule shall retain copies of all the records and documents supporting the preparation of their financial statements, regardless of the form in which they are stored, within a period of ten (10) years reckoned from the day following the deadline in filing the financial statements, or such longer time until the final closure or judgment of a pending investigation or case against the corporation, if any.
- (b) The corporation shall inform its external auditor in writing about an investigation or a case involving its financial records and documents, within ten (10) working days from the date of the notice to the corporation.
- (c) If the records of the corporation are in electronic form, the same shall be acceptable provided that there is compliance with the requirements of the Electronic Commerce Act of 2000 [Republic Act (R.A.) No. 8792] and its IRR.

C. Form, Order and Terminology

- (i) This Section shall be applicable to financial statements filed with the Commission for all corporations covered by this Rule.

- (ii) Financial statements shall be filed in such form and order and shall use such generally accepted terminology as will best indicate their significance and character in the light of the provisions applicable thereto. The information required with respect to any statement shall be furnished as a minimum requirement to which shall be added such further material information as is necessary to make the required statements, in the light of the circumstances under which they are made, not misleading.

(iii) All money amounts required to be shown in financial statements may be expressed in whole currency units (e.g., Philippine Pesos) or multiples thereof, as appropriate: provided, that when stated in other than whole currency units, an indication to that effect is inserted immediately beneath the caption of the statement or schedule, at the top of the money columns, or at an appropriate point in narrative material.

(iv) Negative amounts shall be shown in a manner which clearly distinguishes the negative attribute. When determining methods of display, consideration shall be given to the limitations of reproduction and scanning or microfilming processes.

(v) The chronological arrangement of data may be with the most recent date to the right or to the left. However, the ordering used shall be consistent in all financial statements, tabular data and footnote data in the document.

(vi) The financial statements, other than the consolidated financial statements, shall be duly received by the Bureau of Internal Revenue (BIR) or its authorized banks, unless the BIR allows an alternative proof of submission for its authorized banks (e.g., bank slips) or prohibits acceptance of the financial statements in certain cases (e.g., on-going examination).

D. Presentation for Receipt of the Audited Financial Statements

(i) Financial statements required to be submitted by corporations shall be accompanied by an Auditor's Report issued by an independent auditor and presented in accordance with the requirements of this Rule. Failure to comply with any of the formal requirements under this Rule including the prescribed qualifications for independent auditors shall be considered a sufficient ground for the denial of the receipt of the financial statements or the imposition of applicable penalties under the Scale of Fines or pertinent Memorandum Circulars (MCs) issued by the Commission.

(ii) The acceptance and receipt by the Commission of the financial statements shall be without prejudice to the fines that may be imposed for any material deficiency or misstatement that may be found upon evaluation of the specific contents thereof.

3. QUALIFICATIONS AND REPORTS OF INDEPENDENT AUDITORS

A. Audit of Financial Statements by Independent Auditors

All registered corporations covered by this Rule shall have independent auditors who are duly registered and licensed with the Board of Accountancy (BOA) of the Professional Regulation Commission (PRC) in accordance with the rules and regulations of said professional regulatory bodies. A corporation with financial statements audited by an independent auditor who is not registered and licensed with the BOA shall be subject to appropriate fines and shall be immediately referred to the PRC/BOA for the appropriate penalties.

B. Additional Requirements for Independent Auditors of SEC-Regulated Entities and Other Entities

(i) Accreditation Categories

The accreditation of independent auditors serves as a quality control mechanism or quality assurance review by the Commission on the work of the accredited external auditors.

The following entities shall have independent auditors accredited by the Commission under the appropriate category:

(a) Group A

- (1) Issuers of registered securities which have sold a class of securities pursuant to a registration under Section 12 of the SRC except those issuers of registered timeshares, proprietary and non-proprietary membership certificates which are covered in

Group B. This category shall also cover corporations applying for the registration of their securities;

- (2) Issuers with a class of securities listed for trading in an Exchange;
- (3) Public companies or those which have total assets of at least Fifty Million Pesos (P50 Million) or such other amount as the Commission shall prescribe, and having two hundred (200) or more holders each holding at least one hundred (100) shares of a class of its equity securities;
- (4) Clearing agency and clearing agency as depository; and
- (5) Stock and securities exchange/s and other Self-Regulatory Organizations.

(b) Group B

- (1) Issuers of registered timeshares, proprietary and non-proprietary membership certificates, and corporations applying for the registration of such securities;
- (2) Investment houses;
- (3) Brokers and dealers of securities;
- (4) Investment companies that are not in the process of registering securities or have no registered securities yet;
- (5) Government securities eligible dealers;
- (6) Universal banks registered as underwriters of securities;
- (7) Investment company advisers;
- (8) Special purpose corporations registered under the Securitization Act of 2004 and its implementing rules;
- (9) Such other corporations which may be required by law to be supervised by the Commission;¹⁵³

¹⁵³ See MC 11-2017 and MC 8-2023, *supra* note 15. A hospital that would register its securities through SEC Form 12-1 SRS may engage the services of a Group B SEC accredited external auditor or auditing firms under the following conditions:

- i. The registration of securities shall not exceed the amount of One Billion Pesos (PhP1,000,000,000.00) in a single or series of registration of securities; *provided that*, in case of series of registration of securities, the registration of securities shall be made within three (3) fiscal years starting on the fiscal year of the Commission approved the issuer-hospital's application for registration of its securities using SEC Form 12-1 SRS.
- ii. The engagement of a Group B SEC accredited external auditor or auditing firm shall be allowed for a period of five (5) fiscal years, beginning from the fiscal year after the Commission's approval of the issuer-hospital's application for registration of securities.
- iii. On the sixth (6th) year, issuer-hospital will be required to engage a Group A SEC accredited external auditor or auditing firm.
- iv. Notwithstanding the foregoing conditions, the Commission may require anytime the engagement of a Group A SEC accredited external auditor or auditing firm as it deems consistent with public interest and the protection of investors.
All other existing requirements under the SRC and the SRC Rules shall be strictly complied with by hospitals with registered securities.
An agri-business company that would register its securities through SEC FARMS may engage the services of Group B SEC accredited external auditors or auditing firms under the following conditions:
- i. The engagement of a Group B SEC accredited external auditor or auditing firm shall be allowed for a period of five (5) fiscal years beginning from the Fiscal Year after the Commission's approval of the issuer application for registration of its securities.
- ii. On the sixth (6th) year, the Issuer will be required to engage a Group A SEC accredited external auditor or auditing firm.
- iii. Notwithstanding the foregoing conditions, the Commission may require anytime the engagement of a Group A SEC accredited external auditor or auditing firm as it deems necessary and consistent with public interest and the protection of investors.

(c) Group C

- (1) Financing companies whose assets in the preceding year are above Ten Million Pesos (P10 Million);
- (2) Lending companies whose assets in the preceding year are above Five Million Pesos (P5 Million);
- (3) Transfer agents;
- (4) Non-stock, non-profit corporations including foundations which solicit or receive annual donations or contributions and/or with fund balance amounting to more than Twenty-Five Million Pesos (P25 Million) and One Hundred Million Pesos (P100 Million), respectively, over the preceding three (3) years, or such higher amount that the Commission may set through order or guidelines.

A non-stock, non-profit corporation that is already scoped in by the above requirement can only be excluded if its annual donations or contributions and/or fund balance fall below Twenty-Five Million Pesos (P25 Million) and One Hundred Million Pesos (P100 Million), respectively, over the preceding three (3) years; and

- (5) Such other corporations that the Commission may consider as imbued with public interest regardless of the lack of a requirement to obtain a secondary license from the Commission.

(ii) Scope and Limitation of Accreditation

(a) The auditing firms including their respective signing partners who shall be engaged by companies under Groups A, B and C must be accredited by the Commission in accordance with this Rule.

(b) Sole practitioners may be accredited by the Commission and may be engaged by Group C companies provided that such auditors have proven their capacity and resources for establishing and implementing adequate audit quality controls in accordance with applicable standards and such other rules and regulations as the Commission may prescribe.

Sole practitioners, however, are expected to convert from a Sole Proprietorship to a Partnership structure by 30 June 2022 in order to continue being accredited by the Commission.

(c) The Commission shall not be liable for any liability or loss that may arise from the selection and engagement of the said accredited independent auditor and/or auditing firm engaged by a corporation for audit.

(d) The accreditation of an independent auditor and/or auditing firm shall expire or be automatically delisted after three (3) years (or such number of years as may later be determined by the Commission) from the date of approval of the accreditation, unless an application for its renewal is filed not later than thirty (30) business days before its expiration.

(e) The evaluation on the financial statements, which are randomly selected using a risk-based approach, of the applicant's corporate clients during the processing of his application covers only the companies' compliance with the applicable financial reporting framework and such is made only on the face of the financial statements and attached schedules and not its supporting documents. The Commission, however, is not precluded from obtaining copies of the audit work papers to support the auditor's responses to the comments on the evaluated AFS.

(f) The Commission shall subject to SOAR Inspection Program the accredited auditing firms engaged by companies with equity or debt securities listed in

an Exchange and review portions of these firms' audit work for the listed companies. The Commission, however, is not precluded from subjecting the Independent Auditors of other companies for inspection as the circumstances would warrant.

(g) The accreditation of an auditing firm, partner or sole practitioner shall be effective unless any of the following occurs:

- (1) the auditing firm or auditor's request for withdrawal of accreditation is approved by the Commission;
- (2) the accreditation is suspended or revoked by the Commission, after due notice and hearing, for failure to comply with the SOAR requirements or for such other grounds as provided in this Rule; or
- (3) the BOA registration and license have expired and no application for renewal has been filed with the BOA.

(h) Accreditation under Group A shall be considered a general accreditation which shall allow the independent auditor to also audit companies under Groups B and C. Independent auditors with Group B accreditation can likewise audit companies under Group C. Only accredited partners, with accreditation under the appropriate group category, are allowed to certify financial statements of the firm's clients with secondary licenses.

Independent auditors granted with Groups A and B accreditation are expected to handle audit of entities belonging to these categories to serve the purposes of their Groups A or B accreditation. Independent auditors granted with Group A accreditation and with no audit clients listed in an Exchange shall be distinguished from those with audit clients listed in an Exchange.

(iii) Accreditation Requirements for Individual Independent Auditors or Signing Partners

(a) General Requirements

- (1) The applicant shall be registered and licensed with the BOA;
- (2) At the time of application, the applicant shall have at least five (5) years of experience in external audit. The audit experience shall have been acquired as a manager or partner or its equivalent;
- (3) The applicant shall have adequate policies and procedures related to the elements of a system of quality control provided for under PSA No. 220 (Quality Control for an Audit of Financial Statements), Philippine Standard on Quality Control (PSQC) No. 1 (Quality Controls for Firms that Perform Audits and Reviews of Financial Statements, Other Assurance and Related Services Engagements), and their amendments. These shall be reflected in his Quality Assurance Manual (QAM). The submitted QAM is subject to the evaluation by the Commission.

