



# MEMORANDUM

CN - No. 2022-0020

## THE PHILIPPINE STOCK EXCHANGE, INC.

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|-------------------------------------|---|
| <input type="checkbox"/> Trading    | <input type="checkbox"/> Public Advisory                                    |
| <input type="checkbox"/> Disclosure | <input type="checkbox"/> Administrative/Technology Matters                  |
| <input type="checkbox"/> Listing    | <input checked="" type="checkbox"/> Others: <b>Proposed Rule Amendments</b> |

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

**SUBJECT :** PROPOSED AMENDMENTS TO REVISED TRADING RULES AND CONSOLIDATED LISTING AND DISCLOSURE RULES

**DATE :** May 11, 2022

The Exchange is inviting all interested parties to submit their comments on the proposed amendments to the Revised Trading Rules and Consolidated Listing and Disclosure Rules, as discussed in the attached Consultation Paper.

Comments may be sent to the Office of the General Counsel at [ogc@pse.com.ph](mailto:ogc@pse.com.ph) until May 31, 2022.

*(Original Signed)*  
**Ramon S. Monzon**  
*President and CEO*



**The Philippine Stock Exchange, Inc.**

## **Consultation Paper**

# **Proposed Amendments to Revised Trading Rules and Consolidated Listing and Disclosure Rules**

*Disclaimer: This Consultation Paper is disseminated for the purpose of soliciting comments from concerned stakeholders. The final version of the Rules may differ from the draft rules contained in this Consultation Paper.*

## **I. Consultation Process**

This Consultation Paper is circulated to give stakeholders an opportunity to submit comments on the following proposed new rules and rule amendments:

1. Amendment of the threshold for imposition of market halt in Section 2, Article VIII of the Revised Trading Rules and clause XXI, paragraph 2 of the Implementing Guidelines of the Revised Trading Rules;
2. Insertion of a new provision on price stabilization fund in Article III, Part A of the Consolidated Listing and Disclosure Rules;
3. Adoption of implementing guidelines on listing of issued and outstanding shares;
4. Amendment of the restriction against changing of fiscal year in Section 12, Article III, Part A of the Consolidated Listing and Disclosure Rules;
5. Insertion of a new provision on lowering of par value in Article III, Part A of the Consolidated Listing and Disclosure Rules;
6. Amendment of Section 7, Article V, Part B of the Consolidated Listing and Disclosure Rules to disallow installment payment scheme in stock rights offerings and other related amendments;
7. Amendment of Section 1(b)(ii), Article III, Part D of the Consolidated Listing and Disclosure Rules to allow all holding companies, even those which are not newly-formed to invoke the track record of its subsidiary/ies;
8. Amendment of the REIT Listing Rules to state that the requirement in Section 1(a) of Article III, Part D and Section 1(a)(i) of Article III, Part E of the Consolidated Listing and Disclosure Rules that applicant must be engaged in materially the same business throughout the last three (3) years prior to the filing of the application shall not apply to REITs;
9. Insertion of a new provision in Article V, Part A of the Rules expressly prohibiting the lodgment and trading of unlisted shares;
10. Revision of Sections 5 and 9 of Article V, Part A of the Consolidated Listing and Disclosure Rules on the requirements for waiver by minority stockholders of the rights or public offering requirement in case of issuance of shares to a related party; and

11. Amendment of scale of penalties in Section 2 of Article VIII of the Consolidated Listing and Disclosure Rules for violation of unstructured disclosure requirements and insertion of a new section on penalties for violation of Listing Rules and terms and conditions in the Notice of Approval.

Interested parties may submit their comments and requests for clarifications by e-mail to [ogc@pse.com.ph](mailto:ogc@pse.com.ph) until May 31, 2022.

## I. Revised Trading Rules

### A. Imposition of Market Halt

Under Section 2, Art. VIII of the Revised Trading Rules, the Exchange may halt trading if at least one-third (1/3) of the PSE Trading Participants (“TPs”) cannot access the trading system due to trading system problems such as server failure, network/link problems, or application errors.

The Exchange recommends to amend the above rule to align the same with the mandate of the Exchange as an organized marketplace to remain open for business and operate at all times for the various stakeholders. Hence, halting of trading on a market-wide basis should only be a last option.

PSE proposes to increase the numerical threshold and trigger for implementing a market-wide trading halt and to base the said action on a more representative basis – trading volume - rather than just a headcount of TPs who are affected. After a careful review of the market data for the previous years, we have seen that the current trading halt threshold of simply 1/3 of active TPs is not representative of the actual collective impact of TPs’ inability to connect on market activity. Based on daily broker ranking in terms of volume and value of trades, we have seen that there are around 10 brokers (out of a total of 125 active TPs) who generally account for more than 50% of total trades for any given trading day.

Furthermore, of the seven exchanges surveyed by the Exchange,<sup>1</sup> only Bursa Malaysia has a numerical threshold for halting trading (*i.e.*, 1/3 of the brokers are unable to trade or the brokers unable to trade constitutes 1/3 or more of the volume). *Firstly*, Bursa Malaysia does not automatically halt trading in the market halt when any of the above triggers are met. These are just among the factors that Bursa Malaysia will generally consider before deciding whether to suspend trading for the entire market. *Secondly*, there

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<sup>1</sup> Indonesia Stock Exchange, Stock Exchange of Thailand, Singapore Exchange, Bursa Malaysia, Korea Exchange, Hong Kong Exchanges and Clearing Limited, and Japan Exchange Group

are only 30 brokers for the equities market in Bursa Malaysia such that the 1/3 threshold appears to be representative of overall market impact in case of inability to trade by the brokers. A review of the market data in Bursa Malaysia shows that the three largest brokers in Bursa Malaysia already contribute over 36% of the average daily trading volume in their market.

