



Markets and Securities Regulation Department

NOTICE

TO : ALL CONCERNED

FOR : REQUEST FOR COMMENTS ON THE AMENDMENTS TO THE REQUIREMENTS OF A REIT FUND MANAGER AND PROPERTY MANAGER UNDER RULES 6 AND 7 OF THE IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT NO. 9856 OR THE REAL ESTATE INVESTMENT TRUST (REIT) ACT

The Securities and Exchange Commission intends to issue **Amendments to the Requirements of a REIT Fund Manager and Property Manager under the Implementing Rules and Regulations of 9856 or the Real Estate Investment Act**. Hence, the Commission invites all concerned to submit their views, comments, and inputs to the proposed amendments.

The draft SEC Memorandum Circular is attached herewith for 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 **Atty. Glory Grace Arugay and Ms. Gretchen Lagonoy** not later than **12nn, 18 October 2019**. You may also email your comments to mrd@sec.gov.ph, ggjarugay@sec.gov.ph and gclagonoy@sec.gov.ph.



SEC MEMORANDUM CIRCULAR NO. ___
Series of 2019

TO: ALL CONCERNED

SUBJECT: AMENDMENTS TO THE REQUIREMENTS OF A REIT FUND MANAGER AND PROPERTY MANAGER UNDER RULES 6 AND 7 OF THE IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT NO. 9856 OR THE REAL ESTATE INVESTMENT TRUST (REIT) ACT

Rules 6 and 7 of the Implementing Rules and Regulations (IRR) of Republic Act No. 9856 or REIT Act of 2009 shall be read as follows:

RULE 6 – FUND MANAGER

SEC.1. *Fund Manager.* A REIT shall appoint a Fund Manager who shall be independent of the REIT, its promoter/s or sponsor/s. To ensure independence of the fund manager from the REIT, the following shall be complied with:

- 1.1 Majority of the members of the board of the REIT Fund manager must be independent directors, **at least two (2) of whom must have a working knowledge of the real estate industry, fund management, corporate finance, or other relevant finance-related functions;**
- 1.2 The directors (including the independent directors) of the REIT and its Sponsors/Promoters cannot occupy more than 49% of the board of directors of the REIT Fund Manager. **This requirement shall not apply to Related Corporation as defined in Sec. 3, par. gg of the REIT Act and Rule 3, Paragraph (oo) of this IRR.**

SEC. 2. *Organization and Requirements.*

- 2.1 An entity may only engage in the business of a REIT Fund Manager once it has obtained the necessary license to act as such, in accordance with the rules and regulations of the Commission.

2.2 A REIT Fund Manager can either be a registered domestic corporation, a trust entity with an existing BSP license, or a foreign corporation duly licensed to do business in the Philippines, subject to the following minimum requirements:

(i) duly licensed under these Rules to engage in the business of fund management for REIT. If the Fund Manager is a trust entity, it shall be covered by existing BSP rules and regulations governing trust entities and regulations which the BSP may from time to time issue;

(ii) with at least three (3)-year track record in the area of fund management, corporate finance, other relevant finance-related functions, property management in the real estate industry or in the development of real estate industry. **A Fund Manager is deemed to have complied with the track record requirement of the Act if its chief executive officer and a majority but not less than two (2) of its full-time professional employees have a track record and experience in financial management as well as experience in the real estate industry for at least three (3) years prior to their employment. The chief executive officer shall be a resident of the Philippines;**

(iii) with a minimum paid-up capital of Ten Million Pesos (Php 10,000,000.00). This capitalization shall remain unimpaired at any given time, otherwise, an additional capital infusion shall be made within three (3) working days from such impairment, *Provided*, that the Fund Manager shall comply with the additional paid-up capital, and/or other guidelines that may be prescribed by the Commission, in consideration of the nature, scale, and complexity of the Fund Manager's operations;

