






SECURITIES AND EXCHANGE COMMISSION COVID-19 Issuances



Extension of Time to File Annual Reports and Audited Financial Statements, Electronic Filing of Documents, Remote or Online Meetings, Extension of Time to Hold Election, SEC Notices, and Others



As of 15 April 2020

FILING OF ANNUAL REPORTS AND AUDITED FINANCIAL STATEMENTS

(SEC Memorandum Circular No. 05 Series of 2020)

Q: Did the SEC extend the filing of 2019 Annual Reports and 2019 Audited Financial Statements (AFS) of covered companies?

A: Yes. The SEC has granted an extension of time without penalty, within which companies may submit their Annual Reports and/or Audited Financial Statements for companies with a period ending December 31, 2019 and for companies with fiscal year ending November 30, 2019.

Q: What are the periods of extension granted to covered companies?

A: Extension until 30 June 2020: Companies engaged only in domestic operations.

Extension of time until 30 June 2020 or 60 days from that date of lifting of travel restrictions/ban by the concerned government authorities, whichever comes later:
Companies engaged in domestic and foreign operations.

Q: Is this extension automatic?

A: No. There are requirements that are needed to be complied with. The requirements, however, differ if the company is Publicly Listed or not Publicly Listed.

For the list of requirements, please refer to the SEC MC No. 05 s.2020, as amended by SEC Notice dated 18 March 2020.

REMOTE OR ONLINE MEETINGS

(SEC Memorandum Circular No. 06 Series of 2020)

Q: Did the SEC issue guidelines on regular and special meetings through teleconferencing, video conferencing and other remote or electronic means of communication?

A: Yes.

Q: Can directors or trustees participate in board meetings through remote communication?

A: Yes. Directors or trustees who cannot physically attend or vote at board meetings can participate and vote through remote communication.

Q: Can directors or trustees attend or vote via proxy?

A: No. Directors or trustees cannot attend or vote by proxy at board meetings via remote communication.

REMOTE OR ONLINE MEETINGS

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Q: Are corporations free to establish their own internal procedures regarding board meetings through remote communication?

A: Yes. Corporations may issue their own internal procedures for the conduct of board meetings through remote communication or other alternative modes of communication to address administrative, technical and logistical issues.

Q: How can a director or trustee cast his vote via remote communication?

A: He can cast his vote through electronic mail, messaging service or such other manner as may be provided in the internal procedures.

REMOTE OR ONLINE MEETINGS

Q: Can stockholders/members participate in meetings and vote therein on general matters through remote communication or in absentia?

A: NO, UNLESS it is (1) so provided in the By Laws of the Corporation; or (2) approved by majority of the board of directors, stockholders or members who cannot physically attend at stockholders' or members' meetings.

Q: Can stockholders/members vote in the election of Directors, Trustees, and Officers through remote communication or in absentia?

A: NO, UNLESS it is (1) provided in the By Laws of the corporation; or, (2) when authorized by a Board Resolution of the majority of the Board of Directors/Trustees; *Provided*, That the resolution shall only be applicable for a particular meeting.

An EXCEPTION is that NOTWITHSTANDING the absence of a provision in the By Laws of a corporation, stockholders and members may vote through remote communication or in absentia in the election of directors, trustees and officers of corporations vested with public interest.

Q: Are corporations free to establish their own internal procedures regarding stockholders' or members' meetings through remote communication?

A: Yes. For the convenience of their stockholders and members, corporations shall issue their own internal procedures embodying the mechanisms for participation in meetings and voting through remote communication.

FILING OF THE GENERAL INFORMATION SHEET **(SEC Memorandum Circular No. 09 Series of 2020)**

Q: Did the SEC issue guidelines on the filing of the General Information Sheet?

A: Yes.

Q: If the election of directors, trustees, or officers was held prior or during the ECQ, when shall the GIS be filed?

A: The GIS shall be submitted within thirty (30) days from actual meeting.

Q: How will the GIS be submitted?

A: It can be submitted thru (1) mail (ordinary or registered); (2) Private courier; or, (3) Email at mlmliwanag@sec.gov.ph, mtdmabuyo@sec.gov.ph, or cmdnotice@sec.gov.ph.

Q: If the election was postponed during the ECQ due to health and safety reasons (COVID-19), when must it be conducted?

A: The meeting must be conducted within sixty (60) days from the original scheduled date.

FILING OF THE GENERAL INFORMATION SHEET

Q: What are the conditions to avail of the 60-day extension period?

A: The conditions are the following:

1. Timely submission of the report of non-holding of annual meeting to the SEC (via email or courier);
 - ❖ The report must be submitted within 30 days from the original meeting date.
2. The election was not held on account of health and safety reasons in relation to the COVID-19 disease; and,
3. The corporation has no facilities for remote communication.