PSE is also of the view that as a risk management initiative, alternative means such as placing trades through another TP on a correspondent broker arrangement should be considered if the order management system that a TP uses is unable to connect to the trading system.

In view of the foregoing, PSE proposes to revise Section 2, Article VIII of the Revised Trading Rules and the counterpart provision in the Implementing Guidelines of the Revised Trading Rules, as follows:

Existing Rule	Proposed Rule Amendment
<p style="text-align: center;">ARTICLE VIII MARKET HALT OR SUSPENSION OF TRADING ACTIVITY</p> <p>...</p> <p>SECTION 2. Market Halt</p> <p>a. The Exchange may halt the trading in the market if at least one-third (1/3) of the Trading Participant-users cannot access the trading system due to trading system problems such as, but not limited to, server failure, network/link problems, or application errors.</p>	<p style="text-align: center;">ARTICLE VIII MARKET HALT OR SUSPENSION OF TRADING ACTIVITY</p> <p>...</p> <p>SECTION 2. Market Halt</p> <p>a. <u>As a business continuity requirement, all Trading Participants shall be required to have a correspondent Trading Participant.</u> The Exchange may halt the trading in the market if <u>Trading Participants accounting for more than fifty percent (50%) of the average daily trading value (exclusive of block sales) for the previous month</u> cannot access the trading system, <u>directly or through their correspondent Trading Participant,</u> due <u>solely</u> to trading system problems <u>attributable to Exchange system issues</u> such as, but not limited to, server failure,</p>

	network/link problems, or application errors.
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## II. Listing and Disclosure Rules

### A. Price Stabilization

Undertaking price stabilization activities is generally prohibited unless allowed by the Securities Regulation Code or the rules of the Securities and Exchange Commission (“SEC”).

SEC has allowed price stabilization for a period of thirty (30) days after listing date in several initial public offerings (“IPOs”) and follow-on offerings (“FOOs”), subject to the following conditions, among others:

1. Purchases by the Stabilizing Agent shall be for the sole purpose of preventing or minimizing reduction in market price of the shares;
2. The over-allotment shall not exceed 15% of the base offer;
3. The price for the initial stabilizing action shall be below the offer price, and the price of subsequent stabilizing activities shall be: (a) below the initial stabilizing price if there has not been an independent trade in the market at a higher price than the initial stabilization trade; and (b) the lower of the stabilizing action price or the independent trade price, if there has been an independent trade in the market after the initial stabilizing action at a price higher than the initial stabilization trade; and
4. Stabilizing Agent shall only buy shares from the market when the share price has fallen below the offer price in order to prevent undue price volatility.

The Exchange proposes that in IPOs and FOOs of common shares where there is a secondary offering, regardless of whether there is an over-allotment option, the issuer should have a stabilization fund equivalent to the amount of at least 15% of the base offer shares to help cushion against stock price decline during the 30-day period from listing date. However, the Stabilizing Agent shall have the sole discretion whether to undertake a stabilization activity when the share price falls below the initial offer price.

The proposed provision will be inserted in Article III, Part A of the Consolidated Listing and Disclosure Rules (“Rules”) as new Section 14 and will read as follows:

Existing Rule	Proposed Rule Amendment
None	<p>ARTICLE III EQUITY SECURITIES</p> <p>PART A GENERAL REQUIREMENTS FOR INITIAL LISTING</p> <p>...</p> <p><b><u>SECTION 14. Stabilization Fund - An Applicant Company which conducts a Secondary Offering (as defined in the Rules) shall have a stabilization fund equivalent to the amount of at least 15% of the base Offer shares.</u></b></p>

All subsequent sections in Article III, Part A of the Rules will be re-numbered accordingly.

### **B. Period to File Application for Listing of Shares**

Section 9, Article III, Part A of the Rules provides that all issued and outstanding securities of the type and class applied for, including treasury shares, shall be applied for listing in the Exchange. However, the Rules do not prescribe a deadline for filing. Thus, the Exchange proposes to adopt Implementing Guidelines which will set out the period for filing listing applications and penalties for non-filing of application within the prescribed period.

Moreover, for private placement and share swap transactions, to ensure that the listed company will not unduly delay the full payment of the subscription and, in turn, delay the filing of the listing application, the Exchange proposes to put in the Implementing Guidelines that the Exchange shall penalize the listed company if the shares subject of the listing application were not fully paid within one (1) year from subscription, or from closing of the transaction, if subject to closing conditions.

PSE’s proposal is, as follows:

<b>Transaction</b>	<b>Deadline for Filing</b>
Private placement and share swap	60 calendar days from full payment  <i>*Full payment –</i> (a) <i>Cash consideration – upon payment of subscription</i> (b) <i>Non-cash consideration - upon the recording or registration of legal title to the assets received as consideration (real property, shares, etc.) in the name of the listed company</i>  <i>Full payment must be made within 1 year from subscription, or from closing of the transaction, if subject to closing conditions; otherwise, Exchange shall impose the applicable penalty.</i>
Stock dividends	60 calendar days from dividend declaration
Stock right offerings	90 calendar days from approval by the listed company’s board of directors
Conversion to underlying shares of convertible securities	60 calendar days from conversion or exercise
ESOP or ESPP	60 calendar days from availment

Non-payment of subscriptions through private placement and share swap transactions and non-filing of listing application within the prescribed period will result in the imposition of the following penalties:

<b>Violations within a 5-year period</b>	<b>Penalties</b>
1 <sup>st</sup> violation	₱100,000
2 <sup>nd</sup> violation	₱200,000
3 <sup>rd</sup> violation	₱300,000
4 <sup>th</sup> violation	₱500,000
5th violation	2-month suspension
Subsequent violation	Ground for delisting



Additional daily fine	₱2,000 for each trading day until the relevant listing application is filed
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Each issuance not paid or not applied for listing within the period prescribed shall constitute a separate violation.

