



MEMORANDUM

No.2011-0105

The Philippine Stock Exchange, Inc.

_____ Disclosures	_____ Stockholders' Meeting	Others: <u>Amendments to the</u>
_____ Dividend Notice	_____ SEC / Gov't Issuance	<u>Rules on Listing By</u>
_____ Stock Rights Notice	_____ Transfer Agent's Notice	<u>Way of Introduction</u>

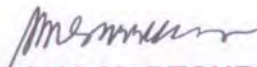
To : **THE INVESTING PUBLIC AND MARKET PARTICIPANTS**

Subject : **AMENDED RULES ON LISTING BY WAY OF INTRODUCTION**


Date : **March 9, 2011**

Please be advised that in a letter of March 3, 2011, the Securities and Exchange Commission (the "Commission") advised the Exchange that the **amendments to the Rules on Listing By Way of Introduction** (the "Amended LBI Rules") was approved by the Commission on March 3, 2011. The suspension of the Rules on Listing By Way of Introduction announced on February 18, 2010 through Memorandum No. 2010-0072 is thus considered lifted subject to the amendments approved by the Commission. We attach as Annex "1" a copy of the Amended LBI Rules duly signed by the Exchange and the Commission.

The Amended LBI Rules will take effect on **March 24, 2011**.


MARSHA M. RESURRECCION
OIC, Issuer Regulation Division

Noted by:


HANS B. SICAT
President & CEO

					
Finance / Corporate Services	Market Regulation Division	Issuer Regulation Division	Market Operations/IT	Capital Markets Dev't. Division	CEO / OGC
Tel. No. 688-7560/7440/7460	Tel. No. 688-7559	Tel. No. 688-7501/7510	Tel. No. 688-7405/819-4400	Tel. No. 688-7590	Tel. No. 688-7400/819-4408



ARTICLE III

PART H
LISTING BY WAY OF INTRODUCTION

SECTION 1. Listing by Way of Introduction – This applies to an application for listing of securities that are already issued or securities that will be issued upon listing, where no public offering will be undertaken because the securities for which listing is sought would be of such an amount and would be so widely held that their adequate marketability when listed can be assumed, or when listing in an exchange or public offering is mandated by law or by the Securities and Exchange Commission (“SEC”) or other government agencies, in the exercise of their powers under the law.

Listing of securities by way of introduction may be appropriate in the following circumstances:

- (a) where securities for which listing is sought are already listed or traded or will simultaneously be listed on another stock exchange or, subject to the approval of the Exchange, ARE listed on another trading market;
- (b) where the securities of an unlisted issuer are distributed by way of property dividend by a listed issuer to shareholders of that listed issuer;
- (c) where a holding company is formed and its securities are issued in exchange for the securities of one or more listed issuers and the listing of the listed issuer or issuers is withdrawn at the same time as the securities of the issuer are listed;
- (d) where listing of securities in an exchange is mandated by law or by the SEC, in the exercise of its powers under the Securities Regulation Code;
OR
- (e) where public offering of securities is mandated by law or applicable regulations; Provided, that the applicant company secures a clearance from the relevant agency stating that such agency does not object to the listing by way of introduction of the securities of the company; *Provided further*, that a company which is considered as a “closely-held corporation”, as such term is defined under Section 127 (B) of the National Internal Revenue Code of 1997, is NOT qualified to list by way of introduction under this SUBSECTION (e). A SUBSIDIARY COMPANY THAT IS QUALIFIED TO LIST UNDER SUBSECTION (E) HEREOF CANNOT LIST ITS HOLDING COMPANY WHICH DOES NOT MEET THE REQUIREMENTS OF THIS SECTION.

SECTION 2. Criteria for Listing – Suitability of applicant companies applying to list their securities by way of introduction shall be based on the listing criteria and requirements established by the Exchange for initial listings.



