SEC MEMORANDUM CIRCULAR NO. 6
Series of 2021

TO: **ALL CONCERNED**

SUBJECT: **AMENDMENTS ON THE SRC RULES 9 AND 10**

On 20 April 2021, the Commission En Banc resolved to APPROVE the following proposed amendments to SRC Rules 9 and 10:

Rule 9.1 - Exempt Securities

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.

Published:
Philippine Star, 23 April, 2021
Manila Bulletin, 23 April 2021

File with UP Law Center: 22 April 2021

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.

9.1.2.2. Evidence of indebtedness issued to the BSP under its open market and/or rediscounting operations;

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;

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., 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.

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

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 (PhP 150,000,000.00) 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 Transactions

...xxx...xxx...xxx

"*10.1.3. Offer or Sale of Securities to Qualified Buyers under Section 10.1(1) of the Code.*

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

10.1.3.a. Bank;

10.1.3.b. Registered investment house;

10.1.3.c. Insurance company;

10.1.3.d. Pension fund or retirement plan maintained by the Government of the Philippines or any political subdivision thereof or managed by a bank or other persons authorized by the BSP to engage in trust functions;

10.1.3.e. Registered Securities Dealer;

10.1.3.f. An account managed by a Registered Broker under a discretionary arrangement as provided for in the other relevant provisions in these SRC 2015 Rules;

10.1.3.g. Registered Investment Company (e.g., mutual fund companies);

10.1.3.h. 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;

10.1.3.i. A trust corporation that is authorized by the BSP to perform the acts of a trustee;

10.1.3.j. Unit investment trust funds that are established in accordance with rules and regulations of the BSP;

10.1.3.k. 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;

10.1.3.l. A fund established and covered by a trust or IMA agreement under a non-discretionary 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.

10.1.3.m. 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 (l) or SRC Rule 10.1.11; and

10.1.3.n. An entity with quasi bank license issued by BSP;

10.1.3.o. Pre-need company authorized by the Insurance Commission;

10.1.3.p. Collective Investment Scheme authorized by the relevant regulatory authority pursuant to existing laws and regulations;

10.1.3.q. 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.

10.1.3.r. 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; and

10.1.3.s. Such other person as the Commission may by rule or order determine as qualified buyers, on the basis of such factors as financial sophistication, net worth, knowledge, and experience in financial and business matters, or amount of assets under management."

FOR THE COMMISSION:

EMILIO B. AQUINO
Chairperson