



Markets and Securities Regulation Department

NOTICE

TO : BROKER-DEALERS, GOVERNMENT SECURITIES ELIGIBLE DEALERS,
INDUSTRY ASSOCIATIONS, INVESTMENT COMPANY ADVISERS,
INVESTMENT HOUSES, LAW OFFICES, MUTUAL FUND
DISTRIBUTORS, UNDERWRITER OF SECURITIES, UNIVERSITIES,
INVESTING PUBLIC AND ALL INTERESTED PARTIES

FOR : REQUEST FOR COMMENTS ON THE PROPOSED GUIDELINES ON THE
IMPLEMENTATION OF CROSS-BORDER PUBLICATION OF RESEARCH
REPORT UNDER THE ASEAN CAPITAL MARKET PROFESSIONAL
MOBILITY FRAMEWORK

The Securities and Exchange Commission intends to issue **Guidelines on the Implementation of Cross-Border Publication of Research Report Under the ASEAN Capital Market Professional Mobility Framework**. Hence, the Commission is inviting broker-dealers, investment houses, investing public, and other interested parties to submit their views, comments, and inputs to the proposed guidelines.

The draft SEC Memorandum Circular is attached herewith for your reference.

Kindly address your comments to the **Markets and Securities Regulation Department (MSRD)**, Ground Floor Secretariat Building, PICC Complex, Roxas Boulevard, Pasay City, c/o **Ms. Melita Pasagui** and **Ms. Lea Avellanosa**, not later than **16 July 2019**. You may also email your comments to mdpasagui@sec.gov.ph and lmavellanosa@sec.gov.ph.



SEC MEMORANDUM CIRCULAR NO. _____

Series of 2019

SUBJECT: GUIDELINES ON THE IMPLEMENTATION OF CROSS-BORDER PUBLICATION OF RESEARCH REPORT UNDER THE ASEAN CAPITAL MARKET PROFESSIONAL MOBILITY FRAMEWORK

WHEREAS, Section 2 of the Securities Regulation Code (SRC) declares that it is the policy of the State to promote the development of the capital market and protect the investors;

WHEREAS, Section 5 of the SRC provides the Commission the power to formulate policies and recommendations on issues concerning securities market;

WHEREAS, Section 72 of the SRC authorizes the Commission to issue and amend rules and regulations and relative thereto, the Commission may classify persons, securities, and other matters within its jurisdiction, prescribe different requirements for different classes of persons, securities, or matters, and by rule or order, conditionally or unconditionally exempt any person, security, or transaction, or class or classes of persons, securities or transactions, from any or all provisions of the SRC.

WHEREAS, Section 35 of the Investment Company Act or RA 2629, pursuant to the Commission's authority to make, issue, amend, and rescind rules and regulations and such orders as are necessary or appropriate to the exercise of its powers under this law, the Commission may classify persons, securities and other matters within its jurisdiction and prescribe different requirements for different classes of persons, securities, or matters.

WHEREAS, the Philippine Securities and Exchange Commission is a signatory to the Memorandum of Understanding on the Cross-Border Publication of Research Report under the ASEAN Capital Market Professional Mobility Framework together with the securities regulators of Thailand, Malaysia and Singapore.

WHEREAS, the ASEAN Capital Market Professional Mobility Framework aims to enhance the connectivity of capital market professionals in the ASEAN region.

WHEREAS, there is a need to issue Guidelines with regard to the implementation of the Cross-Border Publication of Research Report under the ASEAN Capital Market Professional Mobility Framework.

NOW, THEREFORE, the Commission hereby issues the following Guidelines on the Implementation of Cross-Border Publication of Research Report under the ASEAN Capital Market Professional Mobility Framework.

ARTICLE ONE. GENERAL PROVISIONS

Section 1. Applicability - This shall be known as the “Guidelines on the Implementation of Cross-Border Publication of Research Report under the ASEAN Capital Market Professional Mobility Framework”. These guidelines shall apply to:

- a. Authorized Person in the Philippines who intend to issue or promulgate a research report in another country which is a Signatory to the MOU;
- b. Authorized Person in other Signatory countries who intend to issue or promulgate a research report in the Philippines; and
- c. Attached Licensed Firms as defined under Section 2 hereof.

