



MEMORANDUM – 2018-023

TO : All Trading Participants, Market Participants, and Other Stakeholders

SUBJECT : Proposed Amendments to Article X, Section 12 of the CMIC Rules

DATE : 19 September 2018

The Capital Markets Integrity Corporation (“CMIC”) is inviting all trading participants, market participants, and other stakeholders to submit their comments on the proposed amendments to Article X, Section 12 of the CMIC Rules.

I. Current Provision

Presently, Article X, Section 12 of the CMIC Rules states the following:

Section 12. Costs and Expenses. A Trading Participant under voluntary and involuntary suspension shall pay all costs and expenses, which the CMIC may incur in connection with, or arising out of, the suspension of the Trading Participant.”

II. Text of the Proposal

Pursuant to Rule 40.3.1. of the 2015 Implementing Rules and Regulations of the Securities Regulation Code, CMIC proposes the following amendments (underscored) to Article X, Section 12 of the CMIC Rules:

Section 12. Costs and Expenses. A Trading Participant under voluntary and involuntary suspension shall pay all costs and expenses, which the CMIC may incur in connection with, or arising out of, the suspension of the Trading Participant. These costs and expenses may include the custody and maintenance by CMIC of the fund balances of the suspended Trading Participant. Fund balances shall mean the difference between the suspended Trading Participant’s cash, together with the dividends and interest incurred, and the settled claims of the suspended Trading Participant’s clients, together with other expenses incurred by CMIC. For this purpose, CMIC may impose an annual custodial fee at the rate of 1/2 of one per centum (1%) on each suspended Trading Participant’s fund balance under the custody of CMIC.

III. Reason for the Proposal

When a trading participant is suspended, especially in cases of involuntary suspension, CMIC, in order to duly effectuate the relevant procedures set forth by the securities laws, together with the resultant orders of the Securities and Exchange Commission, necessarily accumulates costs and expenses. These costs and expenses may include, but may not be limited to: takeover of the books, records, and trade-related assets of the trading participant; conduct of special audit; publication of notice to the trading participants' customers; validation of the customers' claims; liquidation of the trade-related assets of the trading participant; and, settlement or payment of the trading participant's liabilities to customers and other trade-related liabilities.¹

Apart from the abovementioned costs and expenses, CMIC may incur expenditures for the custody and maintenance of the fund balances of the suspended trading participants, which include, among others, the continuing engagement of personnel tasked to: (a) monitor the declaration of dividends and the subsequent allocation of these dividends to the proper accounts; (b) handle correspondences with the depository bank; (c) deal with the disposition of funds; and (d) disburse and settle customers' claims. As defined, fund balances are the difference between (a) the suspended trading participant's cash, together with the dividends and interest incurred, *and* (b) the settled claims of the suspended trading participant's clients, together with other expenses incurred by CMIC.

Although Article X, Section 12 of the CMIC Rules currently requires a trading participant under voluntary and involuntary suspension to pay all costs and expenses that CMIC may incur in connection with, or arising out of, the suspension of the trading participant, the same provision does not specify the rate that may be reasonably charged by CMIC for its custody and maintenance of the fund balances of the suspended trading participants.

IV. Comment Period

All trading participants, market participants, and other stakeholders may send to CMIC their comments on the proposed amendments **on or before 9 October 2018**. Comments may be sent through:

Personal delivery : Capital Markets Integrity Corporation
10F, PSE Tower, 5th Avenue corner 28th Street
Bonifacio Global City, Taguig City





¹ Article X, Sections 9, 10, and, 11 of the CMIC Rules.

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Thank you.


DAISY P. ARCE
President

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