



MEMORANDUM – 2018-025

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

SUBJECT : Proposed Guidelines for the Early Release of Trade Proceeds by Trading Participants

DATE : 1 October 2018

The Capital Markets Integrity Corporation ("CMIC") is inviting all trading participants, market participants, and other stakeholders to submit their comments on the *Proposed Guidelines for the Early Release of Trade Proceeds by Trading Participants* ("*Proposed Guidelines*").

For easy reference, the full text of the *Proposed Guidelines*, together with a statement of the reasons and effects thereof, is attached. Also included are templates of the following documents: *Application for Early Release of Trade Proceeds* and *Disclosure Form*.

Comments on the *Proposed Guidelines* shall be submitted to CMIC **on or before 19 October 2018** through any of the following means:

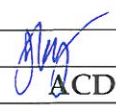



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Thank you.


DAISY P. ARCE
President

			
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**PROPOSED GUIDELINES FOR THE
EARLY RELEASE OF TRADE PROCEEDS
BY TRADING PARTICIPANTS**

WHEREAS, the then Market Regulation Division of the Philippine Stock Exchange, the predecessor of the Capital Markets Integrity Corporation, issued the following memoranda relevant to the early release of trade proceeds by trading participants: *Memorandum No. 2008-0396* dated 15 August 2008; *Memorandum No. 2008-0338* dated 21 July 2008; and *Memorandum No. 2008-0350* dated 25 July 2008;

WHEREAS, *Memorandum 2008-0338* states that: the payment by a trading participant to the selling client of the trade proceeds earlier than the actual trade settlement date will be deemed an advance or a loan to a client; by engaging in such lending activity, the trading participant will violate the condition of its registration as a broker dealer that it shall be solely engaged in the business of a broker dealer; and (c) considering that the trading participant will structure the loan as a trade, the trading participant may be deemed engaged in manipulative practices because the loan transaction, disguised as trade, has the effect or is likely to have the effect of creating a false or misleading appearance of active trading in any security or with respect to the market for, or the price of, any security;

WHEREAS, *Memorandum 2008-0350* provides that *Memorandum 2008-0338* does not apply to transactions wherein the selling and buying clients agreed on an earlier settlement, and in such case, the trading participant will not advance the trade proceeds, and the parties will receive the trade proceeds only upon the earlier settlement stated in their agreement;

WHEREAS, *Memorandum 2008-0390* exempts from the coverage of *Memorandum 2008-0338* the payment by a trading participant to a selling client of the trade proceeds prior to actual settlement based on request by a selling client under certain conditions, such as: (a) that the request is an isolated incident; and (b) that the request is based on the client's urgent exceptional circumstances necessitating the early release of trade proceeds;

WHEREAS, it is essential to consolidate all the pertinent issuances regarding the early release of trade proceeds by trading participants;

WHEREAS, there is a necessity to facilitate the early release of trade proceeds by trading participants, based on urgent and exceptional circumstances necessitating the early release of trade proceeds by the trading participant to the selling client, such as: (a) synchronization of trades with other jurisdictions; (b) redemptions in mutual funds with fixed income components in order to conform to the established fixed income cycle and to align the settlement of the relevant financial instruments; (c) emergency situations; and (d) other analogous instances;

NOW THEREFORE, in consideration of the foregoing premises, the Capital Markets Integrity Corporation, with the approval of the Securities and Exchange Commission, hereby prescribes the following guidelines on the early release of trade proceeds by trading participants:

I. Definitions

"CMIC" shall mean the Capital Markets Integrity Corporation.

"SEC" shall mean the Securities and Exchange Commission.

"SCCP" shall mean the Securities Clearing Corporation of the Philippines.

"TP" shall mean brokers and/or dealers duly licensed by the Securities and Exchange Commission and authorized to exercise a trading right pursuant to the rules of the Philippine Stock Exchange.

II. Requirements for the Early Release of Trade Proceeds by Trading Participants

The early release of trade proceeds by a TP to a selling client shall be allowed, provided the following requirements are complied with:

1. There is an express and written request from a selling client for the release of trade proceeds of a sale transaction;
2. The request shall be based on urgent and exceptional circumstances necessitating the early release of trade proceeds by the TP to the selling client, such as: (a) synchronization of trades with other jurisdictions (exclusive to foreign selling institutional clients); (b) redemptions in mutual funds with fixed income components in order to conform to the established fixed income cycle and to align the settlement of the relevant financial instruments; (c) emergency situations; and (d) other analogous instances;
3. The settlement with the SCCP on T+3 shall remain;
4. The early release of trade proceeds shall not materially and adversely affect the operations or financial position of the TP;

5. The TP shall properly record and disclose to CMIC, through a prescribed *Disclosure Form*, the following particulars of the early release of trade proceeds, for CMIC's audit and verification:
 - a. Date of early release of trade proceeds;
 - b. Date of actual settlement with the SCCP;
 - c. Name of local selling institutional client;
 - d. Issue;
 - e. Number of shares sold;
 - f. Value of shares sold; and
 - g. Date of application for early release of trade proceeds.
6. The *Disclosure Form* must be submitted to CMIC within one (1) trading day from the actual settlement with the SCCP.
7. The early release of trade proceeds by the TP shall not be used to violate or circumvent the laws or rules, and shall not work to the detriment of the investors and the capital markets.