Section 2. Definition of Terms – For purposes of these Guidelines, the following definitions of terms shall apply, unless the context otherwise requires:

- a. **ACMF** refers to the ASEAN Capital Markets Forum;
- b. **ACMF member** means the securities regulator of the respective ASEAN jurisdiction, collectively referred to as the “ACMF members”;
- c. **ACMF capital market products** means the capital market products set out under Section 5;
- d. **Attached Licensed Firm** refers to the Licensed Firm in the Host Jurisdiction to which the Professional is connected or employed;
- e. **Authorized Person** means a person who is licensed or registered or approved or Authorized in the Home Jurisdiction to issue or promulgate the research report and is attached to a Licensed Firm that is licensed or registered or approved or authorized to issue or promulgate the research report under the Laws and Regulations of the Home Jurisdiction;
- f. **Commission** refers to the Philippine Securities and Exchange Commission;
- g. **Framework** refers to the ASEAN Capital Market Professional Mobility Framework;
- h. **Home Jurisdiction** means the jurisdiction of the Signatory in which the Authorized Person and the Licensed Firm that the Authorized Person is attached to is licensed or registered or approved or authorized to issue or promulgate the research report;
- i. **Home Regulator** means the Signatory established in the jurisdiction in which the Authorized Person and the Licensed Firm that the Authorized Person is attached to is licensed, registered or approved or authorized to make available the research report to investors;
- j. **Host Jurisdiction** means the jurisdiction (other than the Home Jurisdiction) of a Signatory in which the research report is made available to investors by the Hosting Platform;
- k. **Host Regulator** means the Signatory whose jurisdiction is the Host Jurisdiction of the research report;
- l. **Hosting Platform** means any host Licensed Firm or any electronic or physical platform as may be allowed by Host Regulator that makes available the research report to investors in the Host Jurisdiction;

- m. **Initial Public Offer** in relation to ASEAN capital market products, means the first public offer for subscription or purchase of the capital market products in accordance with domestic Laws and Regulations of each Signatory;
- n. **Laws and Regulations** means any law, regulation or regulatory requirement applicable in the jurisdiction of a Signatory, and where the context permits include any rule, direction, requirement, or policy made or given by or to be taken into account by the Signatory in its jurisdiction;
- o. **Licensed Firm** means any legal person licensed or registered or approved or authorized under the Laws and Regulations of any of the Home Jurisdictions to issue or promulgate research reports in the Home Jurisdiction;
- p. **Requested Signatory** means the ACMF member to whom a request for assistance is made under this MOU or who provides unsolicited assistance or information under this MOU;
- q. **Requesting Signatory** means the ACMF member making a request for assistance under this MOU or who receives unsolicited assistance or information under this MOU; and
- r. **Signatory** means the ACMF member who is listed in the Appendix in accordance with the requirements and procedures under this MOU, and collectively, will be referred to as “the Signatories”.

ARTICLE TWO. CROSS-BORDER PUBLICATION OF RESEARCH REPORT

Section 3. Authorized Person in the Philippines – The following registered capital market professionals in the Philippines are qualified to issue or promulgate research reports in a Host Jurisdiction:

- a. *Salesman of a Broker Dealer and/or Investment House* - 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 or the Investment House, as the case may be, as defined in Rule 28.1.1 of the 2015 SRC Rules;
- b. *Certified Investment Solicitor* - a natural person of legal age duly licensed by the Commission and appointed by a Fund Manager or Mutual Fund Distributor to solicit, sell or offer to sell the shares or units of an Investment Company to the public as defined in Rule 1 of the Implementing Rules and Regulations of the Investment Company Act (ICA IRR);
- c. *Key officers/s of Fund Managers (Investment Company Advisers) involved in the management of the Fund and licensed by the Commission as Certified Investment Solicitor;*
- d. Other professionals which the Commission may, in the future, determine as eligible to as Authorized Person in other Signatory Countries.

Research personnel of a Licensed Firm who intend to issue or promulgate research reports in other Signatory countries under the MOU shall apply for a Salesman or Certified Investment Solicitor license with the Commission to qualify under this Guideline.