(4) An application for accreditation of an external auditor shall not be recommended for approval, if after due notice and hearing, it could be established that:

- (i) The auditor allowed the perpetuation of any violation of the requirements of the Revised SRC Rule 68 by issuing a report with unqualified opinion on the relevant financial statements despite discovery of the violation during the audit, or if not discovered, the same should have been identified if appropriate audit procedures were performed; and
- (ii) The violation subject of this paragraph shall pertain to a decision or judgment that has attained finality.

(b) Specific Requirements

- (1) The applicant shall have sufficient knowledge on the regulatory requirements, operations and functions of companies under Groups A, B or C for which he is applying for accreditation;

(2) The applicant shall have a total of thirty (30) units of training and seminars (or such number of units as may later be determined by the Commission) on the following topics within the last three (3) years: ten (10) units on PFRS, ten (10) units on PSA, and ten (10) units on laws and regulations being implemented by the Commission. The said training should have been approved by the PRC Continuing Professional Development Council (CPDC), or organized or approved by the Commission;

(3) The quality of audit work based on the evaluation of the financial statements of clients shall meet the prescribed level under Annex 68-A¹⁵⁴ of this Rule;

(4) At the time of application, the applicant shall have the following track record:

- (i) For Group A applicant, he shall have had a minimum of five (5) corporate clients with total assets of at least Fifty Million Pesos (P50 Million) each, or such amount as may be prescribed by the Commission;
- (ii) For Group B, he shall have had a minimum of three (3) corporate clients with total assets of at least Twenty Million Pesos (P20 Million) each, or such amount as may be prescribed by the Commission;
- (iii) For Group C, he shall have had a minimum of three (3) corporate clients with total assets of at least Five Million Pesos (P5 Million) each, or such amount as may be prescribed by the Commission.

(c) **Application Documents**

1. For the initial accreditation, a notarized application form (SEC Form ExA-001) shall be submitted by the applicant to the Commission, together with the prescribed supporting documents.

In cases where the applicant previously served as a manager for the audit of the selected AFS for evaluation, the applicant shall also submit a certification from the signing partner of the selected AFS that the applicant was part of the audit engagement team.

2. The accreditation may be renewed by filing a notarized renewal application form (SEC Form ExA-001-R) together with the prescribed supporting documents. In addition to the said documents, the applicant must show proof that he is engaged or had been engaged for the audit of a company under the category that he was previously accredited for and under which he is applying for renewal.

In case the applicant renewing his accreditation was not engaged in the audit of a company under the category that he was previously accredited, the applicant should show proof of continuing compliance with all the requirements enumerated in Section 3 (B) (iii) (a) and (b) of Part I of this Rule.

3. Applications for initial or renewal of external auditors or partners of auditing firms shall be assessed with the appropriate filing fee as indicated in SEC MC No. 3, Series of 2017 or subsequent circulars issued by the Commission.

(iv) **Accreditation Requirements for Auditing Firms**

(a) The auditing firm shall be accredited with the BOA;

(b) At the time of application and during the effectivity of its accreditation, it shall have at least two (2) signing independent auditors who are accredited under the same category as the auditing firm is applying for;

(c) It shall have adequate policies and procedures related to the elements of a system of quality control provided for under PSA No. 220, PSQC No. 1, and their amendments. These shall be reflected in the QAM of the auditing firm.

The submitted QAM is subject to the evaluation by the Commission.

¹⁵⁴ Annex 68-A.

For Groups A or B, the highest level of quality assurance procedures within the auditing firm are required in order to ensure that matters like proper consultation policies, concurring reviews and independence monitoring are in place.

The auditing firm shall submit a certification on the number of all of its personnel or staff.

(d) The auditing firm shall submit a disclosure under oath attesting to its independence (SEC MC No. 2, Series of 2016);

(e) Application documents:

(1) For initial accreditation, a notarized application form (SEC Form AuF-002) shall be signed by the managing partner of the auditing firm and shall be submitted to the Commission, together with the supporting documents prescribed in SEC Form AuF-002.

(2) The accreditation may be renewed by filing a notarized renewal application form (SEC Form AuF-002-R) together with the prescribed supporting documents. In addition to the said documents, the firm must show proof that it is engaged or had been engaged for the audit of a company under the category that it was previously accredited for and under which it is applying for renewal.

In case the firm renewing its accreditation was not engaged in the audit of a company under the category that the firm was previously accredited, the firm should show proof of continuing compliance with all the requirements enumerated in Section 3 (B) (iv) (a) to (d) of Part I of this Rule.

(3) Applications for initial or renewal accreditation of auditing firms shall be assessed with the appropriate filing fee as indicated in SEC MC No. 3, Series of 2017 or subsequent circulars issued by the Commission.

(v) Other Qualification Requirements

In addition to the above-stated accreditation requirements, the Commission may prescribe through subsequent issuances, other qualification requirements and supporting documents as it may consider necessary to provide higher assurance on the competence and independence of auditors accredited by the Commission.

(vi) Mutual Recognition Policy

(a) The mutual recognition policy, as prescribed in the Memorandum of Agreement between and among the Commission, BOA, BSP and IC and any of its subsequent amendments, covering auditors of Group C companies is subject to the BSP restriction that for banks and their subsidiaries and affiliate banks; quasi-banks; trust entities; non-stock savings and loan associations and their subsidiaries and affiliates engaged in allied activities; and other financial institutions which, under special laws, are subject to the BSP's consolidated supervision, only one (1) independent auditor or auditing firm shall audit their individual and consolidated financial statements.

(b) The existing mutual recognition policy between and among financial regulators is limited to compliance by applicants with the basic qualification and documentary requirements. Special requirements of each agency must still be observed by applicant-external auditors. This is without prejudice, however, to any subsequent agreement between and among the Commission and other financial regulators to centralize into one unit all of their accreditation processes and requirements.

(vii) Operational Requirements

All auditing firms and sole practitioners holding a certificate of accreditation from the Commission shall comply with the following requirements:

- (a) They shall strictly observe the Code of Ethics for Professional Accountants as adopted by the BOA and PRC and such other standards as may be adopted by the Commission.¹⁵⁵
- (b) They shall comply with the following:
 - (1) Terms of the engagement letter and its undertakings;
 - (2) The PSA and other issuances of the Auditing and Assurance Standards Council (AASC) and the Commission;
 - (3) Applicable provisions of this Rule and other relevant regulations and circulars of the Commission; and
 - (4) Other pertinent laws, rules and regulations.
- (c) In case of auditing firms, they shall maintain the number of partners necessary to comply with the rotation policy of this Rule.
- (d) They shall comply with the reportorial requirements as set forth under this Rule.
- (e) They shall maintain the prescribed quality of audit work under Annex 68-A of this Rule.
- (f) They shall implement their respective QAM that is in accordance with the requirements of existing auditing standards.
- (g) They shall retain copies of their working papers, audit evidences and other audit related records for a period of ten (10) years reckoned from the day following the completion of the audit, or such longer time until the final closure or judgment of a pending investigation or case against the client, if any.

 They shall inquire with the management as to whether there is an ongoing investigation or case against the company and require the client corporation to inform them, in writing, about an investigation or a case against the company within ten (10) working days from the date of notice to the corporation.

 If the records of the auditing firm are in electronic form, the same shall be acceptable provided that there is compliance with the requirements of the Electronic Commerce Act of 2000 (R.A. No. 8792) and its IRR.
- (h) In relation to an on-going investigation of SEC-registered entity, accredited independent auditors and auditing firms shall, upon order of the Commission, present their working papers, audit evidence and other audit related records. This is to ensure that the quality of their respective audits has not been compromised.
- (i) Auditing firms with listed company-clients shall allow the Commission through its reviewers who hold a written authority, to conduct an on-site examination in accordance with the SOAR Inspection Program.
- (j) They shall comply with such orders and guidelines as may be issued by the Commission pursuant to its powers and authority under existing laws.

Failure to comply with any of the foregoing requirements shall be a sufficient ground for the imposition of fines, as indicated in SEC MC No. 13, Series of 2009 or subsequent circulars issued by the Commission,

¹⁵⁵ See MC 2-2016 Re: Additional Requirement for Accreditation as Auditing Firm/Sole Practitioner dated 11 February 2016, which mandates all accredited auditing firms/sole practitioners and prospective applicant-firms/sole practitioners to submit a Disclosure under oath attesting their adherence to the fundamental principles of the Code of Ethics for Professional Accountants, as well as to the principles applicable to the professional accountants in public practice, particularly in the areas involving conflict of interest and independence.

and/or suspension or revocation of the accreditation of the auditing firm or auditor and/or non-renewal thereof.

(viii) Reportorial Requirements

(a) The Audit Committee of entities classified under Groups A, B and C shall report to the Commission its action on a report of its independent auditor pertaining to any item enumerated under item (c) in the next page within five (5) business days from the date the report is submitted by the independent auditor. For companies under Group A, the report shall be in SEC Form 17-C: Current Report that shall be signed by the Chairman of the Audit Committee. For companies under Groups B and C, the report shall be in the form of a letter signed by the Chairman of the Audit Committee or if there is no such committee, by the company's Chairman of the Board.

(b) In case the Audit Committee fails to submit the report required above, the independent auditor shall, within thirty (30) business days from the submission of his findings to the entity, file a report (SEC Form Au-Rep) to the Commission.

(c) The following findings on the entity shall be disclosed by the Audit Committee, or if there is no such committee, by the company's Chairman of the Board, to the Commission:

- (1) Any finding of: (i) violation of SRC Rule 68; (ii) offering of securities without prior registration with the Commission under the SRC; or (iii) engaging in the business of financing or lending without a secondary license;
- (2) Any material finding involving fraud or error;
- (3) Losses or potential losses the aggregate of which amounts to at least ten per cent (10%) of the consolidated total assets of the company;
- (4) Any finding to the effect that the consolidated assets of the company, on a going concern basis, are no longer adequate to cover the total claims of creditors; and
- (5) Material weaknesses in internal control, which may lead to financial reporting problems.

(d) The independent auditor shall submit his findings to the client-company's Audit Committee or Board of Directors, as applicable. The adverse findings shall be discussed by the independent auditor with the said body in order to preserve the concerns of the supervisory authority and independent auditors regarding the confidentiality of the information.

(e) The independent auditor shall document management's explanation and/or corrective action taken regarding his adverse findings. The same shall be included in the report mentioned under item (b) in the previous page.

(f) The engagement contract between the company and the independent auditor shall contain a provision that the disclosure of information by the independent auditor to the Commission shall not constitute a breach of confidentiality nor shall it be ground for civil, criminal or disciplinary proceedings against the independent auditor.