SECTION 3. INITIAL LISTING PRICE AND FAIRNESS OPINION REQUIREMENT – A COMPANY APPLYING TO LIST ITS SECURITIES BY WAY OF INTRODUCTION SHALL DETERMINE THE INITIAL LISTING PRICE OF ITS SECURITIES ON LISTING DATE WHICH IS DULY SUPPORTED BY A FAIRNESS OPINION PREPARED BY AN INDEPENDENT AND REPUTABLE FIRM, AND IN ACCORDANCE WITH THE GUIDELINES FOR FAIRNESS OPINIONS AND VALUATION REPORTS (ANNEX "A").

THE FAIRNESS OPINION SHALL BE ATTACHED TO THE PROSPECTUS OF THE APPLICANT COMPANY AND DISCUSSED IN A SECTION OF THE PROSPECTUS. THE DISCUSSION IN THE PROSPECTUS SHALL INCLUDE A DISCLAIMER IN FAVOR OF THE EXCHANGE THAT THE PRICING/VALUATION OF THE SECURITIES TO BE LISTED WAS DETERMINED BY THE APPLICANT COMPANY.

THIS REQUIREMENT MAY NOT APPLY TO AN APPLICANT COMPANY UNDER SECTION 1 (A) IF IT CONDUCTED AN INITIAL PUBLIC OFFERING IN ANOTHER STOCK EXCHANGE SIMULTANEOUSLY, OR IF IT CONDUCTED A PUBLIC OFFERING WITHIN (6) MONTHS PRIOR TO ITS LISTING DATE, OR IF THE APPLICANT COMPANY LISTED IN ANOTHER EXCHANGE CAN DEMONSTRATE, TO THE SATISFACTION OF THE EXCHANGE, THAT THE PUBLIC OWNERSHIP LEVELS AND LIQUIDITY SUPPORT THE MARKET PRICE.

SECTION 4. Secondary Listing Requirements – Applicant companies which are already listed or intend to be listed in another stock exchange AS PROVIDED IN SECTION 1(A) HEREOF shall comply with the following requirements:

- (a) THE APPLICANT COMPANY'S SECURITIES MUST BE, OR WILL BE LISTED ON A STOCK EXCHANGE WHICH IS A MEMBER OF THE WORLD FEDERATION OF STOCK EXCHANGES (WFE) OR THE ASIAN AND OCEANIC STOCK EXCHANGES FEDERATION (AOSEF), OR SUCH OTHER EXCHANGES AS APPROVED BY THE EXCHANGE.
- (b) In case the applicant will simultaneously list in another exchange, the applicant company shall provide A CERTIFICATION FROM THE FOREIGN STOCK EXCHANGE of its duly received application for a proposed listing, acceptance or provisional acceptance for listing on such exchange(s) as well as the dates of such listing or proposed listing.
- (c) In case the applicant company is already listed in another exchange or several exchanges, the applicant company shall SUBMIT A CERTIFICATION OF compliance with the requirements of such exchange or exchanges as well as with the requirements of the competent authority(ies) or regulatory body(ies) which regulate such company and/or its securities.
- (d) Arrangements may be made between the applicant company and the Exchange with regard to the listing and disclosure requirements OF THE FOREIGN STOCK EXCHANGE. The applicant company shall also make other arrangements for simultaneous disclosure and filing by facsimile or



Amended Rules on Listing By Way of Introduction

electronic means, of any information or material required to be filed or disclosed to the foreign exchanges. The Exchange shall ensure that NONE of these arrangements contravene the Securities Regulation Code, its Implementing Rules and Regulations AND THE RULES OF THE EXCHANGE.

