



# MEMORANDUM – 2024-035

**TO :** THE TRADING PARTICIPANTS, THE INVESTING PUBLIC,  
AND OTHER MARKET PARTICIPANTS

**SUBJECT :** REQUEST FOR COMMENTS ON FIRST EXPOSURE DRAFT OF  
PROPOSED AMENDMENTS TO SRC RULE 3 AND SRC RULE 8.1.2

**DATE :** 27 DECEMBER 2024

The Securities and Exchange Commission En Banc, in its meeting held on 26 December 2024, resolved to expose for public comment the draft Memorandum Circular on the proposed amendments to the following:

- (1) **SRC Rule 3** - *Definition of terms - to include the definition of Seasoned Issuers; and*
- (2) **SRC Rule 8.1.2** - *Delayed and Continuous Offering and Sale of Securities (Shelf-Registration)*

Thus, the Commission is requesting comments, suggestions, and/or inputs from all concerned on the attached draft Memorandum Circular by submitting written comments on or before 26 January 2025 through email at [msrds submission@sec.gov.ph](mailto:msrds submission@sec.gov.ph), [gclagonoy@sec.gov.ph](mailto:gclagonoy@sec.gov.ph), and [dlguardian@sec.gov.ph](mailto:dlguardian@sec.gov.ph). The subject of the email should be **“COMMENTS ON THE PROPOSED AMENDMENTS TO SRC RULE 3 AND 8.1.2.”**

Thank you.

*(original signed)*  
**GERARD B. SANVICTORES**  
*President*

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## NOTICE TO THE PUBLIC

**Subject: FIRST EXPOSURE DRAFT OF PROPOSED AMENDMENTS TO SRC RULE 3 - DEFINITION OF TERMS (SEASONED ISSUERS) AND SRC RULE 8.1.2 - DELAYED AND CONTINUOUS OFFERING AND SALE OF SECURITIES (SHELF-REGISTRATION)**

The public is advised that the Commission, in its meeting held on 26 December 2024, resolved to expose for public comment the draft Memorandum Circular on the proposed amendments to the following:

- (1) SRC Rule 3 - Definition of terms - to include the definition of Seasoned Issuers; and*
- (2) SRC Rule 8.1.2 - Delayed and Continuous Offering and Sale of Securities (Shelf-Registration)*

The Commission hereby requests for comments, suggestions and/or inputs from all concerned on the proposed draft Memorandum Circular by submitting written comments on or before **26 January 2025** through email at [msrds submission@sec.gov.ph](mailto:msrds submission@sec.gov.ph), [gclagonoy@sec.gov.ph](mailto:gclagonoy@sec.gov.ph), and [dlguardian@sec.gov.ph](mailto:dlguardian@sec.gov.ph) with subject **"COMMENTS ON THE PROPOSED AMENDMENTS TO SRC RULE 3 AND 8.1.2."**

27 December 2024.



SEC MEMORANDUM CIRCULAR NO. \_\_\_\_\_  
Series of 2025

TO : ALL CONCERNED

SUBJECT : SEASONED ISSUER AND ENHANCED SHELF REGISTRATION

AMENDMENTS TO SRC RULE 3 – DEFINITION OF TERMS  
AND SRC RULE 8.1.2 - DELAYED AND CONTINUOUS  
OFFERING AND SALE OF SECURITIES (SHELF-  
REGISTRATION)

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### Rule 3 – Definition of Terms

**3.1.11. Issuer** is any entity authorized by the Commission to offer to sell, sell or promote the sale to the public of its equity, bonds, instruments of indebtedness and other forms of securities.

**3.1.11.1. In relation to bonds, a seasoned issuer, means any issuer designated by the Commission as having demonstrated that it meets the Commission’s requirements as to its size, listing history and track record:**

- a. **Size test: the issuer shall satisfy one of the following criteria:**
  1. **shall have a minimum market capitalization of PhP50 billion over 180 market days before the offer; or**
  2. **shall have net assets of at least PhP5 billion in its most recent audited annual financial statements and a minimum annual average amount of at least PhP3 billion in net assets for its three most recent financial years.**
- b. **Listing test: the issuer shall have listed the issuance of registered corporate bonds on a registered fixed income market for at least three (3) years before the date of the offer.**
- c. **Credit test: the issuer shall satisfy one of the following criteria:**
  1. **on average, has a positive net cash inflow from its operating activities for its three most recent audited annual financial statements;**
  2. **has obtained a minimum credit rating of A (or its equivalent) from an international credit rating agency or Aa in a local credit agency; or**
  3. **shall have listed the issuance of bonds on a registered fixed income exchange of a total value of not less than PhP10 billion over the previous three years with no default in repayments under the bonds.**