Lastly, PSE proposes to fix a period of sixty (60) calendar days from receipt of the Notice of Approval from the Exchange, extendible for another thirty (30) days, for compliance with the post-approval requirements. Otherwise, companies may put off indefinitely their compliance with post-approval requirements and there will continue to be a discrepancy between the number of outstanding and fully paid shares and the number of listed shares. For partially paid shares issued under an Employee Stock Option Plan, Employee Stock Purchase Plan or Long-Term Investment Plan, the 60-day period for compliance shall be counted from full payment while for convertible securities, it shall be counted from conversion.

If a listed company is unable to comply with the post-approval requirements within the prescribed period, the Exchange's approval of the listing application will lapse and become ineffective.

### **C. Prohibition against Changing of Fiscal Year to Comply with Listing Requirements**

Under Section 1(a), Article III, Part D of the Rules, Main Board listing applicants must have a cumulative net income, excluding non-recurring items, of at least ₱75 Million for three (3) full fiscal years immediately preceding the application for listing and a minimum net income of ₱50 Million for the most recent fiscal year. Moreover, the applicant must have a stockholders' equity of at least ₱500 Million in the fiscal year immediately preceding the filing of the listing application. For SME Board listing applicants, Section 1(a), Article III, Part E of the Rules also provides that the applicant must have the required track record of profitable operations for 3 fiscal years preceding the filing of the listing application.

Companies which do not meet the track record and/or stockholders' equity requirement may easily circumvent the rules by changing their fiscal year before filing the listing application. For example, an applicant which has a fiscal year ending on December 31, 2021 may change its fiscal year to a 12-month period ending on March 31, 2022 to show that as of March 31, 2022, it already has a ₱75 cumulative net income, which it did not have as of December 31, 2021. To plug this loophole, PSE proposes to revise Section 12, Article III, Part A of the Rules, as follows:

Existing Rule	Proposed Rule Amendment
<p style="text-align: center;">Article III EQUITY SECURITIES</p> <p style="text-align: center;">PART A GENERAL REQUIREMENTS FOR INITIAL LISTING</p> <p>...</p> <p>Section 12. Applicable Fiscal Year - The Applicant Company shall be prohibited from changing its fiscal year if the purpose of the change is to take advantage of exceptional or seasonal profits in order to show a better profit record.</p>	<p style="text-align: center;">Article III EQUITY SECURITIES</p> <p style="text-align: center;">PART A GENERAL REQUIREMENTS FOR INITIAL LISTING</p> <p>...</p> <p>Section 12. Applicable Fiscal Year - <b><u>The Exchange may reject the listing application if the Exchange determines that the Applicant Company (or its operating subsidiary in case the applicant company invokes the track record of the subsidiary) changed its fiscal year within twelve (12) months prior to the filing of the listing application to enable the Applicant to comply with the initial listing requirements or</u></b> to take advantage of exceptional or seasonal profits in order to show a better profit record.</p>

**D. Prohibition Against Lowering the Par Value before Filing of Listing Application**

PSE has noted that several listed companies lowered the par value of their stock before filing of their listing application in order to justify “a penny offer price” and make the stock attractive to retail investors.

To discourage this practice, PSE proposes to insert a new provision in Article III, Part A of the Rules, which will read as follows:

Existing Rule	Proposed Rule
	<p style="text-align: center;">Article III EQUITY SECURITIES</p> <p style="text-align: center;">PART A</p>

None	<p>GENERAL REQUIREMENTS FOR INITIAL LISTING</p> <p>...</p> <p><b><u>Section 13. Par Value - The Exchange may reject the listing application if the Applicant Company lowers its par value within twelve (12) months prior to the filing of the listing application to support an offer price of One Peso (₱1.00) and below.</u></b></p> <p><i>(Subsequent sections shall be re-numbered accordingly.)</i></p>
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**E. Disallowing Installment Payment Scheme in Stock Rights Offerings (“SROs”)**

Section 7, Article V, Part B of the Rules allows an installment payment scheme in SROs provided at least 25% of the total subscriptions are paid. However, this is inconsistent with PSE’s Amended Rule on Lodgment of Securities which requires electronic lodgment of securities with the Philippine Depository and Trust Corp. or any other entity duly authorized by the SEC as a condition for listing. If the shares are not yet fully paid, stock certificates will not be issued and electronic lodgment of the shares will not be possible.