Q: What if the non-holding of meeting is due to other causes?

A: Similarly, the corporation must send a report to the SEC to avail of the extension. If it is found, however, that the non-holding of election is unjustified, the SEC shall issue an order directing the issuance of a notice stating the time and place of the election in accordance with Sec. 25 of the RCC.

FILING OF THE GENERAL INFORMATION SHEET

Q: What should be included in the report to the SEC?

A: The report on non-holding of annual meeting shall contain the following:

1. Corporate Name;
2. SEC Registration Number;
3. Date of annual meeting per By-Laws;
4. Date of actual meeting;
5. Reason for the non-holding of meeting;
6. Venue for the intended meeting; and
7. Signed and dated by the Corporate Secretary.

Q: When will the GIS be filed if a valid report was made to the SEC?

A: The GIS shall be submitted within thirty (30) days from the new date of election as indicated in the report.

E-FILING AND E-SIGNATURE

(SEC Memorandum Circular No. 10 Series of 2020)

Q: Did the SEC issue guidelines on electronic submissions and recognition of electronic signature?

A: Yes.

Q: What are the documents that can be submitted electronically?

A: The following documents can be submitted through electronic mail: (1) General Information Sheet; (2) Audited Financial Statements; and, (3) All other General and Special Forms and Letters.

Q: What are the guidelines and conditions in filing documents through electronic mail?

A: The guidelines and conditions are the following:

1. Must be in Portable Document Format (PDF), preferably with Text Layer;
2. Must contain an Electronic Signature;
3. Must be sent as MIME attachments to an email from a valid company email account or address of an authorized representative;

E-FILING AND E-SIGNATURE

Q: What are the guidelines and conditions in filing documents through electronic mail cont.?

4. May be submitted unnotarized;
5. The body of the email should contain a statement declaring the authenticity of the submitted documents and a commitment to submit physical versions of the exact same submitted documents to the SEC once the state of public health emergency is lifted.
6. The sender should request for a Return Receipt and a Delivery Status Notification to ensure that the email has been sent and has also been received by the SEC.

Q: What comprises as Electronic Signature for the submissions?

A: Electronic images of wet or physical signatures of authorized and appropriate representatives affixed to the documents covered by this Circular and submitted to the SEC, shall be recognized.

FILING OF SECURITIES DEPOSIT

(SEC Memorandum Circular No. 11 Series of 2020)

Q: Did the SEC issue guidelines on the submission or filing of deposit securities?

A: Yes.

Q: Who are required to file or submit deposit securities?

A: All branch offices of foreign corporations duly licensed to do business in the Philippines, except foreign banking or insurance corporations.

Q: When are these securities required to be filed with the SEC?

A: Branch offices of foreign corporations shall file or submit an initial securities deposit with the SEC within 60 days after the issuance of its SEC license.

Thereafter, within six (6) months after the end of the fiscal year, the branch offices of foreign corporation shall make an additional deposit with the SEC provided that (1) the licensee's gross income for the fiscal year exceeds P10,000,000.00 or (2) if the value of the securities it initially deposited has decreased by at least ten percent (10%) from the time it was deposited.

FILING OF SECURITIES DEPOSIT

Q: What is the extension granted for branch offices of foreign corporations to file the INITIAL securities with the SEC?

A: If the 60-day period falls during the effectivity of the ECQ, the filing of the initial securities deposit with the SEC shall be within thirty (30) days from the lifting of the ECQ.

Q: What is the extension granted for branch offices of foreign corporations to file the ADDITIONAL securities with the SEC?

A: The additional securities shall be deposited within thirty (30) days from the lifting of the ECQ.

SEC NOTICES

Online Filing – Incorporation, Amendments, and Others

Q: Is the SEC continuously accepting online company registration through the Company Registration System (CRS)?

A: Yes. The SEC has issued SEC Notice dated March 30, 2020 providing that the SEC continues to accept online applications for the registration of Corporations and Partnerships through the Company Registration System (CRS).

Q: Is the SEC providing an interim online registration system for One Person Corporations and Corporations with only 2 to 4 Incorporators?

A: Yes. The SEC has issued SEC Notice dated April 08, 2020 providing that the SEC has set-up an interim online registration system to facilitate applications for registration of One Person Corporations (OPC) and Corporations with only 2 to 4 incorporators.

Q: Is the remote filing of ordinary amendments to Articles of Incorporation (AOI) and By Laws (BL), Increase/Decrease of Capital Stock, and Merger and Consolidation accepted by the SEC?