**Seasoned issuers shall be subject to more streamlined regulatory requirements and shorter review process for the registration of their fixed income securities. The Commission may, at its discretion, waive or reduce certain disclosure and documentary submission requirements for seasoned issuers, provided that sufficient information is available to ensure investor protection.**

**3.1.11.2. The determination date as to whether an issuer is a seasoned issuer shall be the latest of the following:**

- a. **The time of filing of its most recent registration statement with the Commission;**
- b. **The time of the most recent amendment to a registration statement for purposes of complying with the requirements of the Securities Regulation Code;**

- c. **In the event that the issuer has not filed a registration statement or amended a registration statement for compliance with the required periodic reports for more than sixteen (16) months, the time of filing of the issuer's most recent annual report or financial statements as required under the Securities Regulation Code. If such report has not been filed on its due date, the date on which such report is due.**

### **8.1.2. Delayed and Continuous Offering and Sale of Securities (Shelf Registration)**

Securities, which are intended to be issued in tranches at more than one instance after the registration statement has been rendered effective by the Commission, may be registered for an offering to be made on a continuous or delayed basis in the future, for a period not exceeding three (3) years from the effective date of the registration statement under which they are being offered and sold.

**8.1.2.1** Securities offered after the initial tranche shall comply with the following requirements:

**8.1.2.1.1.** At least five (5) business days prior to the offering or sale of the securities, it shall disclose to the Commission the required information using SEC Form 12-1-SR;

**8.1.2.1.2.** Filing Fees

**8.1.2.1.2.a.** Upon filing of an RS, the total filing fee shall be computed based on Section 12.5 (a) of the SRC, payable per tranche of issuance and proportional to the issued value.

**8.1.2.1.2.b.** The filing fees of the subsequent tranches shall be payable within seven (7) business days prior to commencement of the offer/sale of the said securities.

**8.1.2.3.1.3.** The registrant shall execute an Undertaking to pay the remaining registration fees no later than thirty (30) business days prior to the expiry of the three (3) year period reckoned from the date of effectivity of the RS.

### **8.1.2.2. Extension of Shelf-Registration for Seasoned Issuers**

**Prior to the end of the three-year period under SRC Rule 8.1.2, a seasoned issuer may file a new registration statement to extend the offering period for additional tranches of securities described in the same section.**

**8.1.2.2.1. The new registration statement, including the prospectus therein, shall include all the information that would be required covering all the offerings it relates to, using Form 12-1**

**8.1.2.2.2. The new registration statement shall be filed no earlier than 180 days and no later than 60 days before the expiration of the original registration statement.**

**8.1.2.2.3. Prior to the effective date of the new registration statement the seasoned issuer may include on such new registration statement any unsold securities covered by the earlier registration statement. Such securities shall be identified and disclosed in the new registration statement and may be offered and sold under the terms of the new registration statement.**

**8.1.2.2.4. The offering of securities on the earlier registration statement will be deemed terminated as of the date of effectiveness of the new registration statement.**

**8.1.2.2.5. Filing Fees for the new Registration Statement**

**8.1.2.2.5.a. Upon filing of the new registration statement, the total filing fee shall be computed based on Section 12.5 (a) of the SRC, payable per tranche**

of issuance and proportional to the issued value of the newly registered securities to be offered.

8.1.2.2.5.b. There shall be no additional fee for unsold securities carried over from the original RS, provided that the filing fees for these securities has been fully paid

8.1.2.2.5.c. If the seasoned issuer has not paid the filing fees for the unsold securities, the balance of such fees shall be settled no later than 30 days prior to the expiration of the original RS.

8.1.2.2.5.d. The filing fee for the new RS, shall be paid at the time of submission of the new RS.

8.1.2.2.5.e. The filing fees for the subsequent tranches under the new RS shall be payable within seven (7) business days prior to the commencement of the offer/sale of the securities.

8.1.2.2.6. The seasoned issuer shall execute an Undertaking as part of the submission of the new RS, affirming that all unpaid fees from the original RS will be settled prior to its expiration and affirming to pay the remaining registration fees for the new RS no later than thirty (30) business days prior to the expiry of the three (3) year period reckoned from the date of effectivity of the new RS.