SECTION 5. LOCK-UP REQUIREMENT – A COMPANY THAT APPLIES TO LIST BY WAY OF INTRODUCTION SHALL BE SUBJECT TO THE FOLLOWING LOCK-UP REQUIREMENT:

- (A) AN APPLICANT COMPANY UNDER SECTIONS 1(A), 1(B) OR 1(C) HEREOF SHALL BE SUBJECT TO THE PRESCRIBED LOCK-UP REQUIREMENT IN ACCORDANCE WITH THE APPLICABLE BOARD PROVIDED UNDER ARTICLE III, PART D, SECTION 7 FOR FIRST BOARD LISTING, ARTICLE III, PART E, SECTION 2(K) FOR SECOND BOARD LISTING, AND ARTICLE III, PART F, SECTION 2(H) FOR SMALL & MEDIUM ENTERPRISES BOARD OF THESE RULES.
- (B) AN APPLICANT COMPANY UNDER SECTIONS 1(D) AND 1(E) HEREOF SHALL CAUSE ITS EXISTING STOCKHOLDERS OR SECURITY HOLDERS WHO OWN AT LEAST 10% OF THE ISSUED AND OUTSTANDING SHARES OF STOCK OR SECURITIES OF THE APPLICANT COMPANY, TO ENTER INTO AN ESCROW AGREEMENT WITH AN ESCROW AGENT NOT TO SELL, ASSIGN OR IN ANY MANNER DISPOSE OF THEIR SHARES OR SECURITIES FROM THE INITIAL LISTING DATE UNTIL ONE HUNDRED EIGHTY (180) DAYS AFTER IT CONDUCTS A PUBLIC OFFERING. THE IMPLEMENTATION OF SUCH LOCK-UP MUST BE IN ACCORDANCE WITH ARTICLE III, PART A, SECTION 17 OF THESE RULES.

SECTION 6. LIFTING OF THE TRADING BAND – THE TRADING BAND ON THE APPLICANT COMPANY'S SECURITIES TO BE LISTED SHALL BE LIFTED ON THE LISTING DATE IN ORDER TO ALLOW MARKET FORCES TO DETERMINE THE PRICE OF THE SECURITIES OF THE APPLICANT COMPANY. AFTER THE LISTING DATE, THE TRADING BAND SHALL BE REINSTATED.

SECTION 7. Post-Listing Requirement – An Issuer whose securities are listed by way of introduction pursuant to SECTIONS 1(d) or 1(e) hereof, shall undertake a public offering within one (1) year from listing of its securities in the Exchange, and comply with the minimum public ownership requirement of the Exchange. AT THE TIME OF INITIAL LISTING, THE ISSUER SHOULD DISCLOSE THE INDICATIVE TERMS AND THE TIMETABLE OF ITS PUBLIC OFFERING. Notwithstanding the foregoing, the Exchange may require the Issuer to undertake the public offering at any time within the one-year period should there be a significant demand for the securities thereof. The required public offering shall be in accordance with the "Distribution of Initial Public Offering Shares Through the Exchange" under Part G, Article III of the Revised Listing Rules.


Amended Rules on Listing By Way of Introduction

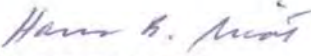
SECTION 8. Consequences for Non-Compliance with the Post-Listing Requirement – In the event the Issuer is unable to conduct the required public offering within the one-year period prescribed by Section 7 hereof, the Exchange shall IMPOSE ANY ONE OR A COMBINATION OF THE FOLLOWING SANCTIONS, AT THE DISCRETION OF THE EXCHANGE:


- (i) suspend the trading of the Issuer's securities;
- (ii) sanction the Issuer by, among others, doubling the annual listing maintenance fees payable by the Issuer; or
- (iii) SUBJECT TO THE PROVISIONS OF THE CORPORATION CODE AND THE RULES AND REGULATIONS OF THE SEC, require the Issuer to buy-back its securities WITHIN NINETY (90) DAYS FROM THE LAPSE OF THE ONE-YEAR PERIOD and delist the Issuer's securities from the official registry of the Exchange WITH PRIOR WRITTEN NOTICE TO THE ISSUER AND WITHOUT NECESSITY OF A HEARING. In case of a buy-back, the PSE shall require the company to employ an independent party to conduct A valuation of the class of securities of the company that are to be delisted, WHICH IS IN ACCORDANCE WITH THE GUIDELINES FOR FAIRNESS OPINION AND VALUATION REPORTS.