Accordingly, PSE proposes to delete entirely the current Section 7, Article V, Part B of the Rules and replace it with a new clause which requires full payment of the SRO shares applied for listing. PSE also proposes to delete Sections 6 and 11 of Article V, Part B and revise Section 10 of Article III, Part A of the Rules, which are related to the installment or partial payment scheme:

Existing Rule	Proposed Rule Amendment
<p>ARTICLE V</p> <p>ADDITIONAL LISTING OF SECURITIES</p> <p>PART B</p> <p>RIGHTS OFFERING</p> <p>...</p>	<p>ARTICLE V</p> <p>ADDITIONAL LISTING OF SECURITIES</p> <p>PART B</p> <p>RIGHTS OFFERING</p> <p>...</p>

<p>Section 6. Subscriptions Receivable – Notwithstanding the existence of subscriptions receivable from a previous rights offering, the Exchange may allow the listing of shares of a new rights offering, provided that the unpaid portion of the total subscription to the previous rights offer does not exceed ten percent (10%) thereof.</p> <p>Provided further, that the Listed Company, in accordance with its by-laws and/or the relevant sections of the Corporation Code shall call for the payment of the subscriptions receivable from the previous rights offering referred to in the preceding paragraph and ensure that at least ninety percent (90%) has been paid.</p> <p>Section 7. Installment Payment Schemes – Rights shares declared by the Listed Company referred to in Section 6 hereof, may be allowed for listing in the Exchange, provided that at least twenty-five percent (25%) of the total subscriptions are paid. The applicant listed company must disclose in the offering Prospectus the schedule and terms of payment.</p> <p>Payment of the unpaid portion of the subscribed shares has to be received within a reasonable period of time for the completion of the work program.</p> <p>While listing is allowed, actual trading of the shares shall only be permitted once the said shares are fully paid. This shall be in accordance with the procedure relating to trading of rights shares.</p>	<p>Deleted.</p> <p><b><u>Section 76. Full Payment of shares – All shares applied for listing must be fully paid.</u></b></p>
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<p>...</p> <p>Section 11. Monitoring of Outstanding Partially-Paid Shares – The Issuer, which allows for partial payment in its rights offering, is required to submit a monthly report every fifth (5th) Trading Day of the current month on the number of outstanding partially-paid shares based on the previous month-end balances until all the rights shares are fully paid.</p> <p>The said report shall contain the following information:</p> <p>a. The total number of outstanding shares;  b. The total number of fully-paid shares and its percentage to total outstanding shares;  c. The total number of partially-paid shares and its percentage to total outstanding shares; d. The total number of shares paid in accordance with the schedule; and  e. The total number of shares that have not been paid in accordance with the schedule.</p>	<p>Deleted.</p>
<p style="text-align: center;">ARTICLE III EQUITY SECURITIES</p> <p style="text-align: center;">PART A GENERAL REQUIREMENTS FOR INITIAL LISTING</p> <p>...</p> <p>Section 10. Full Payment of Issued and Outstanding Shares – Only fully paid subscribed securities can be applied for listing in the Exchange, except for those</p>	<p style="text-align: center;">ARTICLE III EQUITY SECURITIES</p> <p style="text-align: center;">PART A GENERAL REQUIREMENTS FOR INITIAL LISTING</p> <p>...</p> <p>Section 10. Full Payment of Issued and Outstanding Shares – Only fully paid subscribed securities can be applied for listing in the Exchange, <del>except for those</del></p>

securities that are subject of stock rights offering.	<del>securities that are subject of stock rights offering.</del>
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### F. Holding Company Using the Track Record of its Subsidiary

By way of exception to the rule that a Main Board listing applicant should have a cumulative net income of at least ₱75 Million for three (3) full fiscal years immediately preceding the application for listing and a minimum net income of ₱50 Million for the most recent fiscal year, Section 1(b)(ii) of Article III, Part D of the Rules allows a newly formed holding company that applies for listing to invoke the operational track record of its subsidiary.

The Exchange is of the view that a holding company, even if not newly formed, which is not able to comply with the track record requirement on the basis of its consolidated financial statements, should be able to invoke the consolidated/ aggregate track record of its direct subsidiary/ies up to the extent of the ownership of the Applicant Company. Thus, PSE proposes to revise Section 1(b)(ii), Article III, Part D of the Rules, as follows:

Existing Rule	Proposed Rule Amendment
<p>ARTICLE III EQUITY SECURITIES</p> <p>PART D MAIN BOARD LISTING</p> <p>...</p> <p>(b) Exception to the 3-year Track Record Requirement - The following are the exceptions to the three (3) year track record rule:</p> <p>i...</p> <p>ii. The Applicant Company is a newly formed holding company which uses the operational track record of its subsidiary, provided it does not divest its shareholdings in said subsidiary for 3 years from listing.</p>	<p>ARTICLE III EQUITY SECURITIES</p> <p>PART D MAIN BOARD LISTING</p> <p>...</p> <p>(b) Exception to the 3-year Track Record Requirement - The following are the exceptions to the three (3) year track record rule:</p> <p>i...</p> <p>ii. The Applicant Company is a <del>newly formed</del> holding company which uses the operational track record of its subsidiary, provided it does not divest its shareholdings in said subsidiary for 3 years from listing.</p>

### G. Track Record Requirement for REIT Listing Applicants

Under Section 3 of the Amended Listing Rules for Real Estate Investment Trusts (“REIT Listing Rules”), the Listing and Disclosure Rules of the Exchange will apply to REITs. Thus, the requirement in Article III, Part D of the Rules (for Main Board listing) and Article III, Part E (for SME Board listing) that the listing applicant must be engaged in materially the same business throughout the last 3 years before the filing of the application likewise applies to REITs.

However, REITs which were previously engaged in another business then changed their primary purpose before the IPO in order to comply with the SEC requirement that REITs should be established solely for the purpose of owning real estate assets that generate a regular stream of income will not be able to comply with the above-mentioned listing requirement. For example, a renewable energy (“RE”) company which converts into a REIT will have to spin off its RE operations to another company and engage solely in leasing of income-generating real estate assets. RE operations and leasing business are not materially the same. The same is true for companies engaged in hospital and hotel operations. Therefore, such REIT applicants will not be able to comply with the listing requirement that the company must be engaged in materially the same business throughout the last 3 years before the filing of the listing application.