(ix) Rotation of External Auditors

The independent auditors or in the case of an auditing firm, key audit partners, as defined under Section 1 (B) (viii) of Part I of this Rule, of the aforementioned SEC-regulated entities under Groups A to C, except for non-stock, non-profit corporations, shall comply with the provisions on long association of personnel (including partner rotation) with an audit client as prescribed in the Code of Ethics for Professional Accountants in the Philippines as adopted by the BOA and PRC and such other standards as may be adopted by the Commission.

(x) Other Obligations of Accredited External Auditors

In addition to the requirements in the preceding provisions, the Commission, through

subsequent issuances, may prescribe other obligations of accredited external auditors as it may consider necessary to improve transparency, audit quality and independence of external auditors.

C. Independence of Auditors

The term independent auditor or external auditor refers to an auditor who fully meets the requirements of independence as provided for in the Code of Ethics for Professional Accountants in the Philippines and in this Rule.

D. Engagement of Independent Auditors

(i) The company through its Board of Directors orf Audit Committee, if applicable, shall conduct due diligence in confirming the personal **identification** and professional qualifications of the independent auditor whose services it will engage.

(ii) Prior to engagement, the company shall require the independent auditor to present a copy of his/her professional license from the PRC and the Certificate of Accreditation issued to him/her by the BOA as sole independent auditor and to the auditing firm if he is a partner thereof.

(iii) The company shall confirm the authenticity of the BOA Certificate of Accreditation by checking the latest list of accredited practitioners issued by the BOA.

(iv) In addition to the above, regulated entities shall observe the following procedures prior to the engagement of an independent auditor:

(a) The company shall require the presentation of the Commission's Certificate of Accreditation issued to the independent auditor and its auditing firm, if applicable. The level of accreditation (Groups A to C) indicated in the said certificate shall be at least equivalent to the company's classification under this Rule;

(b) The authenticity of the said certificate shall be verified against the official list of accredited auditors and auditing firms.

(v) Preliminary meetings with the management and the exit conference shall be attended to personally by the independent auditor or by the handling partner or engagement manager, in case of an auditing firm.

(vi) A complete documentation of the foregoing requirements shall be retained by the company. The independent auditor's file with the company shall include a copy of his/her PRC license, BOA Accreditation Certificate, Commission's Certificate of Accreditation (if applicable), engagement contract and minutes of conference with the auditors, among others.

E. Audit Reports of Independent Auditors

(i) The Auditor's Report shall: (a) be dated; (b) be signed by the certifying independent auditor; (c) identify the financial statements covered by the report; (d) state the signing accountant's License, Tax Identification and Professional Tax Receipt numbers, and registration number with the BOA including its expiration date; (e) state the complete mailing address of the client and the auditor; and (f) in the case of an auditing firm, the certifying partner shall sign his own signature and shall indicate that he is signing for the auditing firm, the name of which is printed in the report.

(ii) The Auditor's Report of a company mentioned under Section 3 (B) (i) of Part I of this Rule shall likewise indicate the signing auditor/partner's accreditation number, category and expiration of accreditation. In case of an auditing firm, the same information with respect to the accreditation of the auditing firm shall be indicated.

(iii) The Auditor's Report shall state whether the audit was made in accordance with the PSA.

(iv) The Auditor's Report shall state clearly the opinion of the independent auditor on the fairness of presentation in conformity with the prescribed financial

reporting framework for the company. It shall discuss the basis of the opinion and shall contain all information as required under the applicable PSAs.

(v) Unless exempted under sub-paragraph (vi) in the next page, the external auditor of a company which has incurred a capital deficiency, shall provide in the Audit Report a Material Uncertainty Related to Going Concern section pursuant to the auditing standards which includes a reference to the Note to Financial Statements. Such note shall discuss the concrete plan of the company to address the capital deficiency.

(vi) The requirement under sub-paragraph (E) (v) in the previous page shall not apply to a company that incurred a capital deficiency due to any of the following reasons:

- (1) The company is at pre-operating stage and has incurred capital deficiency due to higher pre-operating expenses than its initial capitalization. Projected financial statements indicate that it will generate net income once it starts commercial operations;
- (2) Significant losses were incurred in prior years but the company has generated positive results (net income) from operations over the current period due to developments in the business or regularization of its operation;
- (3) The company has incurred capital deficiency during the current period only due to a significant adjustment arising from the adoption of a new financial reporting framework or occurrence of a non-recurring transaction for the period; or
- (4) Such other cases which the Commission may consider as valid ground for considering the company as a going concern.

(vii) Any company covered by any of above exemptions shall provide in Note 1 of its AFS a discussion on the reason for its capital deficiency and a concrete plan to address the same.

F. Supplemental Written Statement of Auditor

(i) For stock corporations filing under Part I of this Rule (and therefore not covered by Part II), their independent auditors shall issue a supplemental written statement as prescribed under Annex 68-B¹⁵⁶ of this Rule.

(ii) To support the above statement, the auditor may undertake the audit procedures he deems necessary, such as the following:

- (a) Obtain a certification from the issuer's Corporate Secretary on the number of stockholders and their corresponding shareholdings;
- (b) Inspect the Stock and Transfer Book and conduct the tests needed to validate their entries and balances.

4. COMPARATIVE FINANCIAL STATEMENTS

A. The financial statements to be filed with the Commission shall be presented in comparative form. The figures for the most recently ended fiscal year may be presented at the right portion immediately after the accounts name, followed by the figures for the last preceding year.

B. Statement of Financial Position

The audited Statements of Financial Position shall be as of the end of each of the two (2) most recently completed fiscal years.

C. Statement of Comprehensive Income, Statement of Cash Flows and Statement of Changes in Equity

If practicable, these statements shall be for each of the two (2) most recently completed fiscal years or such shorter period as the company (including predecessors) has been in

¹⁵⁶ Annex 68-B.

existence.

D. An explanation through a note or otherwise shall be made explaining the reasons for filing a single-period statement, *e.g.*, it is the first (1st) period of a new company.

E. When financial statements are presented on a comparative basis for more than the periods required, the Auditors Report need not extend to prior periods for which the financial statements are not required to be audited.

(i) If the financial statements of the prior year were not audited, such statements shall be marked prominently as "UNAUDITED." In addition, the auditor shall disclose this in an "other matter" paragraph in the Auditor's Report.

(ii) If the financial statements of a prior period have been audited by another independent certified public accountant whose report is not presented, the statements shall be marked to disclose prominently that they are not being reported upon by the current auditor. If the auditor of the financial statements for such periods did not give an unqualified opinion on such statements, the auditor for the current year shall indicate in an "other matter" paragraph of his report (i) that the financial statements of the prior period were audited by other auditors, (ii) the date of their report, (iii) the type of opinion expressed by the predecessor auditor, and (iv) the substantive reasons it was qualified.

5. OTHER DOCUMENTS TO BE FILED WITH THE FINANCIAL STATEMENTS

The following documents shall be filed with the annual AFS and in the interim financial statements, if required herein:

A. Non-Stock and Non-Profit Organizations (NSPO) Including Foundations

The forms as provided in Annex 68-C¹⁵⁷ of this Rule must be accomplished and submitted with the AFS by non-stock and non-profit organizations including foundations.

NSPO Form-1, NSPO Form-2 and NSPO Form-3 must be submitted by all registered non-stock and non-profit organizations. For those with annual contributions or donations of Five Hundred Thousand Pesos (P500,000) or more, NSPO Form-4, NSPO Form-5 and NSPO Form-6 must also be submitted with the AFS.

These schedules need not be covered by an Auditor's Report.

B. Issuers of Securities to the Public, and Stock Corporations with Unrestricted Retained Earnings in Excess of 100% of Paid-In Capital Stock

A Reconciliation of Retained Earnings Available for Dividend Declaration, which shall present the prescribed adjustments in the prescribed Form per Annex 68-D¹⁵⁸ of this Rule, must be presented. This reconciliation must be covered by an Auditor's Report.

C. Regulated Entities Enumerated in Section 3 (B) (i) of Part I of this Rule¹⁵⁹

A schedule showing financial soundness indicators in two (2) comparative periods, as follows: (i) current/liquidity ratios; (ii) solvency ratios, debt-to-equity ratios; (iii) asset-to-equity ratios; (iv) interest rate coverage ratios; (v) profitability ratios; and (vi) other relevant ratios as the Commission may consider necessary.

This schedule, in the prescribed Form per Annex 68-E¹⁶⁰ of this Rule, shall be submitted with the AFS and if applicable, with the company's interim financial statements. For listed companies, this schedule should be covered by an Auditor's Report.

D. Financing Companies

A schedule showing the following information for two (2) comparative periods: (i) ratio

¹⁵⁷ [Annex 68-C.](#)

¹⁵⁸ [Annex 68-D.](#)

¹⁵⁹ [MC 1-2010 Re: Adoption of the Broker-Dealer Chart of Accounts](#) dated 18 March 2010, promulgates the Commission's adoption as part of its rules, of the Broker-Dealer Chart of Accounts (BDCA) for implementation by all registered broker-dealers in securities which include both trading and non-trading participants of the Philippine Stock Exchange. The BDCA was issued pursuant to Section 68 of the SRC.

¹⁶⁰ [Annex 68-E.](#)

or percentage of total real estate investments to total assets; (ii) total receivables to total assets; (iii) total Directors, Officers, Stockholders and Related Interests (DOSRI)'s receivables to net worth; and (iv) amount of receivables from a single corporation to total receivables. This schedule, in the prescribed Form per Annex 68-F¹⁶¹ of this Rule, shall be submitted with the annual AFS and if applicable, with the company's interim financial statements. This schedule need not be covered by an Auditor's Report.

E. Mutual Funds

A schedule showing the following information for two (2) comparative periods: (i) percentage of investment in a single enterprise to net asset value; (ii) total investment of the fund to the outstanding securities of an investee company; (iii) total investments in liquid or semi-liquid assets to total assets; (iv) total operating expenses to net worth; and (v) total assets to total borrowings, shall be submitted with the annual AFS and if applicable, with the company's interim financial statements.

This schedule, in the prescribed Form per Annex 68-G¹⁶² of this Rule, shall be submitted with the annual AFS and if applicable, with the company's interim financial statements. This schedule need not be covered by an Auditor's Report.

F. Investment Houses

A schedule, in the prescribed Form per Annex 68-H¹⁶³ of this Rule, showing the following information, shall be submitted with the annual AFS and if applicable, with the company's interim financial statements:

Details (per issue) of underwriting activities for the year:

- (i) Name of the issuer-client;
- (ii) Nature of commitment;
- (iii) Amount of issue;
- (iv) Underwriting and other fees generated; and
- (v) Basis of computation for each.