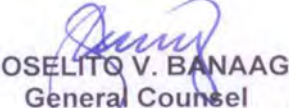
SECTION 9. PROHIBITION ON BACKDOOR LISTING – A COMPANY THAT LISTED BY WAY OF INTRODUCTION UNDER SECTIONS 1(D) AND 1(E) HEREOF IS PROHIBITED FROM DOING A BACKDOOR LISTING UNTIL AFTER IT CONDUCTS A PUBLIC OFFERING. THE EXCHANGE MAY DELIST A COMPANY WHICH UNDERTOOK A BACKDOOR LISTING AND WHICH DID NOT CONDUCT A PUBLIC OFFERING.

SECTION 10. Applicable Fees – Applicant companies seeking listing of their securities by way of introduction shall pay the initial listing fee, processing fee, annual listing maintenance fee and other exchange fees, such as the additional listing fee for the public offering, in accordance with the schedule of fees released by the Exchange and in effect as of the filing of the corresponding application.

THE PHILIPPINE STOCK EXCHANGE, INC. SECURITIES AND EXCHANGE COMMISSION


HANS B. SICAT
 President & CEO


JOSE P. AQUINO
 Director
 Market Regulation Department


JOSELITO V. BANAAG
 General Counsel



Guidelines for Fairness Opinions and Valuation Reports

I. Scope

The proposed Guidelines for Fairness Opinions and Valuation Reports ("Guidelines") are applicable to listing applications covering a listing by way of introduction, mergers and non-cash transactions such as share-for-share swaps, debt-to-equity conversions, property-for-share swaps and other similar transactions. As announced in Memo for Brokers No. 398-2007 dated August 29, 2007 and under the revised rules on listing by way of introduction, an applicant company is required to submit a fairness opinion covering the valuation of the shares subject of the listing application. Such fairness opinion must be supported by a valuation report(s).

II. Guidelines for Fairness Opinions and Valuation Reports

1. The fairness opinion and valuation report(s) on the subject shares must be issued by an independent Firm which includes investment banks, financial advisory firms, and accounting firms under Group 'A' Category, duly registered or licensed by the Securities and Exchange Commission ("SEC") and accredited by the Exchange. The criteria for accreditation, for which a checklist will be provided by the Exchange, are provided under Item III of these Guidelines.
2. The Firm is not considered independent if:
 - a. It is a related party, as defined in the Revised Listing Rules of the Exchange ("Rules"), to the applicant company;
 - b. Its holding or subsidiary company provides financial advisory in relation to the applicant company's listing application, or external audit services to the applicant company; and
 - c. Other circumstances or arrangements, direct or indirect, between the Firm and the applicant company that, in the determination of the Exchange, may influence, or tend to influence, the objectivity and reliability of the fairness opinion and valuation report(s).

In general, the Exchange will consider the independence of the Firm when it is able to demonstrate a lack of conflict of interest with the applicant company.

The fairness opinion and valuation report shall be supported by a sworn certification issued by the applicant company's legal counsel certifying the Firm's independence.