To address this, the Exchange proposes to revise Section 3 of the REIT Listing Rules to make said requirement inapplicable to REITs:

Existing Rule	Proposed Rule Amendment
<p>AMENDED LISTING RULES FOR REAL ESTATE INVESTMENT TRUSTS</p> <p>...</p> <p>Section 3. Applicability of the Rules of the Exchange – In addition to these Rules, the Listing and Disclosure Rules of the Exchange, as may be amended from time to time, and all applicable Exchange rules, regulations, policies, guidelines, the Listing Agreement, and all laws and regulations will apply to REITs; provided, that in case of conflict, the REIT Act of 2009 and its IRR shall prevail.</p>	<p>AMENDED LISTING RULES FOR REAL ESTATE INVESTMENT TRUSTS</p> <p>...</p> <p>Section 3.</p> <p><b>(a)</b> Applicability of the Rules of the Exchange – In addition to these Rules, <b>except as provided below</b>, the Listing and Disclosure Rules of the Exchange, as may be amended from time to time, and all applicable Exchange rules, regulations, policies, guidelines, the Listing Agreement, and all laws</p>

	<p>and regulations will apply to REITs; provided, that in case of conflict, the REIT Act of 2009 and its IRR shall prevail.</p> <p><b><u>(b) The requirement in Article III, Parts D and E of the Consolidated Listing and Disclosure Rules that the Applicant should be engaged in materially the same business throughout the last three (3) years prior to the filing of the application shall not apply to REITs.</u></b></p>
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### H. Trading of Unlisted Shares

To highlight the fundamental rule that only listed securities may be lodged and traded through the facilities of the Exchange, the Exchange proposes to insert a new provision in Article V, Part A of the Rules expressly setting out the prohibition against lodgment and/or trading of unlisted shares and the authority of the Exchange to impose penalties for violation of said rule:

Existing Rule	Proposed Rule
None	<p>ARTICLE V ADDITIONAL LISTING OF SECURITIES</p> <p>PART A GENERAL</p> <p><b><u>Section 11. Listing Applicant shall ensure that securities which are not yet listed on the Exchange, including those which have been approved for listing but issuer has not yet complied with post-approval requirements, shall not be lodged and/or traded through the Exchange.</u></b></p>



	<p><b><u>Lodgment and/or trading of unlisted securities shall subject the Issuer to a fine equivalent to 15% of the market value of the shares at the time of lodgment plus a daily fine of ₱2,000.00 for each day of continuing violation until rectification. Market value shall be computed by multiplying the number of lodged and/or traded unlisted shares by the last traded price of the stock as of the day immediately preceding the lodgment.</u></b></p> <p><b><u>Each application for lodgment and the subsequent trading involving unlisted shares shall constitute one violation.</u></b></p>
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### I. Issuance of Shares to Related Parties

Section 1, Article V, Part A of the Rules provides that as a general rule, the Exchange shall not permit the listing of voting shares issued to a related party<sup>2</sup>, amounting to at least 10% of the resulting outstanding voting capital, unless a rights or public offering is first undertaken.

The exceptions to the rights or public offering requirement are as follows:

1. The transaction price for the shares is at a premium over the prevailing market price (*i.e.*, 30-trading day VWAP before the transaction);
2. The rights or public offering requirement is waived by a majority vote of the minority stockholders present or represented in a special meeting; or
3. Issuer is undergoing rehabilitation and bankruptcy.

The Exchange has noted that issuers usually invoke the second exception because waiver of the rights or public offering requirement is fairly easy to obtain under the current rules. If there are only two (2) minority stockholders present in the meeting and the one with

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<sup>2</sup> Article V, Part A, Section 1 of the Rules provides, in part, that “Related Parties shall mean affiliates of the listed issuer accounted for by the equity method of accounting; trusts for the benefit of employees such as pension and profit sharing plans that are managed by or under the trusteeship of the management; directors, major shareholders or principal owners of the listed issuer; and its management; members of the immediate families of major shareholders, principal owners and management of the listed Issuer.

more shares votes in favor of the waiver, the public offering or rights offering requirement is dispensed with. Thus, the Exchange proposes to impose stricter requirements for obtaining the waiver if the dilutive effect of the issuance to a related party is 15% or more of the voting shares.

The Exchange proposes to revise Sections 5 and 9 of Article V, Part A, as follows:

Existing Rule	Proposed Rule
<p style="text-align: center;">ARTICLE V ADDITIONAL LISTING OF SECURITIES</p> <p style="text-align: center;">PART A GENERAL</p> <p>...</p> <p>Section 5. Stockholders' Approval - The Issuer must submit a sworn Corporate Secretary's Certification confirming the following:</p> <p>...</p> <p>b) For related party transactions, in addition to the stockholders approval of the transaction, the Issuer must submit a sworn corporate secretary's certification confirming that a waiver of the requirement to conduct a rights or public offering of the shares subscribed has been granted by a majority vote representing the outstanding shares held by the minority stockholders present or represented in the meeting.</p> <p>The foregoing sworn corporate secretary's certifications required must be supported by a report on the tabulations of the votes of the stockholders indicating the number of shares and percentage to the total outstanding shares represented by the</p>	<p style="text-align: center;">ARTICLE V ADDITIONAL LISTING OF SECURITIES</p> <p style="text-align: center;">PART A GENERAL</p> <p>...</p> <p>Section 5. Stockholders' Approval - The Issuer must submit a sworn Corporate Secretary's Certification confirming the following:</p> <p>...</p> <p>b) For related party transactions <b><u>where the rights or public offering requirement was waived by the minority stockholders</u></b>, in addition to the stockholders approval of the transaction, the Issuer must submit a sworn corporate secretary's certification confirming that a waiver of the requirement to conduct a rights or public offering <del>of the shares subscribed</del> has been granted by a majority vote <del>representing the outstanding shares held by</del> <b><u>of</u></b> the minority stockholders <del>present or represented in the meeting</del> <b><u>in accordance with the following guidelines:</u></b></p> <p style="padding-left: 40px;">a. <b><u>If the dilutive effect of the issuance of shares to the related party is less than 15% - that a</u></b></p>