Transactions with DOSRI:

- (i) Name of related party;
- (ii) Description of transaction;
- (iii) Total volume/amount of transaction for the year;
- (iv) Terms and conditions, such as maturity date, security, and mode of payment; and
- (v) If secured, carrying amount of asset used as collateral.

This schedule need not be covered by an Auditor's Report.

G. Listed Companies and Investment Houses that are Part of a Conglomerate or Group of Companies

A map showing the relationships between and among the company and its ultimate parent company, middle parent, subsidiaries or co-subsidiaries, and associates, wherever located or registered, shall be submitted with the annual AFS. The map must be covered by an Auditor's Report.

H. Listed Companies that Recently Offered Securities to the Public (Either as Initial or Additional Offering)

¹⁶¹ [Annex 68-F.](#)

¹⁶² [Annex 68-G.](#)

¹⁶³ [Annex 68-H.](#)

A schedule, in the prescribed Form per Annex 68-I¹⁶⁴ of this Rule, showing the following amounts, shall be submitted with the annual AFS and if applicable, with the company's interim financial statements up to such period when all the proceeds from the offering have been utilized:

- a) Gross and net proceeds as disclosed in the final prospectus;
- b) Actual gross and net proceeds;
- c) Each expenditure item where the proceeds were used; and
- d) Balance of the proceeds as of end of reporting period.

This schedule need not be covered by an Auditor's Report.

I. Such other schedules or components that the Commission may require through subsequent pronouncements.¹⁶⁵

PART II

Additional Requirements for Issuers of Securities to the Public

1. APPLICATION

In addition to the requirements set forth under Part I of this Rule, this Part II (together with subsequent official pronouncements, interpretations and rulings on accounting and reporting matters, which may be issued by the Commission from time to time) provides for the special requirements on the financial statements required to be filed with the Commission by corporations which filed registration statements under Section 12 of the SRC or which meet the following criteria with respect to the requirements to file reports:

- A.** Issuer which has sold a class of its securities pursuant to a registration under Section 12 of the SRC;
- B.** Issuer with a class of securities listed for trading on an Exchange; and
- C.** Issuer with assets of at least Fifty Million Pesos (P50 Million) or such other amount as the Commission shall prescribe and has Two Hundred (200) or more holders each holding at least one hundred (100) shares of a class of its equity securities as of the first (1st) day of the issuer's fiscal year.

2. REGISTRATION OF SECURITIES PURSUANT TO THE ASEAN CAPITAL MARKET INTEGRATION

The registration of securities pursuant to the ASEAN Capital Market Integration Framework shall be in accordance with this Rule, subject to the following specific requirements and such other issuances as the Commission may hereinafter release:

- A.** Adoption of the IFRS as the basis of financial statements of foreign companies that will undergo cross border offerings or listings in the Philippines.
- B.** Submission by the foreign issuer's financial statements that are audited by a foreign audit firm are subject to the following requirements:
 - (i) The foreign audit firm should be accredited or licensed and/or recognized in its home jurisdiction as qualified to audit issuers of securities to the public;
 - (ii) The foreign audit firm should be affiliated with a local firm that is accredited by the Commission under Group A category; and
 - (iii) The SMR, schedules and other attachments required under SRC Rule 68 should be submitted with the financial statements.

¹⁶⁴ Annex 68-I.

¹⁶⁵ See MC 18-2024 Re: Guidelines on the Disclosure of Fee-Related Information of External Auditors dated 26 December 2024.

- C. Modification of financial statement requirements in cases where the subject of a registration statement is asset-backed securities in order to align with those in other ASEAN countries.

3. AUDITOR'S OPINION ON FINANCIAL STATEMENTS

A. The AFS of companies covered by Part II of this Rule with an auditor's opinion other than unqualified because of deviation(s) from the required financial reporting framework or due to a scope limitation imposed by the company, shall be considered a violation of this Rule.

B. For listed banks, a qualified opinion from their independent auditors shall not be considered a non-compliance with this Rule if the qualification pertains to a deviation from PFRS, when such deviation has been approved by the BSP as part of its prudential reporting requirements.

C. The company shall, if warranted, after due notice and hearing, be subject to the applicable penalties and shall be required to submit its amended financial statements to address the modification or limitation.

4. RESPONSIBILITY FOR FINANCIAL STATEMENTS

The SMR of companies covered under Part II of this Rule shall, in addition to the requirements under Section 2 (B) of Part I of this Rule, be signed under oath.

For registrants of securities, the SMR shall be attached to both audited annual financial statements and reviewed interim financial statements.

5. PERIODIC PRESENTATION

The periodic presentation and coverage of financial statements accompanying the registration statements (SEC Form 12-1), annual reports (SEC Form 17-A) and management reports attached to the information statements (SEC Form 20-IS) shall be made in accordance with the requirements of this Section.

A. Registration Statements¹⁶⁶

(i) Consolidated Statements of Financial Position

(a) If the registrant has been in existence for less than one (1) fiscal year, there shall be filed an audited Statement of Financial Position as of a date within one hundred eighty (180) days of the date of filing the registration statement.

(b) If a filing on SEC Form 12-1 is made within one hundred eighty (180) days after the end of the most recently ended fiscal year, the filing shall include Audited Consolidated Statements of Financial Position as of the end of each of the two (2) most recently ended fiscal years.

(c) If a filing on SEC Form 12-1 is made more than one hundred eighty (180) days but not more than two hundred seventy-four (274) days after the end of the most recently ended fiscal year, the filing shall include Audited Consolidated Statements of Financial Position as of the end of each of the two (2) most recently ended fiscal years and a separate Interim Statement of Financial Position as of the end of the first (1st) fiscal quarter subsequent to the most recent fiscal year end.

(d) If a filing on Form 12-1 is made more than two hundred seventy-four (274) days after the end of the most recently ended fiscal year, the filing shall include Audited Consolidated Statements of Financial Position as of the end of each of the two (2) most

¹⁶⁶ Under Section 3 of MC 8-2023, *supra* note 15, the Commission may allow a registrant company using SEC FARMS to file financial statements covering a period less than what is required under PART II(5)(A)(i) to (vi) of Revised SRC Rule 68, provided that:

- i. The registrant corporation is able to show that the officers who will be involved in the operation of the agri-business activities relating to the project have a three-year related experience; or
- ii. The registrant corporation is able to show that it has a related corporation, either as parent, subsidiary or affiliate that is involved in the same or similar business activity for the last three (3) years.

recently ended fiscal years and a separate Interim Statement of Financial Position as of the end of the second (2nd) fiscal quarter subsequent to the most recent fiscal year end.

(ii) Consolidated Statements of Comprehensive Income

(a) There shall be filed for the registrant and its consolidated subsidiaries and its predecessors Audited Statements of Comprehensive Income in a comparative format for each of the three (3) most recent completed fiscal years or such shorter period as the registrant (including predecessors) has been in existence.

(b) In addition, a Statement of Comprehensive Income shall be provided for any interim period between the latest Audited Statement of Financial Position and the date of the most recent Interim Statement of Financial Position being filed, and for the corresponding period of the preceding year.

(iii) Consolidated Statements of Changes in Equity

(a) There shall be filed for the registrant and its consolidated subsidiaries and its predecessors, Audited Statements of Changes in Equity in comparative format for each of the three (3) most recent completed fiscal years or such shorter period as the registrant (including predecessors) has been in existence.

(b) In addition, Statements of Changes in Equity shall be provided for any interim period between the latest Audited Statement of Financial Position and the date of the most recent Interim Statement of Financial Position being filed, and for the corresponding period of the preceding year.

(iv) Consolidated Statements of Cash Flows

(a) There shall be filed for the registrant and its consolidated subsidiaries and its predecessors, Audited Statements of Cash Flows in comparative format for each of the three (3) most recent completed fiscal years or such shorter period as the registrant (including predecessors) has been in existence.

(b) In addition, a consolidated Statement of Cash Flows shall be provided for any interim period between the latest Audited Statement of Financial Position and the date of the most recent Interim Statement of Financial Position being filed, and for the corresponding period of the preceding year.

The above financial statements shall be audited by an independent auditor accredited by the Commission under the category prescribed per Section 3 (B) (i) of Part I of this Rule.

(v) Interim Financial Statements

The interim financial statements mentioned in the preceding subparagraphs need not be audited. However, in case of an initial public offering of securities by a company, such interim financial statements shall be audited by an independent auditor accredited by the Commission under the prescribed category and shall be complete in details as in a full fiscal year financial report. Reviewed Interim Financial Statements may be accepted by the Commission provided that the registrant submits a written justification citing its constraints for having the interim financial statements audited and a certification that there has been no material event or transactions during the interim period that would necessitate the conduct of audit procedures.

The review by an independent auditor of the financial statements shall be in accordance with the applicable standards.

(vi) Age Requirement for Financial Statements

(a) At the time a registration statement on SEC Form 12-1 is to become effective, the financial information therein shall be as of a date within one hundred eighty (180) days from effective date.

(b) Except as required under sub-paragraph (v) above, the interim financial statements which are necessary to keep the registration statement current, need not be

audited but shall comply with the required form and contents under Philippine Accounting Standards 34 (Interim Financial Reporting or any of its amendments).

B. Annual Reports (SEC Form 17-A)

(i) There shall be filed consolidated Audited Statements of Financial Position (except if not applicable), in comparative format, as of the end of each of the two (2) most recently completed fiscal years.

(ii) The Statements of Comprehensive Income, Statements of Cash Flows and Statements of Changes in Equity shall be in comparative format for the three (3) most recently completed fiscal years or such shorter period as the company (including predecessors) has been in existence.

C. Information Statements (SEC Form 20-IS)

(i) There shall be filed consolidated Audited Statements of Financial Position (except if not applicable), in comparative format, as of the end of each of the two (2) most recently completed fiscal years. If the meeting date is beyond one hundred thirty-five (135) days from the company's fiscal year end, a separate Interim Unaudited Statement of Financial Position as of the end of the most recent quarter with comparative figures as of the end of the preceding fiscal year shall likewise be filed.

(ii) The Statements of Comprehensive Income, Statements of Cash Flows and Statements of Changes in Equity shall be in comparative format for the three (3) most recently completed fiscal years or such shorter period as the company (including predecessors) has been in existence. If the meeting date is beyond one hundred thirty-five (135) days from the company's fiscal year end, separate interim unaudited statements for the most recent quarter with comparative figures for period ending of the same quarter of the preceding year shall likewise be filed.

6. APPLICABILITY WITH OTHER REPORTS

The schedules provided under Annex 68-J¹⁶⁷ (Schedules) are not required in management reports to be distributed to shareholders as part of the information statement.