A: Yes. The SEC has issued SEC Notice dated March 30, 2020 providing for the procedures in remote filing of applications for ordinary amendments, for increase or decrease of capital stock, and for merger and consolidation. Kindly find this SEC Notice at http://www.sec.gov.ph/wp-content/uploads/2020/03/2020Notice_Monitoring-Clearance.pdf for the complete list of requirements and guidelines.

SEC NOTICES

30-day Grace Period

Q: Did the SEC issue any Notice requiring Financing and Lending Companies to comply with the 30-day grace period under the Bayanihan To Heal As One Act?

A: Yes. The SEC has issued two Notices: SEC Notice dated March 26, 2020 and SEC Notice dated April 2, 2020, requiring Financing Companies, Lending Companies, and Microfinance NGOs to comply with Section 4(aa) of RA No. 11469 and its IRR with regard to the 30-day grace period.

Publicly Listed Companies – Filing

Q: Did the SEC issue any guidelines on the filing of Structured and Current Reports by Publicly Listed Companies?

A: Yes. The SEC Notice dated March 17, 2020 providing that all Publicly Listed Companies must file their respective Structured and Current Reports by uploading the same through the PSE EDGE in accordance with relevant PSE Rules and procedures.

SEC NOTICES

IATF Accreditation

Q: Did the SEC issue the guidelines for the issuance of IATF Accreditation?

A: Yes. The SEC has issued SEC Notice dated March 22, 2020 providing the guidelines for the issuance of IATF Accreditation ID or the equivalent certification. Kindly refer to the SEC Notice at http://www.sec.gov.ph/wp-content/uploads/2020/03/2020Notice_SECs-Guidelines-for-Issuance-of-IATF-Certification-v5.pdf for the complete list of requirements and guidelines.

Q: What is IATF Accreditation?

A: The IATF Accreditation allows the resumption of the operations of the capital markets. This exempts the capital market participants and their skeletal workforce from the strict home quarantine requirements.

Non-Stock Corporations - Mandatory Disclosure Form

Q: Did the SEC extend the deadline on filing Mandatory Disclosure Forms (MDF) of Non-Stock Corporations?

A: Yes. The filing of the MDF was extended until April 30, 2020 or fifteen (15) from the lifting of the ECQ.

SEC NOTICES

SEC Corporate Governance and Finance Department – Filing and Suspension

Q: Did the SEC issue any guidelines for the alternative filing of Reports by companies under supervision of the SEC Corporate Governance and Finance Department (CGFD)?

A: Yes. The SEC has issued SEC Notice dated March 30, 2020 in relation to the guidelines for the alternative filing of Reports by those companies under their supervision. For the list of the guidelines, kindly refer to the SEC Notice at http://www.sec.gov.ph/wp-content/uploads/2020/03/2020Notice_Guidelines_for_the_alternative_filing_of_Report_etc_through_electronic_mail_with_SEC_during_ECQ.pdf.

Q: Did the SEC suspend the cumulative penalties of those companies under the SEC CGFD?

A: Yes. The SEC has issued SEC Notice dated March 31, 2020 suspending the daily and monthly monetary penalties (cumulative penalties) for companies under the supervision of the CGFD from 13 March 2020, until the lifting of the ECQ. For the list of the guidelines, kindly refer to the SEC Notice at http://www.sec.gov.ph/wp-content/uploads/2020/03/2020Notice_Suspension-of-Cumulative-Penalties.pdf.

SEC NOTICES

Philippine Stock Exchange Participants and Dealers

Q: Did the SEC issue any Notice to PSE Trading Participants and Broker Dealers?

A: Yes. The SEC has issued SEC Notice dated March 18, 2020 and SEC Notice dated March 19, 2020 reminding all PSE Trading Participants of its obligations under the Securities and Regulation Code. In addition, SEC Notice dated March 27, 2020 reminding all Broker Dealers of the temporary suspension of the requirement to provide confirmation notice in paper format to customers as required under the SRC.

External Auditors and Auditing Firms – Application for Accreditation

Q: Is the SEC accepting new applications for inclusion in the list of accredited External Auditor and Auditing Firm for the BSP, IC, and SEC?

A: Yes. The SEC has issued SEC Notice dated April 2, 2020 stating that the SEC Office of the General Accountant will accept new applications starting April 6, 2020.

SEC NOTICES

Asset Valuers and Credit Rating Agencies - Filing

Q: Did the SEC extend the filing and submission of annual reports of Asset Valuers and Credit Rating Agencies?

A: Yes. The SEC has issued SEC Notice dated April 2, 2020 providing that the submission of the 2019 Annual Reports of all SEC accredited Asset Valuers and Credit Rating Agencies is extended until 30 June 2020.

DISCLAIMER

This Question and Answer (Q&A) is intended for general discussion purposes of LMA Law employees only. You should not rely on the content herein without having sought professional advise beforehand.

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