<p>majority and minority stockholders in the meeting either in person or by proxy.</p> <p>In addition to items required under the Disclosure on Stockholders' Meeting, Section 4.4(u) of the Revised Disclosure Rules, the notice of the meeting shall include:</p> <ol style="list-style-type: none"> <li>1) The number of voting shares to be issued to the Subscriber(s);</li> <li>2) A copy of the Comprehensive Corporate Disclosure on the details of the transaction; and</li> </ol> <p>The said notice must be published in the business sections of any two (2) newspapers of general circulation</p>	<p><b><u>waiver was granted by a majority vote of the minority stockholders present or represented in a regular or special stockholders' meeting; or</u></b></p> <p><b>b. <u>If the dilutive effect of the issuance of shares to the related party is 15% or more - that (i) a special meeting was called not later than six (6) months after the issuance of the shares to the related party to discuss the waiver; (ii) there was a quorum of minority stockholders in that special meeting; and (iii) waiver was granted by a majority vote of the minority stockholders present or represented in that special meeting.</u></b></p> <p>The manner of computing the dilutive of effect is as follows:</p> <p>The previous number of outstanding shares shall be multiplied by the reference price to get the pre-transaction market capitalization.</p> <p>Thereafter, the total amount of the transaction will be added to the pre-transaction market capitalization to determine the adjusted market capitalization.</p> <p>The adjusted market capitalization is then divided by the adjusted number of outstanding shares to arrive at the adjusted price.</p> <p>The adjusted price is subtracted from the reference price and thereafter, the change in price is divided by the reference price</p>
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**and then multiplied by 100 to arrive at the dilutive effect of the transaction.**

**For purposes of this rule and for purposes of arriving at the formula for computing the dilutive effect, the following terms shall have the meanings set forth below:**

- 1. "Minority stockholders" shall mean public stockholders, as defined in the Exchange's Guidelines in Determining the Public Ownership of Listed Companies and the Exchange's Index Policy.**
- 2. "Previous number of outstanding shares" shall refer to the number of outstanding shares one (1) trading day prior to the initial disclosure of the transaction;**
- 3. "Reference price" shall be the higher of the: (i) closing price one (1) trading day prior to the transaction; or (ii) volume weighted average of the closing prices of thirty (30) trading days immediately prior to the earlier of: (x) date of initial disclosure; (y) date of the execution of the relevant agreement; or (z) date when the transaction price was determined;**
- 4. The "total amount of the transaction" shall mean the number of shares subscribed multiplied by the subscription price; and**
- 5. "Adjusted number of outstanding shares" shall mean the previous number of outstanding shares plus the number of shares subscribed.**

The foregoing sworn corporate secretary's certifications required must ~~be supported by a report on the~~ **contain the following:**

- a. **Tabulation of minority shareholders who attended the meeting;**
- b. Tabulations of the votes of the **minority** stockholders, indicating the number of shares and percentage to the total outstanding shares ~~represented~~ **held** by the ~~majority and minority~~ stockholders **present or represented** in the meeting either in person or by proxy;
- c. **How voting was conducted**
- d. **Copies of the resolutions passed; and**
- e. **Measures undertaken by the issuer to ensure that the minority shareholders have been informed of the requirement to obtain a waiver.**

In addition to items required under the Disclosure on Stockholders' Meeting, Section 4.4(u) of the Revised Disclosure Rules, the notice of the meeting shall include:

- 1) The number of voting shares to be issued to the Subscriber(s);
- 2) A copy of the Comprehensive Corporate Disclosure on the details of the transaction; and
- 3) The request for waiver of the requirement to conduct a rights or public offering.**

	The said notice must be published in the business sections of any two (2) newspapers of general circulation
Section 9. Exceptions to the Rule - The Exchange shall grant an exception to the rights or public offering requirement in the following cases:  ...  (b)The requirement for a rights or public offer is waived by a majority vote, representing the outstanding shares held by the minority stockholders present or represented in a special meeting of the transaction.	Section 9. Exceptions to the Rule - The Exchange shall grant an exception to the rights or public offering requirement in the following cases:  ...  (b)The requirement for a rights or public offer is waived <del>by a majority vote, representing the outstanding shares held by the minority stockholders present or represented in a special meeting of the transaction</del> <b><u>in accordance with the guidelines laid down in Section 5 above.</u></b>

In addition, the Exchange proposes to insert a new provision in Section 5, Article V, Part A of the Rules that the issuance of shares to a related party must be approved by at least 2/3 of the entire membership of the Board vote of the Board of Directors, with at least a majority (but not less than two) of the independent directors voting to approve the transaction, in line with the approval requirement in the Revised Corporation Code and SEC Memorandum Circular No. 10, series of 2019 for material related party transactions of publicly listed companies.