(iv) with sufficient human, organizational and technical resources for the proper performance of its duties, including two (2) responsible officers or a trust officer, in case of a trust entity, each of whom shall have at least five (5) years track record in fund management. At least one (1) of the responsible officers or a trust officer, in case of a trust entity, shall be available at all times to supervise the business of the Fund Manager;

2.3 Its physical office in the Philippines shall have a meaningful role in its business activities and must perform accounting, compliance and investor relations services in the Philippines. The following non-exhaustive factors are relevant to the assessment of the role of the Fund Manager in its business activities:

(i) the composition and mandate of the Fund Manager's board of directors **or trust committee** and management committees;

- (ii)** the extent to which the chief executive officer or its equivalent, **or its trust officer**, and directors, **or trust committee members** who are resident of the Philippines participate in the formulation of investment strategies and financing activities of the Fund Manager; property acquisition; leasing; operational and financial reporting (including operating budgets); appraisals; audits; market review; accounting and reporting procedures, as well as refinancing and asset disposition plans;
- 2.4 Its chief executive officer or any equivalent officer, or trust officer must have two (2) full-time and qualified professional employees, who shall have a track record and experience in financial management as well as experience in the real estate industry for at least **three (3) years**. The chief executive officer and the 2 full-time qualified professional employees shall all be residents of the Philippines;
- 2.5 It must comply with the requirements on the number of independent directors, as provided under Sec. 1 hereof and under relevant law or appropriate regulatory authority, such as but not limited to pertinent provisions of the SRC and the Revised Code of Corporate Governance;
- 2.6 The qualifications and disqualifications of the directors of the Fund Manager must comply with the provisions of the Revised Code of Corporate Governance and the fit and proper rule prescribed in this IRR.
- 2.7 Must comply with the additional requirements or qualifications for a Fund Manager in accordance with the Fit and Proper Rule, the Revised Code of Corporate Governance, and such relevant regulations, which the Commission may prescribe from time to time.

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RULE 7 - PROPERTY MANAGER

SEC.1. Property Manager. A REIT shall appoint a Property Manager who shall be independent of the REIT, its promoter/s or sponsor/s. To ensure independence of the property manager from the REIT, the following shall be complied with:

- 1.1 Majority of the members of the board of the REIT property manager must be independent directors, **at least two (2) of whom must have** working knowledge of the real estate industry; and
- 1.2. The directors (including the independent directors) of the REIT and its Sponsors/Promoters cannot occupy more than 49% of the board of directors of the property manager. **This requirement shall not apply to Related Corporation as defined in Sec. 3, par. gg of the REIT Act and Rule 3, Paragraph (oo) of this IRR.**

SEC. 2. It must comply with the requirements on the number of independent directors, as provided under Sec. 1 hereof and under relevant law or appropriate regulatory authority, such as but not limited to pertinent provisions of the SRC and the Revised Code of Corporate Governance;

- 2.1 The qualifications and disqualifications of the directors of the Property Manager must comply with the provisions of the Revised Code of Corporate Governance and the fit and proper rule prescribed in this IRR.
- 2.2 Must comply with the additional requirements or qualifications for a Property Manager in accordance with the Fit and Proper Rule, the Revised Code of Corporate Governance, and such relevant regulations, which the Commission may prescribe from time to time.

SEC. 3. *Minimum Qualifications.* A REIT Property Manager shall comply with the following minimum qualifications:

- 3.1 It shall possess sufficient human, organizational and technical resources for the proper performance of its duties, including two (2) responsible officers each of whom shall have at least **three (3) years** track record in property portfolio management, and at least one (1) of the responsible officers shall be available at all times to supervise the business of the Property Manager, including asset and property management.
- 3.2 It shall maintain satisfactory internal controls and written compliance procedures.
- 3.3 It shall have sufficient financial resources at its disposal to enable it to conduct its business effectively and meet its liabilities.

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FOR THE COMMISSION:

EMILIO B. AQUINO
Chairperson