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3. An applicant company shall submit one fairness opinion issued by an independent Firm and supported by a valuation report. The said supporting valuation report may be based on and/or supported by relevant valuation reports issued by different independent experts who are qualified to issue the report under any applicable accreditation or implementing guidelines of the Exchange, such as, but not limited to, property appraisal companies and mining professionals.
4. The fairness opinion and valuation report must disclose the scope of work and valuation approach used. A copy of the service agreement or mandate letter shall be attached as an annex to the report.
5. The valuation report, which supports the fairness opinion, shall cover the valuation of the subject shares of the listed company and the consideration under the transaction covered by the listing application. Such consideration may include the following:
 - a. In a share-for-share swap, shares of the counterparty;
 - b. In a property-for-share swap, property owned by the counterparty. In cases of a real estate property, an accredited property appraisal company must issue a valuation report covering the subject real estate property in accordance with the Rules;
 - c. In a debt-to-equity conversion transaction, the debt which will be converted to the applicant company's shares. In this case, the relevant audited financial statements or external auditor's report on actual findings must be attached to the valuation report.
6. The valuation report, which supports the fairness opinion, shall include, at a minimum, the following information:
 - a. All material details and comprehensive explanation on the basis of the valuation and assumptions used. Copies of any supporting documents used as basis or reference must be attached to the valuation report which may be made available to limited parties from the Exchange, if requested.
 - b. At least two (2) relevant valuation methodologies must be presented in the valuation report. The valuation report must include a description and explanation of the valuation methodologies adopted.
 - c. Structure, condition and analysis of the relevant market and/or industry of the applicant company.
7. The date of the fairness opinion and valuation report must not be more than three (3) months before the date on which (i) an offering prospectus is issued; (ii) the transaction involving the subject shares is executed; or (iii) the stockholders' meeting is held where the transaction involving the subject shares is presented for approval.
8. These Guidelines will form part of the Listing and Disclosure Rules of the Exchange.

III. Criteria for Accreditation

The accreditation of Firms for purposes of issuing fairness opinions and valuation reports required under the rules of the Exchange is valid for a period of one (1) year¹ from accreditation date.

1. The Firm must be duly registered or licensed by the SEC. For accounting firms, its accreditation with the SEC should be under the Group 'A' Category.
2. The Firm, or its local or international affiliate, must have at least five (5) years of business operations.
3. A majority of the members of the Firm's top management and/or division heads must each have a minimum of ten (10) years experience in the Firm's business, including underwriting, investment and financial advisory services.
4. The Firm must demonstrate that its key personnel are qualified to prepare valuation reports and issue fairness opinions. They must identify relevant industry experience in their list of individual qualifications.
5. The FIRM must submit a description or summary of its General Engagement Operating Guidelines or Risk Management Procedures. The Firm must demonstrate that it has effective quality controls and procedures to ensure the integrity of fairness opinions and valuation reports. The valuation report and/or fairness opinion issued by the Firm shall indicate that, in the preparation of such report/opinion, the Firm relied on available information and records, including but not limited to the representation of the applicant company, audited financial statements, competent person's reports, regulatory agency's reports and such other relevant supporting documents.
6. The FIRM must have a proven track record of valuing securities. The FIRM must show proof of a steady client base and at least five (5) engagements to render financial valuation services to listed companies in the Exchange and other reputable stock exchanges, commercial banks and insurance companies for the past five (5) years.
7. The FIRM or its directors or its executive officers must not be subject to any act or case that will pose a serious question on the FIRM's, directors', or executive officers' integrity or capability to provide services to listed companies. A serious question exists relative to the above parties if, during the past (5) years any of the following events occurred.
 - (i) Any petition for insolvency was filed by or against the FIRM or its directors or its executive officers;
 - (ii) Any conviction by final judgment in a criminal proceeding for an offense involving moral turpitude, domestic or foreign, including a *nolo contendere* case, or being subject to a pending criminal proceeding for an offense involving moral turpitude, domestic or foreign, excluding traffic violations and other minor offenses;

¹ Please see Guidance Note 8.1 for the extension of the validity period of the accreditation of Firms from one (1) year to five (5) years.

- (iii) Being subject to any order, judgment, or decree, not subsequently reversed, suspended or vacated, of any court of competent jurisdiction, domestic or foreign, permanently enjoining, barring, suspending or otherwise limiting his involvement in any type of business, securities, commodities or banking activities; and
- (iv) Being found by a domestic or foreign court of competent jurisdiction (in a civil action), the Commission or comparable foreign body, or a domestic or foreign exchange or electronic marketplace or self-regulatory organization, to have violated a securities or commodities law, and the judgement has not been reversed, suspended, or vacated.

8. The FIRM must have a minimum paid-up capital of Php10 million.