Section 4. Eligibility Requirements for Authorized Person from other Signatory Countries – An Authorized Person is qualified to issue or promulgate research reports in the Philippines provided that he/she:

- a. is licensed or registered or approved or authorized by the Home Regulator;

- b. has no pending disciplinary action or has not been censured, reprimanded or fined by a professional or regulatory body for negligence, incompetence, mismanagement, dereliction of duty or violation of law or regulation; and
- c. has not been convicted, by a competent judicial or administrative body of an offense involving moral turpitude, fraud, embezzlement, counterfeiting, theft, misappropriation, forgery, bribery, false oath, perjury, or of a violation of securities, commodities, banking, real estate or insurance laws.

Section 5. Products – The ASEAN capital market products which an Authorized Person may issue or promulgate research reports are limited only to:

- a. shares that have been listed on an exchange in ASEAN;
- b. bonds or sukuk; and
- c. units of collective investments scheme including:
 - i. units of real estate investment trust; and
 - ii. units of infrastructure fund.

These capital market products must have been previously issued in ASEAN and are not the subject of an Initial Public Offer.

Section 6. Conditions on Issuing and Publishing Research Report – Cross-border publication of the research report on capital market products set out in Section 5 in the Host Jurisdiction will be allowed provided the following conditions are complied with:

- a. A research report has been produced by the Authorized Person attached to the Licensed Firm in the Home Jurisdiction and was made available to the comparable class of investors in the Home Jurisdiction as the class of investors for which the research report will be made available in the Host Jurisdiction;
- b. The Authorized Person and the Licensed Firm in the Home Jurisdiction are responsible for the content of the research report;
- c. The Licensed Firm had given its consent to the Hosting Platform for the research report to be made available to investors in the Host Jurisdiction;
- d. The research report is to be made available by the Hosting Platform in its entirety, without the Hosting Platform exercising any editorial control, translating or modifying the report. The Hosting Platform will act purely as a conduit in relation to the making available of the research report to investors; and
- e. The research report has included a disclaimer to investors stating that it is produced by the Authorized Person on behalf of the Licensed Firm, and such Authorized Person and Licensed Firm are subject to supervision by the Home Regulator.

Subject to the Laws and Regulations of the Host Jurisdiction, the Host Regulator will not hold the Hosting Platform responsible for the content of the research report upon compliance with Section 5 and Section 6.

ARTICLE THREE. HOSTING PLATFORM

Section 7. An Authorized Person could publish a research report on capital market products set out in Section 5 using the following Hosting Platforms:

- a. Official website of the Attached Licensed Firm of the Authorized Person;
- b. Common Platform (ASEAN Exchanges Website);
- c. Any other electronic or physical means.

ARTICLE FOUR. ROLE OF ATTACHED LICENSED FIRM IN THE HOST JURISDICTION

Section 8. The role of Attached Licensed Firm in the Host Jurisdiction shall be as follows:

- a. The Attached Licensed Firm must conduct proper due diligence of the Authorized Person to ensure that:
 - i. The Authorized Person has satisfied the eligibility requirements as prescribed under Section 4 of this Guideline; and
 - ii. The Authorized Person remain licensed or registered or approved or authorized in Home Jurisdiction, attached with Licensed Firm and certify that the Authorized Person has satisfied the requirements for maintaining the status and other ongoing requirements as prescribed by the Host Regulator.
- b. The Attached Licensed Firm shall maintain the record of the appointment and the discontinuation of the Authorized Person and make available such record to the Commission.

ARTICLE FIVE. ENFORCEMENT MECHANISM

Section 9. Enforcement Action – Enforcement action may be taken by the:

- a. Home Regulator for contravention of the Laws and Regulations in the Home Jurisdiction.
- b. Host Regulator for any matters relating to the Host Jurisdiction.

The Home Regulator and the Host Regulator may consult each other for the purpose of cooperation and assistance in initiating enforcement action.

ARTICLE FIVE. EFFECTIVITY

Section 10. Effectivity – These Guidelines shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

_____ July 2019, Pasay City, Philippines.

EMILIO B. AQUINO
Chairperson