7. ADDITIONAL DISCLOSURE REQUIREMENTS

A. Statements of Financial Position

In addition to the disclosures required under the PFRSs and except as otherwise permitted by the Commission, the various line items and certain additional disclosures set forth in Annex 68-K¹⁶⁸ if applicable, shall appear on the face of the Statements of Financial Position or related Notes to the Financial Statements filed by the persons to whom this Rule pertains.

B. Statements of Comprehensive Income

In addition to the disclosures required under the PFRSs and except as otherwise permitted by the Commission, the various line items and certain additional disclosures set forth in Annex 68-K, if applicable, shall appear on the face of the Statements of Comprehensive Income in the financial statements or related notes filed by the persons to whom this Rule pertains.

C. General Notes to Financial Statements

In addition to the disclosures required under the PFRSs and except as otherwise permitted by the Commission, the various line items and certain additional disclosures set forth in Annex 68-K, if applicable, shall appear on the face of the financial statements or related notes to the financial statements filed by the persons to whom this Rule pertains.

¹⁶⁷ [Annex 68-J](#).

¹⁶⁸ [Annex 68-K](#).

D. Schedules

Please see Annex 68-J for the required form and content.

8. INTERIM FINANCIAL STATEMENTS

The following additional instructions shall be applicable for purposes of preparing Interim Financial Statements:

- A. If appropriate, the Statement of Comprehensive Income shall show earnings per share and dividends declared per share applicable to common stock. The basis of the earnings per share computation shall be stated together with the number of shares used in the computation. For mutual funds or investment companies, the amount of Net Asset Value per Share and the basis for its computation shall likewise be disclosed in the Statement of Financial Position or the Notes to Financial Statements.
- B. If, during the most recent interim period presented, the registrant or any of its consolidated subsidiaries entered into a business combination treated for accounting purposes as a pooling of interests, the Interim Financial Statements for both the current year and the preceding year shall reflect the combined results of the pooled businesses, as appropriate. Supplemental disclosure of the separate results of the combined entities for the periods prior to the combination shall be given, with appropriate explanations.
- C. Where a material business combination accounted for as a purchase has occurred during the current fiscal year, *pro forma* disclosure shall be made of the results of operations for the current year up to the date of the most recent Interim Statement of Financial Position provided (and for the corresponding period in the preceding year) as though the companies had combined at the beginning of the period being reported on. This *pro forma* information shall, as minimum, show revenues, and the cumulative effect of accounting changes, including such income on a per share basis, and net income per share.
- D. In addition to meeting the reporting requirements specified by existing standards for accounting changes, the registrant shall state the date of any material accounting change and the reasons for making it.
- E. Any unaudited interim financial statements furnished shall reflect all adjustments which are, in the opinion of management, necessary for a fair statement of the results for the interim periods presented. A statement to that effect shall be included. Such adjustments shall include, for example, appropriate estimated provisions for bonus and profit sharing arrangements normally determined or settled at year end. If all such adjustments are of a normal recurring nature, a statement to that effect shall be made; otherwise, there shall be furnished information describing in appropriate detail the nature and amount of any adjustments other than normal recurring adjustments entering into the determination of the results shown.
- F. Periods for which interim financial statements are to be provided in registration forms are stated in Section 5 of Part II of this Rule. For filings on Form 17-Q: Quarterly Report, financial statements shall be provided in accordance with the financial reporting framework.
- G. Filing of other interim financial information in certain cases — The Commission may, upon written request of the registrant, and where consistent with the protection of investors, permit the omission of any of the interim financial information herein required or the filing in substitution therefor of appropriate information of comparable character. The Commission may also by written notice require the filing of other information in addition to, or in substitution for, the interim information herein required in any case where such information is necessary or appropriate for an adequate presentation of the financial condition of any entity for which interim financial information is required, or whose financial information is otherwise necessary for the protection of investors.

9. *PRO FORMA* FINANCIAL INFORMATION

A. Applicability

(i) This Section prescribes the requirements in a report of an issuer or in a registration statement for the registration of debt and equity securities.

(ii) In addition to the AFS of business acquired, the *pro forma* financial information shall be submitted with the report or with the registration statement if any of the following transactions occurs after the date of the most recent Statement of Financial Position or during the interim period:

- (a) Significant business combination accounted for as a purchase has occurred (for purposes of this Rule, the term "purchase" encompasses the purchase of an interest in a business accounted for by applying the acquisition method);
- (b) Consummation of a significant business combination that has occurred or is probable;
- (c) Securities being registered by the registrant are to be offered to the security holders of a significant business to be acquired or the proceeds from the offered securities will be applied directly or indirectly to the purchase of a specific significant business;
- (d) The disposition of a significant portion of a business either by sale, abandonment or distribution to shareholders by means of a spin-off, split-up or split-off has occurred or is probable and such disposition is not fully reflected in the financial statements of the registrant included in the filing;
- (e) Acquisition of one or more real estate operations or properties which in the aggregate is significant, or when there is an acquisition or proposal to acquire one (1) or more operation or properties which in the aggregate is significant;
- (f) The registrant previously was a part of another entity and such presentation is necessary to reflect operations and financial position of the registrant as an autonomous entity; or
- (g) Consummation of other events or transactions has occurred or is probable for which disclosure of pro forma financial information would be material to investors.

(iii) A business combination or disposition of a business shall be considered significant if:

- (a) A comparison of the most recent annual financial statements of the business acquired or to be acquired and the registrant's most recent annual consolidated financial statements filed at or prior to the date of acquisition indicates that the business would be a significant subsidiary pursuant to the definition specified in Section 1 (B) (x) of Part I of this Rule.
- (b) The business to be disposed of meets the definition of a significant subsidiary in Section 1 (B) (x) of Part I of this Rule.

(iv) The requirement under paragraph (A) (ii) in the previous page shall not apply in those circumstances when, for purposes of a more meaningful presentation, a transaction consummated after the balance-sheet date is reflected in the historical financial statements.

(v) When consummation of more than one (1) transaction has occurred or is probable during a fiscal year, the tests of significance in (iii) above shall be applied to the cumulative effect of those transactions. If the cumulative effect of the transactions is significant, pro forma financial information shall be presented.

(vi) For purposes of this Rule, the term business shall be evaluated in light of the facts and circumstances involved and whether there is sufficient continuity of the acquired entity's operations prior to and after the transactions so that disclosure of prior financial information is material to an understanding of future operations. A presumption exists that a separate entity, a subsidiary, or a division is a business. However, a lesser component of an entity may also constitute a business.

(vii) This Rule does not apply to transactions between a parent company and its wholly-owned subsidiary.

B. Prescribed Presentation

(i) Objective

Pro forma financial information shall provide investors with information about the continuing impact of a particular transaction by showing how it might have affected historical financial statements if the transaction had been consummated at an earlier time. Such statements shall assist investors in analyzing the future prospects of the registrant because they illustrate the possible scope of the change in the registrant's historical financial position and results of operations caused by the transaction.

(ii) Form and Content

(a) *Pro forma* financial information shall consist of a *pro forma* Condensed Statements of Financial Position, *pro forma* Condensed Statements of Income, Statements of Cash Flows, Statements of Changes in Equity and accompanying explanatory notes. In certain circumstances (*i.e.*, where a limited number of *pro forma* adjustments are required and those adjustments are easily understood), a narrative description of the *pro forma* effects of the transactions may be furnished in lieu of the statements described herein.

(b) The *pro forma* financial information shall be accompanied by an introductory paragraph which briefly sets forth a description of (i) the transaction, (ii) the entities involved, and (iii) the periods for which the *pro forma* information is presented. In addition, an explanation of what the *pro forma* presentation shows shall be set forth.

(c) The *pro forma* condensed financial information need only include major captions (*i.e.*, the numbered captions) prescribed by the applicable paragraphs of this Rule. Where any major Statement of Financial Position caption is less than ten per cent (10%) of total assets, the caption may be combined with others. When any major Income Statement caption is less than fifteen percent (15%) of average net income of the registrant for the most recent three (3) fiscal years, the caption may be combined with others. In calculating average net income, a loss year shall be excluded unless losses were incurred in each of the most recent three (3) years, in which case the average loss shall be used for purposes of this test. Notwithstanding these tests, "minimal" amounts need not be shown separately.

(d) *Pro forma* statements shall ordinarily be in columnar form showing condensed historical statements, *pro forma* adjustments, and the *pro forma* results.

(e) The *pro forma* condensed Statements of Comprehensive Income shall disclose income (loss) from continuing operations before nonrecurring charges or credits directly attributable to the transaction. Material nonrecurring charges or credits and related tax effects which result directly from the transaction and which will be included in the income of the registrant within the twelve (12) months succeeding the transaction shall be disclosed separately. It shall be clearly indicated that such charges or credits were not considered in the *pro forma* condensed Statements of Comprehensive Income. If the transaction for which *pro forma* financial information is presented relates to the disposition of a business, the *pro forma* results shall give effect to the disposition and be presented under an appropriate caption.

(f) *Pro forma* adjustments related to the *pro forma* condensed Statements of Comprehensive Income shall be computed assuming the transaction was consummated at the beginning of the fiscal year presented and shall include adjustments which give effect to events that are (i) directly attributable to the transaction, (ii) expected to have a continuing impact on the registrant, and (iii) factually supportable. *Pro forma* adjustments

to the *pro forma* Condensed Statements of Financial Position shall be computed assuming the transaction was consummated at the end of the most recent period for which a Statement of Financial Position is required by Section 5 of Part II of this Rule and shall include adjustments which give effect to events that are directly attributable to the transaction and factually supportable regardless of whether they have a continuing impact or are nonrecurring. All adjustments shall be referenced to notes which clearly explain the assumptions involved.

(g) Historical primary and fully diluted per share data based on continuing operations (or net income if the registrant does not report either discontinued operations, or the cumulative effect of accounting changes) for the registrant, and primary and fully diluted *pro forma* per share data based on continuing operations before nonrecurring charges or credits directly attributable to the transaction shall be presented on the face of the *pro forma* condensed Statements of Comprehensive Income together with the number of shares used to compute the per share data. For transactions involving the issuance of securities, the number of shares used in the calculation of the *pro forma* per share data shall be based on the weighted average number of shares outstanding during the period adjusted to give effect to shares subsequently issued or assumed to be issued had the particular transaction or event taken place at the beginning of the period presented. If a convertible security is being issued in the transaction, consideration shall be given to the possible dilution of the *pro forma* per share data.

(h) If the transaction is structured in such a manner that significantly different results may occur, additional *pro forma* presentations shall be made that show range of possible results.