The new provision will read, as follows:

Existing Rule	Proposed Rule
ARTICLE V ADDITIONAL LISTING OF SECURITIES  PART A GENERAL  ...	ARTICLE V ADDITIONAL LISTING OF SECURITIES  PART A GENERAL  ...

<p>Section 5. Stockholders' Approval - The Issuer must submit a sworn Corporate Secretary's Certification confirming the following:</p> <p>a) That the stockholders in a regular or special meeting approved the transaction;</p>	<p>Section 5. <b>Board and</b> Stockholders' Approval - The Issuer must submit a sworn Corporate Secretary's Certification confirming the following:</p> <p>a) <b><u>That at least 2/3 of the entire membership of the board of directors, including at least a majority (but not less than two) of the independent directors, approved the transaction;</u></b></p> <p>b) That the stockholders in a regular or special meeting approved the transaction; and</p> <p>...</p>
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### J. Penalties for Violations of the Listing and Disclosure Rules

Article VIII of the Rules provides the applicable penalties for violations of both the listing and disclosure rules. However, the current language of Section 1 of Article VIII of the Rules does not include the other periodic reportorial requirements which have been enacted by the Exchange subsequently. For the avoidance of doubt, the Exchange proposes to revise Section 1, Article VIII of the Rules, as follows:

Existing Rule	Proposed Rule Amendment
<p>ARTICLE VIII PENALTIES AND FINES</p> <p>Section 1. Scale of Fines for Non-Compliance with Structured Continuing Disclosure Requirements - For failure to comply with the Structured Continuing Disclosure Requirements as prescribed under Sections 17 to 17.15 of the Disclosure Rules, the following fines and penalties shall be accordingly imposed against the Issuer:</p>	<p>ARTICLE VIII PENALTIES AND FINES</p> <p>Section 1. Scale of Fines for Non-Compliance with Structured Continuing Disclosure Requirements - For failure to comply with the structured continuing disclosure requirements <del>as prescribed under Sections 17 to 17.15 of the Disclosure Rules</del>, the following fines and penalties shall be accordingly imposed against the Issuer:</p> <p>xxx</p>

On the other hand, Section 2 of Article VIII of the Rules covers violations of unstructured disclosure requirements, violation of the terms and conditions of the Listing Agreement and any other provisions of the Rules even if the section title refers to unstructured disclosure requirements. For the avoidance of doubt, PSE proposes to limit the coverage of Section 2, Article VIII of the Rules to unstructured disclosure requirements:

Existing Rule	Proposed Rule Amendment
<p style="text-align: center;">ARTICLE VIII PENALTIES AND FINES</p> <p>...</p> <p>Section 2. Penalty for Non-Compliance with Unstructured Disclosure Requirements - Any violation of the terms and conditions of the Listing Agreement and of any other provisions of these Rules committed within a twelve-month period shall make the Issuer liable for the following penalties:</p>	<p style="text-align: center;">ARTICLE VIII PENALTIES AND FINES</p> <p>...</p> <p>Section 2. Penalty for Non-Compliance with Unstructured Disclosure Requirements - Any violation of <del>the terms and conditions of the Listing Agreement and of any other provisions of these Rules</del> <b><u>unstructured disclosure requirements</u></b> committed within a twelve-month period shall make the Issuer liable for the following penalties:</p> <p>xxx</p>

For clarity, the Exchange also proposes to define “unstructured continuing disclosure requirements” in Article VII of the Rules:

Existing Rule	Proposed Rule Amendment
<p style="text-align: center;">ARTICLE VII DISCLOSURE RULES</p> <p>...</p> <p>Section 4. Unstructured Continuing Disclosure Requirements, Purpose - The purpose for requiring unstructured disclosures is for the Issuer to update the investing public with any material fact or event that occurs which would reasonably be expected to affect investors’ decision in relation to the trading of its securities.</p>	<p style="text-align: center;">ARTICLE VII DISCLOSURE RULES</p> <p>...</p> <p>Section 4. Unstructured Continuing Disclosure Requirements, Purpose - <b><u>Unstructured continuing disclosures are communications of corporate developments as they occur.</u></b> The purpose for requiring unstructured disclosures is for the Issuer to update the investing public with any material fact or event that occurs which would reasonably be expected to affect investors’ decision in relation to the trading of its securities.</p>



Furthermore, the penalties in the current Section 2 of Article VIII for violations of unstructured disclosure requirements are quite stiff because a 3<sup>rd</sup> violation of a similar nature committed within a 12-month period will result in trading suspension while a 4<sup>th</sup> violation will result in initiation of delisting proceedings.

To make the penalties commensurate with the gravity of the violations, PSE proposes to classify violations of unstructured disclosure requirements into Level 1 and Level 2 violations.

**Level 1** violations pertain to non-disclosure, delayed disclosure or inaccurate disclosure of information which, although disclosable under the Rules, are generally not expected to affect the issuer's financial condition, operations, or voting structure such as non-disclosure or delayed disclosure of:

1. Notice of postponement of annual or special stockholders' meeting;
2. Amendments to Articles of Incorporation which are deemed to be minor such as change in name, principal place of office, number of directors;
3. Amendments to By-laws relating to stockholders' meeting, Board of Directors/officers, or fiscal year;
4. Approval of employee stock option or purchase plan;
5. Notice of company/analysts' briefings;
6. Change in address and/or contact numbers; and
7. Change of auditor or stock transfer agent.