III. Additional Requirements

For the release of trade proceeds by a TP to a selling client based on (a) synchronization of trades with other jurisdictions and/or (b) redemptions in mutual funds with fixed income components in order to conform to the established fixed income cycle and to align the settlement of the relevant financial instruments, the following requirements, in addition to the conditions set forth in the preceding section, shall be complied with by the TP:

1. The TP shall execute a notarized *Application for Early Release of Trade Proceeds*, with the following attachments:

Annex "A" - Secretary's Certificate / Board Resolution authorizing the TP's representative to file the Application for Early Release of Trade Proceeds with CMIC;

Annex "B" - Request from the local selling institutional client to avail of the early release of trade proceeds for redemptions in mutual funds with fixed income components in order to conform to the established fixed income cycle and to align the settlement of the financial instruments;

Annex "C" - Customer Account Information Form of the local selling institutional client; and

Annex "D" - Signature Card/s of the local selling institutional client.

2. The *Application for Early Release of Trade Proceeds* shall be submitted to CMIC and shall be filed on a bi-annual basis for every requesting selling client. *Applications for Early Release of Trade Proceeds* filed during the first half of the year shall be valid only until the last trading day of June of the said year, whereas those filed during the latter half of the year shall be valid only until the last trading day of December of the relevant year.

IV. Penalties

A violation of any of the conditions set forth above may cause the revocation of all applications for early release of trade proceeds extended to the TP, without prejudice to any other sanction/s which may be imposed on the TP under the relevant securities laws.

* * *

APPLICATION FOR EARLY RELEASE OF TRADE PROCEEDS

_____, (the "Company"), a corporation duly organized and existing under Philippine laws, with principal office at _____, represented herein by _____, its _____, as shown in the Secretary's Certificate attached herewith as **Annex "A"**, hereby deposes and states that:

1. The Company, as an active Trading Participant of the Philippine Stock Exchange, hereby files its application with the Capital Markets Integrity Corporation ("CMIC") for the early release of trade proceeds involving the transaction/s of its client, _____ ("Client").
2. By virtue of the approval of the Company's request, it shall be allowed to release the trade proceeds of the Client after the execution of the trade but before the actual settlement with the Securities Clearing Corporation of the Philippines ("SCCP").
3. The Client requested to avail of the early release of trade proceeds for _____.

Attached herewith as **Annexes "B", "C", and "D"** are copies of the Client's request, Customer Account Information Form, and signature cards, respectively.

4. The Company guarantees that:
 - 4.1. the early release of trade proceeds shall not be used by the Company or any of its representatives to violate or circumvent the laws or rules, and shall not work to the detriment of the investors and the capital markets;
 - 4.2. the early release of trade proceeds shall not materially and adversely affect the operations or financial position of the Trading Participant; and
 - 4.3. the trade/s of the Client will be settled with the SCCP on T+3.
5. The Company undertakes to record and properly disclose to CMIC the following particulars of the early release of trade proceeds, for possible audit and verification:
 - 5.1. date of early release of trade proceeds;
 - 5.2. date of actual settlement with the SCCP;
 - 5.3. name of the client;

- 5.4. issue;
- 5.5. number of shares sold;
- 5.6. value of shares sold; and
- 5.7. date of application for early release of trade proceeds.

- 6. The Company shall maintain or keep the records of the early release of trade proceeds for possible audit and verification by CMIC.
- 7. The Company understands that a violation or violations of the representations herein and the rules set forth in relevant issuances shall cause the revocation of applications for early release of trade proceeds extended to the Company, without prejudice to any other sanction/s which may be imposed on the Company and its representatives under the relevant laws.
- 8. I am executing this application to attest to the truth and veracity of the above statements.

IN WITNESS WHEREOF, I have hereunto set my hand this ____ day _____,
20__ at _____.

Affiant

REPUBLIC OF THE PHILIPPINES)
_____) S.S.

SUBSCRIBED AND SWORN to before me this ____ day of _____, 20__, by
affiant exhibiting to me the following competent evidence of identity:
_____ issued _____ at
_____.

WITNESS MY HAND AND SEAL on the date and at the place first above written.

Doc No. ____;
Page No. ____;
Book No. ____;
Series of 20__.

NAME OF TRADING PARTICIPANT: _____
DATE OF DISCLOSURE: _____

[illegible]

ASSOCIATED PERSON
(signature over printed name)