Instructions

- (1) The historical Statements of Income used in the *pro forma* financial information shall not report operations of a segment that has been discontinued, or the cumulative effects of accounting changes. If the historical Statements of Income include such items, only the portion of the Statements of Comprehensive Income through "Income from Continuing Operations" (or the appropriate modification thereof) shall be used in preparing *pro forma* results.
- (2) For a purchase transaction, *pro forma* adjustments for the Statements of Comprehensive Income shall include depreciation and other adjustments based on the allocated purchase price of net assets acquired. In some transactions, such as in financial institution acquisitions, the purchase adjustments may include significant discounts of the historical cost of the acquired assets to their fair value at the acquisition date. When such adjustments will result in a significant effect on earnings (losses) in periods immediately subsequent to the acquisition which will be progressively eliminated over a relatively short period, the effect of the purchase adjustments on the reported results of operations for each of the next five (5) years shall be disclosed in a note.
- (3) For a disposition transaction, the *pro forma* financial information shall begin with the historical financial statements of the existing entity and show the deletion of the business to be divested along with the *pro forma* adjustments necessary to arrive at the remainder of the existing entity. For example, *pro forma* adjustments would include adjustments of interest expense arising from revised debt structures and expenses which will be or have been incurred on behalf of the business to be divested such as advertising costs, executive salaries and other costs.
- (4) For entities which were previously a component of another entity, *pro forma* adjustments shall include adjustments similar in nature to those referred to in Instruction 3 in the previous page. Adjustments may also be necessary when charges for corporate overhead, interest, or income taxes have been allocated to the entity on a basis other than one deemed reasonable by management.
- (5) Adjustments to reflect the acquisition of real estate operations or properties for the *pro forma* Statements of Comprehensive Income shall include a depreciation charge based on the new accounting basis for the assets, interest financing on any

additional or refinanced debt, and other appropriate adjustments that can be factually supported. See also Instruction 4 above.

- (6) When consummation of more than one (1) transaction has occurred or is probable during a fiscal year, the *pro forma* financial information may be presented on a combined basis; however, in some circumstances (e.g., depending upon the combination of probable and consummated transactions, and the nature of the filing) it may be more useful to present the *pro forma* financial information on a disaggregated basis even though some or all of the transactions would not meet the tests of significance individually. For combination presentations, a note shall explain the various transactions and disclose the maximum variances in the *pro forma* financial information which would occur for any of the possible combinations. If the *pro forma* financial information is presented in a proxy or information statement for purposes of obtaining shareholder approval of one of the transactions, the effects of that transaction shall be clearly set forth.
- (7) The tax effect, if any, of *pro forma* adjustments normally shall be calculated at the statutory rate in effect during the periods for which *pro forma* condensed Statements of Comprehensive Income is presented and shall be reflected as a separate *pro forma* adjustment.

(iii) Periods to be Presented

(a) A *pro forma* Condensed Statement of Financial Position as of the end of the most recent period for which a Consolidated Statements of Financial Position of the registrant is required shall be filed unless the transaction is already reflected in such Statements of Financial Position.

(b) *Pro forma* Condensed Statements of Income shall be filed for only the most recent fiscal year and for the period from the most recent fiscal year end to the most recent interim date for which a Statements of Financial Position is required. A *pro forma* condensed Statements of Comprehensive Income may be filed for the corresponding interim period of the preceding fiscal year. A *pro forma* condensed Statements of Comprehensive Income shall not be filed when the historical Statement of Comprehensive Income reflects the transaction for the entire period.

(c) For a business combination accounted for as a pooling of interests, the *pro forma* Statements of Comprehensive Income (which is in effect a restatement of the historical Statement of Comprehensive Income as if the combination had been consummated) shall be filed for all periods for which a historical Statement of Comprehensive Income of the registrant is required.

(d) *Pro forma* Condensed Statements of Income shall be presented using the registrant's fiscal year end. If the most recent fiscal year end of any other entity involved in the transaction differs from the registrant's most recent fiscal year end by more than ninety-three (93) days, the other entity's Statements of Comprehensive Income shall be brought up to within ninety-three (93) days of the registrant's most recent fiscal year end, if practicable. This updating shall be accomplished by adding subsequent interim period results to the most recent fiscal year-end information and deducting the comparable preceding year interim period results. Disclosure shall be made of the periods combined and of the sales and revenues and income for any periods that were excluded from or included more than once in the condensed *pro forma* Statements of Comprehensive Income.

(e) Whenever unusual events enter into the determination of the results shown for the most recently completed fiscal year, the effect of such unusual events shall be disclosed and consideration shall be given to presenting a *pro forma* condensed Statements of Comprehensive Income for the most recent twelve (12)-month period in addition to those required in sub-paragraph (d) above if the most recent twelve (12)-month period is more representative of normal operations.

(f) *Pro forma* information shall be prepared primarily by applying *pro forma* adjustments to historical financial information. *Pro forma* adjustments shall be based on

management's assumptions and shall recognize all significant effects directly attributable to the transaction (or event).

(g) *Pro forma* financial information shall be labeled as such to distinguish it from historical financial information. This presentation shall describe the transaction (or event) that is reflected in the *pro forma* financial information, the source of the historical financial information on which it is based, the significant assumptions used in developing the *pro forma* adjustments, and any significant uncertainties about those assumptions. The presentation also shall indicate that the *pro forma* financial information shall be read in conjunction with related historical financial information and that the *pro forma* financial information is not necessarily indicative of the results (such as financial position and results of operations, as applicable) that would have been attained had the transaction (or event) actually taken place earlier.

(iv) Report of Independent Auditor

The *pro forma* financial information that shall be submitted with the registration statement shall be accompanied by a report of an independent auditor accredited by the Commission under Group A category. The said auditor shall comply with the requirements under Philippine Standard on Assurance Engagements No. 3420 (Assurance Engagements to Report on the Compilation of *Pro Forma* Financial Information Included in the Prospectus).

10. CONSOLIDATED FINANCIAL STATEMENTS

In addition to those required under the applicable financial reporting framework, the following requirements shall be complied with by companies covered by Part II of this Rule:

- A. A company covered by Part II of this Rule that has a significant foreign subsidiary or subsidiaries shall submit to the Commission copies of the financial statements of said subsidiaries.
- B. A parent company covered by Part II of this Rule shall submit consolidated AFS accompanied by its separate AFS that is duly received by the BIR or its authorized banks, unless the BIR allows an alternative proof of submission for its authorized banks (*e.g.*, bank slips) or prohibits acceptance of the financial statements in certain cases (*e.g.*, on-going examination).

PART III

Penalties and Other General Implementing Provisions

1. PENALTIES

A. All financial statements submitted to the Commission by entities covered by this Rule shall adhere strictly to the provisions hereof.

B. Penalties, as may be prescribed by the Commission, shall be imposed on the erring company due to any of the following violations:

- (i) Material misrepresentation in the financial statements;
- (ii) Any material misstatement in the financial statements for failure to comply with the applicable financial reporting framework, such as:
 - (a) Failure to adopt the prescribed financial reporting framework or any accounting standard resulting in a material misstatement; and
 - (b) Failure to disclose required information and other relevant or material information.
- (iii) Failure to submit any basic component of the financial statements;
- (iv) Failure to submit financial statements audited by a qualified independent certified public accountant;
- (v) Failure to submit a complete SMR; and

- (vi) Failure to comply with any other requirements under Part I or II of this Rule.

B. The penalties imposable on an erring company for the violation of this Rule shall be in addition to the fine imposable due to late or incomplete filing of other parts of any report to which the financial statements are required to be attached.¹⁶⁹

C. In addition to those provided in Part I and Annex 68-A of this Rule, penalties, as may be prescribed by the Commission,¹⁷⁰ shall be imposed on the independent auditor or auditing firm, as the case may be, due to any of the following violations:

- (i) Failure to submit any of the reports required under this Rule;
- (ii) Any material misrepresentation in the following information or documents:
 - (a) Application for accreditation;
 - (b) Certifications submitted with the application; or
 - (c) Any of the reports required under Part I of this Rule.
- (iii) Refusal for no valid reason, upon lawful order of the Commission to submit requested documents (e.g., audit work papers) in connection with an ongoing investigation. The independent auditor shall, however, be made aware of such investigation;
- (iv) Gross negligence in the conduct of the audit or failure to comply with any of the PSA and such other issuances of the AASC and/or the Commission;
- (v) Issuance of an unqualified opinion which is not supported by full compliance by the auditee with the applicable financial reporting framework due to a material deficiency or misstatement in the financial statements;
- (vi) Conduct of an audit despite the lack or eventual loss of independence as provided for under the Code of Ethics for Professional Accountants in the Philippines;
- (vii) Conduct of any non-audit services for his statutory audit clients, if he has not undertaken the safeguards to reduce the threat to his independence;
- (viii) Failure to comply with any of the operational requirements for accredited auditing firms or sole practitioners under Part I of this Rule; or
- (ix) Failure to obtain from the Commission an accreditation appropriate to the company-client's category under this Rule prior to engagement or during the period of audit and signing of the Auditor's Report.

2. TEST OF MATERIALITY

A. General Guidelines

Omissions or misstatements of items shall be material if they could individually or collectively, influence the economic decisions that users make on the basis of the financial statements. Materiality depends on the size and nature of the omission or misstatement judged in the surrounding circumstances. The size or nature of the item, or a combination of both, could be the determining factor.

Materiality is determined for the financial statements as a whole. Therefore, where there is an identified misstatement or error, the determination as to whether the financial statements are materially misstated is based on an evaluation of such findings

¹⁶⁹ Duplicate numbering.

¹⁷⁰ See MC 13-2009 Re: Revised Guidelines on Accreditation of Auditing Firms and External Auditors dated 18 September 2009 prescribing the grounds for the imposition of penalties on external auditors and auditing firms.

taking the financial statements as a whole. Such evaluation shall not be driven by the number or by the size of misstatements or errors alone, but by the overall impact on the financial statements, taking into account both the quantitative and qualitative factors.

B. For this purpose, the following quantitative test shall be applied by the Commission:

(1) Deficiency or Inconsistency

(i) Failure to submit any component of the financial statements prescribed under this Rule shall be considered a material deficiency.

(ii) A disclosure deficiency or inconsistency in the disclosures within the financial statements shall be material if the information involves a transaction, amount or account that represents ten per cent (10%) or more of the total of related accounts or transactions. For issuers of securities to the public and public companies as identified under Section 3 (B) (i) (a) (1), (2) and (3) of Part I of this Rule, the test to be used shall be five percent (5%). Based on the circumstances identified by the Commission, materiality of the deficiency or inconsistency in relation to the total assets or total liabilities may be considered.

In resolving the issue of violation, due regard shall be given to the written explanation of the external auditor as to his basis in determining materiality and the exercise of professional judgment in issuing his audit opinion on the questioned financial statements.

(2) Misstatement

(i) A misstatement of the financial statements may result from a deviation from prescribed policy, misrepresentation, fraud or error.

(ii) A misstatement shall be material if it represents ten per cent (10%) or more of the total of related accounts or transactions.