**Level 2** violations, on the other hand, pertain to more serious violations and non-disclosure, delayed disclosure or inaccurate disclosure of information generally expected to have an impact on the issuer's financial condition, operations, or voting structure. Examples of Level 2 violations are violation of the black-out rule, non-disclosure or delayed disclosure of declaration of dividends, and non-disclosure or delayed disclosure of sale of all or substantially all of the assets of the listed company.

The Exchange proposes lighter penalties for Level 1 violations and stricter penalties for Level 2 violations:

Existing Rule	Proposed Rule Amendment
<p style="text-align: center;">ARTICLE VIII PENALTIES AND FINES</p> <p>...</p> <p>Section 2. Penalty for Non-Compliance with Unstructured Disclosure Requirements -</p> <p>...</p> <p>1<sup>st</sup> Violation ₱50,000            2<sup>nd</sup> Violation of a similar nature ₱75,000            3<sup>rd</sup> Violation Suspension of trading for a period of 1 month            4<sup>th</sup> Violation Ground Delisting</p> <p>An additional fine of ₱1,000.00 shall be imposed for each Trading Day during which the offense continues until and including the day on which the violation is rectified.</p>	<p style="text-align: center;">ARTICLE VIII PENALTIES AND FINES</p> <p>...</p> <p>Section 2. Penalty for Non-Compliance with Unstructured Disclosure Requirements -</p> <p>...</p> <p><b>Level 1 Violations: Non-disclosure, delayed disclosure or inaccurate disclosure of information which, although disclosable, are generally not expected to affect the issuer’s financial condition, operations, or voting structure such</b></p> <p><b><u>Basic Penalty</u></b>            1<sup>st</sup> violation: Written reprimand            2<sup>nd</sup> violation: ₱50,000            3<sup>rd</sup> violation: ₱ 75,000            4<sup>th</sup> and subsequent: ₱ 100,000  <b>violations</b></p> <p><u>Daily Fine:</u> ₱1,000.00 for each Trading Day until rectification</p> <p><b>Level 2 Violations: Non-disclosure, delayed disclosure or inaccurate disclosure of information which are generally expected to have an impact on the issuer’s financial condition, operations, or voting structure,</b></p> <p><b><u>Basic Penalty</u></b>            1<sup>st</sup> violation: ₱100,000            2<sup>nd</sup> violation: ₱150,000            3<sup>rd</sup> violation: ₱200,000            4<sup>th</sup> and subsequent violations: ₱300,000, subject to the Exchange’s</p>

	<p><b>discretion to suspend trading or initiate delisting proceedings</b></p> <p><u>Daily Fine: ₱1,000.00</u> for each Trading Day until rectification</p>
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Lastly, the Exchange proposes to have a separate scale of penalties for violation of Listing Rules and terms and conditions in the Notice of Approval issued by the Exchange:

Existing Rule	Proposed Rule	
None	<p>ARTICLE VIII PENALTIES AND FINES</p> <p>...</p> <p><b>Section 3. Penalty for Non-Compliance with Listing Rules and Terms and Conditions in the Notice of Approval - The Exchange shall impose the following penalties on the Issuer and other persons responsible for the following Offer-related violations:</b></p>	
	Violation	Penalty
	<b>Cancellation of the Offer after commencement Period for any reason other than force majeure</b>	<b>Fine equivalent to 1/2 of 1% of the total offer size, but in no case less than ₱1,000,000.00.</b>
	<b>False statement, misrepresentation, or omission of material information in the submissions</b>	<b>Withdrawal of the listing approval and/or a fine of not less than ₱100,000.00 nor more than ₱1,000,000.00 for every violation, at the discretion of the Exchange.</b>

Existing Rule	Proposed Rule	
		Each material misrepresentation or omission shall constitute a separate and distinct violation.
	Non-compliance with the terms and conditions as indicated in the Implementing Guidelines of the Offer	Same as the scale of penalties for Level 2 violation of unstructured disclosure requirements
	Disclosure of the final offer price and/or terms to the public prior to the posting of the relevant listing notice	<ul style="list-style-type: none"> <li>▪ 1<sup>st</sup> violation - Written reprimand on issuer and underwriter</li> </ul>
	Failure to pre-clear the offer documents prior to finalization/execution	<ul style="list-style-type: none"> <li>▪ 2<sup>nd</sup> and subsequent violation by the underwriter (even if involving a different issuer) - same as penalties for Level 2 violation of unstructured disclosure requirements</li> </ul>
None	Any of the following violations shall also make the Issuer and other persons responsible (e.g., underwriter), if applicable, liable for the following penalties:	
	<b>Violation</b>	<b>Penalty</b>
	Non-compliance with the lodgment rule in IPOs, Follow-on Offerings and Stock Rights Offerings; failure to submit the lodgment certificate within the prescribed period	<ul style="list-style-type: none"> <li>▪ Same as the scale of penalties for Level 2 violation of unstructured disclosure requirements; and</li> <li>▪ Listing date may be rescheduled</li> </ul>
Non-compliance with the lodgment rule in other additional listing applications	Same as the scale of penalties for Level 2 violation of unstructured disclosure requirements	

<b>Existing Rule</b>	<b>Proposed Rule</b>	
	<b>Violation of lock-up rule</b>	<b>Same as the scale of penalties for Level 2 violation of unstructured disclosure requirements</b>
	<b>All other violations of the Listing Rules and conditions in the NOA</b>	<b>Fine of not less than ₱50,000.00 nor more than ₱1,000,000.00 for every violation, at the discretion of the Exchange.</b>