For issuers of securities to the public and public companies as identified under Section 3 (B) (i) (a) (1), (2) and (3) of Part I of this Rule, a misstatement shall be material if it represents five per cent (5%) or more of the total of the related accounts or transactions. Based on the circumstances identified by the Commission, materiality of the misstatement in relation to the total assets or total liabilities may be considered.

(iii) In resolving the issue of violation, due regard shall be given to the written explanation of the external auditor as to his basis in determining materiality and the exercise of professional judgment in issuing his audit opinion on the questioned financial statements.

C. Qualitative Considerations

In addition to the quantitative considerations identifying material misstatement or error, qualitative factors shall be considered. These include whether the misstatement or error:

- (i) Affects compliance with debt covenants or other contractual requirements;
- (ii) Relates to the incorrect selection or application of an accounting policy that has an immaterial effect on the current period's financial statements but is likely to have a material effect on future periods' financial statements;
- (iii) Masks a change in earnings or other trends, especially in the context of general economic and industry conditions;
- (iv) Affects ratios used to evaluate the entity's financial position, results of operations or cash flows;
- (v) Affects segment information presented in the financial statements (for example, the significance of the matter to a segment or other portion of

the entity's business that has been identified as playing a significant role in the entity's operations or profitability);

- (vi) Has the effect of increasing management compensation, for example, by ensuring that the requirements for the award of bonuses or other incentives are satisfied;
- (vii) Is significant having regard to the auditor's understanding of known previous communications to users, for example, in relation to forecast earnings;
- (viii) Affects compliance with regulatory requirements (including BIR, BSP and other government agencies);
- (ix) Relates to items involving particular parties (for example, whether external parties to the transaction are related to members of the entity's management);
- (x) Is an omission of information not specifically required by the applicable financial reporting framework but which, in the judgment of the auditor, is important to the users' understanding of the financial position, financial performance or cash flows of the entity; or
- (xi) Affects other information that will be communicated in documents containing the AFS (for example, information to be included in a "Management Discussion and Analysis" or an "Operating and Financial Review") that may reasonably be expected to influence the economic decisions of the users of the financial statements.

3. RE-ISSUANCE OF FINANCIAL STATEMENTS

A. Corporations whose financial statements will be found by the Commission to be materially deficient, erroneous and/or misstated shall be imposed with appropriate penalties. Except for banks, the Commission shall make a determination whether such misstatement or incompleteness is significantly material that it would necessitate the re-issuance of such financial statements. Any re-issuance shall be required within forty-five (45) calendar days from receipt of the order of the Commission. Such amendment shall comply with the re-issuance requirements under applicable auditing standards. The issue on whether or not the financial statements of a bank and an insurance company should be re-issued shall be endorsed by the Commission to the BSP and the IC, respectively, for appropriate action.

B. For corporations not covered by the above provisions, they may re-issue their financial statements subject to compliance with the requirements under existing standards. However, issuers of securities to the public shall not re-issue their AFS without prior request from and approval by the Commission, BSP and IC, as applicable.

C. A corporation covered by SRC Rule 68 Part II and re-issuing its AFS shall notify all concerned parties, such as its stockholders, creditors and investors of such amendment through publication of a notice in a newspaper of general circulation indicating the reason for the amendment and the fact that the financial statements have been submitted to the Commission.

D. An amendment or re-issuance of the financial statements shall not exonerate the company and the auditors from the penalty that may be assessed by the Commission against a corporation due to the material deficiency or misstatement of the original financial statements.

4. REPEALING CLAUSE

All other rules and regulations, circulars, or memoranda or any part thereof, in conflict with or contrary to this Rule or any portion hereof, are hereby repealed or modified accordingly.

5. EFFECTIVITY AND TRANSITION

A. Unless otherwise specified, the Revised SRC Rule 68, shall become effective for AFS covering periods ending 31 December 2019 and onwards, and for interim financial statements starting the first quarter of 2020, and thereafter.

B. The financial statement requirements for registration of securities under Part II of this Rule shall be effective starting 1 January 2020 unless an earlier application for pending registration statements is requested and approved by the Commission.

C. Compliance with the Two (2)-Partner Requirement

Auditing firms which have less than two (2) partners as of the date of the effectivity of this Rule shall be given until 30 June 2022 within which to comply with the new two (2)-partner requirement.¹⁷¹

D. Compliance with the Transition from Sole Proprietorship to Partnership

Sole practitioners as of the date of the effectivity of this Rule shall be given until 30 June 2022 within which to comply with the requirements to convert to a Partnership structure from Sole Proprietorship in order to continue being accredited by the Commission.

E. All other requirements shall be effective for all applicable reports or activities after fifteen (15) days from the date of publication of this Rule.

F. Subsequent Amendments

1. Any proposed amendment of any part of this Rule shall be exposed for comments for a period of sixty (60) days reckoned from the date of notice of the Commission, unless the immediate issuance of the guidelines or circular amending a portion of the Rule is necessary in order to prevent a material misrepresentation, disclosure deficiency or misstatement in the financial reports of corporations.

2. Within thirty (30) days from the last day of submission of comments, a public consultation shall be conducted. The revised draft guideline or Rule shall be posted in the SEC website after thirty (30) days from the date of public consultation.

3. After thirty (30) days from posting of the revised draft, the matter shall be submitted for decision of the Commission *en banc*.

4. A transition clause that shall allow sufficient period of intervals for applicability to financial reports of the new requirements shall be provided in the revised guidelines or Rule.

¹⁷¹ See MC 6-2022 Re: Extension on the Deadline of Compliance of Paragraphs 5.C. and 5.D. of Part III of the Revised SRC Rule 68 dated 9 June 2022 particularly on the Transition from Sole Practitioner to Partnership Structure and Two (2) Partner Requirement, extended the deadline of 30 June 2022 for **four (4) more years or until 30 June 2026 without further extension**. With said extension, the Office of the General Accountant will continue to accept applications for accreditation of sole practitioners and auditing firms with only one (1) partner only until March 2026 to give way for transition to comply with the requirements of the Revised SRC Rule 68, with the commitment from applicants that they will comply with the said requirements by 30 June 2026.

RULE 70 - Judicial Review of Commission Orders

Any person aggrieved by an order of the Commission may appeal the order to the Court of Appeals by petition for review in accordance with the pertinent provisions of the Rules of Court.

RULE 71 - Validity of Contracts

71.1. Any condition, stipulation, provision binding any person to waive compliance with any provision of the Code or of any rule or regulation thereunder, or of any rule of an Exchange required thereby, as well as the waiver itself, shall be void.

71.2. Every contract made in violation of any provision of the Code or of any rule or regulation thereunder, and every contract, including any contract for listing a security on an Exchange heretofore or hereafter made, the performance of which involves the violation of, or the continuance of any relationship or practice in violation of, any provision of the Code, or any rule or regulation thereunder, shall be void:

71.2.1. As regards the rights of any person who, in violation of any such provision, rule or regulation, shall have made or engaged in the performance of any such contract; and

71.2.2. As regards the rights of any person who, not being a party to such contract, shall have acquired any right thereunder with actual knowledge of the facts by reason of which the making or performance of such contract was in violation of any such provision, rule or regulation.

71.3. Nothing in the Code shall be construed:

71.3.1. To affect the validity of any loan or extension of credit made or of any lien created prior or subsequent to the effectivity of the Code, unless at the time of the making of such loan or extension of credit or the creating of such lien, the person making such loan or extension of credit or acquiring such lien shall have actual knowledge of the facts by reason of which the making of such loan or extension of credit or the acquisition of such lien is a violation of the provisions of the Code or any rules or regulations thereunder; or

71.3.2. To afford a defense to the collection of any debt, obligation or the enforcement of any lien by any person who shall have acquired such debt, obligation or lien in good faith, for value and without actual knowledge of the violation of any provision of the Code or any rule or regulation thereunder affecting the legality of such debt, obligation or lien.

RULE 72.1 - General Rules and Regulations for Filing of SEC Forms with the Securities and Exchange Commission

72.1.1. Applicable Rules and Forms

The form and content of filings with the Commission pursuant to the Code, and rules adopted thereunder, shall conform to the applicable rules and forms as in effect on the initial filing date thereof and to the provisions hereof.¹⁷²

¹⁷² See MC 9-2025, *supra* note 67, mandates the electronic submission of documents, as follows:

“**Section 2. DOCUMENTARY FILING REQUIREMENTS.** The applicant-registrant shall email digital copies of the following in Word format (.doc/.docx) or Portable Document Format (.pdf) to msrds submission@sec.gov.ph for pre-processing review:

2.1 SEC Form 12-1 Submission Checklist, SEC RENT Submission Checklist Form, or SEC POWERS Submission Checklist, as the case may be;
2.2 SEC Form 12-1, as amended, Form SEC RENT, or Form SEC POWERS, as may be applicable;
2.3 Prospectus; and
2.4 All relevant exhibits in support of the application. xxx”

72.1.2. Number of Copies; Binding; Signatures

72.1.2.1. Except as provided in a particular form, three (3) copies of the complete filing, including exhibits and all other papers and documents filed as part thereof, shall be filed with the Commission. Each copy shall be bound, in one or more parts, without stiff covers. The binding shall be on the left side in such a manner as to leave the reading matter legible. At least one (1) copy of the filing shall be manually signed by the persons specified in the appropriate rule and/or related form. Unsigned copies shall be conformed. All three (3) copies (original and two (2) conformed) are for Commission use only, including one (1) copy for the public reference room.

72.1.2.2. Each conformed copy shall be identical in content, page order, and pagination to the original filing including the main document, its table of contents, and any sections, exhibits, attachments, or other materials appurtenant thereto.

72.1.2.3. Duplicated or facsimile versions of manual signatures of persons required to sign any document filed or submitted to the Commission under the Code shall be considered manual signatures for purposes of the Code and rules and regulations thereunder, provided that, the original manually signed document is retained by the filer for a period of five (5) years and upon request the filer furnishes the Commission or the staff the original manually signed document.

72.1.3. Requirements as to Paper, Printing, Language and Pagination

72.1.3.1. All filings shall be filed using black ink on good quality, unglazed, white letter sized paper 8 1/2 x 11 inches in size, or on A-4 sized paper, insofar as practicable. To the extent that the reduction of larger documents would render them illegible, such documents may be filed on paper larger than 8 1/2 x 11 inches in size. All original and conformed pages shall be utilized on one side only, with the exception of a prospectus which may be two-sided.

72.1.3.2. All filings, and, insofar as practicable, all papers and documents filed as part thereof shall be printed, lithographed, mimeographed or typewritten. However, the statement or any portion thereof may be prepared by any similar process which, in the opinion of the Commission, produces copies suitable for a permanent record. Irrespective of the process used, all copies of any such material shall be clear, easily readable and suitable for repeated photocopying; shall be submitted on paper not less in quality, legibility, and durability to that produced by a standard copying machine in good working order; and shall not be submitted on carbon paper or on light-weight onion skin paper. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies.

72.1.3.3. All filings shall be in the English language. If any exhibit or other paper or document filed as part of the registration statement is in a foreign language, it shall be accompanied by a summary, version or translation in the English language. All documents executed outside the Philippines must be authenticated by the Embassy, Consulate or Legation of the Philippines in the country where the document originated.

72.1.3.4. The manually signed original (or in the case of duplicate originals, one duplicate original) of all filings, and all conformed copies, including registration statements, applications, statements, reports or other documents shall be numbered sequentially (in addition to any internal numbering which otherwise may be present) by handwritten, typed, printed or other legible form of notation from the first page through the last page of that document and any exhibit or attachment thereto. Further, the total number of pages contained in a numbered original and in each numbered and conformed copy shall be set forth on the first page of the document.

72.1.3.5. The body of all printed statements and reports and all notes to financial statements and other tabular data included therein shall be in prominent type at least as large and as legible as 10-point type. However, to the extent necessary for convenient presentation, financial statements and other tabular data, including tabular data in notes, may be in at least as large and as legible as 8-point type. All such type shall be leaded at least 2 points.

72.1.3.6. All original and conformed copies shall be submitted under cover of a standard cover page which shall identify the specific filing form type or form amendment or response to a show cause letter, the period ended date for any report or general information sheet or financial statement or other period based filing, the complete company name and principal business address and main telephone number, the fiscal year end date of the company, the SEC identification number, the SEC File Number if the filing is an amended, revised, supplementary or post-effective prospectus or an amendment to any type of registration or transaction filing, each type of Commission registration currently effective for the filing entity and such other information as may be required by the Commission from time to time on cover pages for all SEC filings or for any specific type of filing. From time to time the Commission will publish a list showing the SEC filing form types currently in effect so that applicants and registrants can comply with the requirement to indicate the specific form type on the standard cover page.

72.1.4. Information Unknown or Not Reasonably Available

Other than financial statements, information required need be given only insofar as it is known or reasonably available to the registrant. If any required information is unknown and not reasonably available to the registrant, either because obtaining such would involve unreasonable effort or expense, or because it rests peculiarly within the knowledge of another person not affiliated with the registrant, the information may be omitted, subject to the following conditions:

- 72.1.4.1. The registrant shall give such information on the subject as it possesses or can acquire without unreasonable effort or expense, together with the sources thereof; or
- 72.1.4.2. The registrant shall include a statement either showing that unreasonable effort or expense would be involved or indicating the absence of any affiliation with the person within whose knowledge the information rests and stating the result of a request made to such person for the information.

72.1.5. Supplemental Information

The Commission or its staff may, where it is deemed appropriate, request supplemental information concerning the filing or any of the content thereof.

72.1.6. Place of Filing

All filings subject to the provisions of this Rule shall be filed with the Commission by personal delivery, or such other mode as the Commission may prescribe to facilitate submissions.

72.1.7. Preparation of Filings Generally

72.1.7.1. All filings shall contain the numbers and captions of all items of the appropriate form, but the text of the items may be omitted provided the answers thereto are so prepared as to indicate to the reader the coverage of the items without the necessity of his referring to the text of the items or instructions thereto. However, where any item requires information to be given in tabular form, it shall be given in substantially the tabular form specified in the item. All instructions, whether appearing under the items of the form or elsewhere therein, are to be omitted. Unless expressly provided otherwise, if any item is inapplicable or the answer thereto is in the negative, an appropriate statement to that effect shall be made.

72.1.7.2. The registrant may file such exhibits as it may desire in addition to those required by the appropriate form. Such exhibits shall be so marked as to indicate clearly the subject matters to which they refer.

72.1.7.3. In any case where two or more indentures, contracts, franchises, or other documents required to be filed as exhibits are substantially identical in all material respects except as to the parties thereto, the dates of execution, or other details, the registrant need file a copy of only one of such documents, with a schedule identifying the other documents omitted and setting forth the material details in which such documents

differ from the document of which a copy is filed. The Commission may at any time in its discretion require the filing of copies of any document so omitted.

72.1.8. Preparation of Registration Statement and Prospectus

72.1.8.1. In addition to the provisions of rules 72.1.1 through 72.1.7. hereof, the following provisions shall apply to the preparation and filing of registration statements:

72.1.8.1.1. A registration statement shall consist of the facing sheet of the applicable form cross reference sheet; a prospectus containing the information called for by Part I of such form; the information, list of exhibits, undertakings and signatures required to be set forth in Part II of such form; financial statements and schedules; exhibits; any other information or documents filed as part of the registration statement; and all documents or information incorporated by reference in the foregoing (whether or not required to be filed).

72.1.8.1.2. All general instructions, instructions to items of the form, and instructions as to financial statements, exhibits, or prospectuses are to be omitted from the registration statement in all cases.

72.1.8.1.3. The prospectus shall contain the information called for by all of items of Part I of the applicable form. A copy of the prospectus may be filed as a part of the registration statement in lieu of furnishing the information in item-and-answer form. Wherever a copy of the prospectus is filed in lieu of information in item-and-answer form, the text of the items of the form is to be omitted from the registration statement, as well as from the prospectus, except to the extent provided in the next paragraph.

72.1.8.1.4. Where any item of a form calls for information not required to be included in the prospectus, generally Part II of such form, the text of such items, including the numbers and captions thereof, together with the answers thereto shall be filed with the prospectus under cover of the facing sheet of the form as a part of the registration statement. However, the text of such items may be omitted provided the answers are so prepared as to indicate the coverage of the item without the necessity of reference to the text of the item. If any such item is inapplicable, or the answer thereto is in the negative, a statement to that effect shall be made. Any financial statements not required to be included in the prospectus shall also be filed as a part of the registration statement proper, unless incorporated by reference pursuant to SRC Rule 12.2.

72.1.8.2. Securities to be issued as a result of stock splits, stock dividends and anti-dilution provisions and interests to be issued pursuant to certain employee benefit plans.

72.1.8.2.1. If a registration statement purports to register securities to be offered pursuant to terms which provide for a change in the amount of securities being offered or issued to prevent dilution resulting from stock splits, stock dividends or similar transactions, such registration statement shall, unless otherwise expressly provided, be deemed to cover the additional securities to be offered or issued in connection with any such provision.

72.1.8.2.2. If prior to completion of the distribution of the securities covered by a registration statement, additional securities of the same class are issued or issuable as a result of a stock split or stock dividend, the registration statement shall, unless otherwise expressly provided therein, be deemed to cover such additional securities resulting from the split of, or the stock dividend on, the registered securities. If prior to completion of the distribution of the securities covered by a registration statement, all the securities of a class which includes the registered securities are combined by a reverse split into a lesser amount of securities of the same class, the amount of undistributed securities of such class deemed to be covered by the registration statement shall be proportionately reduced. If paragraph 6 (8) (i) of this rule is not applicable, the

registration statement shall be amended prior to the offering of such additional or lesser amount of securities to reflect the change in the amount of securities registered.

72.1.8.2.3. Where a registration statement relates to securities to be offered pursuant to an employee benefit plan, including interests in such plan that constitute separate securities required to be registered under the Code, such registration statement shall be deemed to register an indeterminate amount of such plan interests.

72.1.9. Additional Information

In addition to the information expressly required to be included in a registration statement or report, there shall be added such further material information, if any, as may be necessary to make the required statements, in the light of the circumstances under which they are made not misleading.

72.1.10. Amendments

All amendments shall be filed under cover of the form amended, marked with the letter "A" to designate the document as an amendment, e.g., "17-A/A-1", "17-A/A-2" and in compliance with pertinent requirements applicable to statements and reports. Amendments filed pursuant to this paragraph shall set forth the complete text of each item as amended. Amendments shall be numbered sequentially and be filed separately for each statement or report amended. Amendments to a registration statement may be filed either before or after registration becomes effective pursuant to SRC Rule 14.

72.1.11. Disclaimer of Control

If the existence of control of the registrant is open to reasonable doubt in any instance, the registrant may disclaim the existence of such. In such case, however, the registrant shall state the material facts pertinent thereto.

72.1.12. Incorporation by Reference

Except as otherwise provided in SRC Rule 12.2 paragraph (2), information may be incorporated by reference in answer, or partial answer, to any item required in a filing governed by the provisions of this Rule.

72.1.13. Incomplete Reports

All reports shall comply with the full disclosure requirements of the Rules. Any report which shall be found to be materially incomplete shall be considered or deemed not filed.

RULE 72.2 - Procedure for Filing Request for Exemptive Relief under Sec. 72.1 of the Code

72.2.1. Any person may seek relief from any provision of the Code and the rules adopted thereunder by filing a letter-request which shall state the following:

- 72.2.1.1. the specific rule or order, requirement or prohibition from which relief is being sought;
- 72.2.1.2. the legal basis or justification for the exemption; and
- 72.2.1.3. the name, address, and telephone number/s of the applicant.

72.2.2. The letter-request shall be filed with the appropriate Operating Department which has jurisdiction over the issue subject of the request. The applicant shall pay the corresponding filing fee as prescribed by the Commission.

72.2.3. After the applicant has submitted the proof of payment of the filing fee, the Operating Department shall review the merits of the application for exemptive relief. It may, if deemed necessary, conduct a hearing on such request or call the applicant for conference to afford its reviewing officers to ask clarificatory questions. Thereafter, it shall make the appropriate recommendation to the Commission en banc.

72.2.4. The Commission shall issue the Order either granting or denying the request. The same shall become final and executory upon due notice to the applicant. The Commission may also opt to publish the Order in the Commission's website or in any other manner it may deem expedient.

RULE 76 - Repealing Clause

All rules and regulations, circulars, orders, memoranda, or any part thereof and the rules and regulations previously promulgated by the Commission and/or by persons required to be registered under the Code or any part thereof, in conflict with or contrary to these Rules or any portion hereof, are hereby repealed or modified accordingly.

RULE 77 - Separability Clause

If any portion or provision of this Code is declared unconstitutional or invalid, the other portions or provisions hereof, which are not affected thereby shall continue in full force and effect.

These amendments shall take effect fifteen (15) days after the date of the last publication in two (2) newspapers of general circulation.

August 4, 2015, Mandaluyong City.

(SGD.) TERESITA J. HERBOSA

Chairperson

(SGD.) MANUEL HUBERTO B. GAITE

Commissioner

(SGD.) ANTONIETA FORTUNA-IBE

Commissioner

(SGD.) EPHYRO LUIS B. AMATONG

Commissioner

(SGD.) BLAS JAMES G. VITERBO

Commissioner

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