

Tax Bulletin

December 2022

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Table of contents

I. BIR Administrative Requirements	Page number
Revenue Regulation (RR) No. 15-2022 amends certain provisions of Revenue Regulations (RR) No. 2-98 as amended by RR No. 11-2018, which implemented provisions of Republic Act 10963, otherwise known as the Tax Reform for Acceleration and Inclusion (TRAIN) Law, relative to some changes in the rate of creditable withholding tax on certain income Payments.	4
Revenue Memorandum Circular (RMC) No. 148-2022 lifts the suspension on all field operations and other field operations of the BIR.	6
Revenue Memorandum Order (RMO) No. 55-2022 suspends all field audit and other field operations of the Bureau of Internal Revenue (BIR).	6
RMC No. 151-2022 provides the updated list of Accredited Microfinance Non-Government Organizations (NGOs). The Certificate of Accreditation is valid for a period of three years from the date of issuance, unless earlier revoked by the MNRC.	7
RMC No. 152-2022 clarifies further the transitory provisions for the Value-Added Tax (VAT) Zero-Rate incentives under Sections 294(E) and 295(D), Title XIII of the Tax Code, as amended, and as implemented by Section 5, Rule 2 and Section 5, Rule 18 of the Corporate Recovery and Tax Incentives for Enterprises Act Implementing Rules and Regulations (CREATE IRR).	7
RMC No. 153-2022 circularizes the availability of the BIR Online Registration and Update System (ORUS) through the BIR website (www.bir.gov.ph) under the eServices icon or thru the URL https://orus.bir.gov.ph .	9
II. Banks and Other Financial Institutions	
Regulations on Financial Consumer Protection to Implement Republic Act No. 11765, otherwise known as the “Financial Products and Services Consumer Protection Act”	
Circular No. 1160 approves the adoption of the Amended Regulations and Guidelines on Financial Consumer Protection (FCP) Framework to implement Republic Act No. 11765 or the Financial Products and Services Consumer Protection Act (FCPA), and accordingly approved the amendments of the relevant provisions of the Manual of Regulations for Banks (MORB) and Manual of Regulations for Non-Bank Financial Institutions (MORNBFI).	10
Amendments to the Manual of Regulations for Payment Systems (MORPS) to Incorporate the National Retail Payment System (NRPS) Framework	
Circular No. 1161 incorporates the National Retail Payment System (NRPS) Framework into the Manual of Regulations for Payment Systems (MORPS) pursuant to authority granted to the Bangko Sentral ng Pilipinas (BSP) under RA No. 11127 or the National Payment Systems Act (NPSA).	14
Legal Tender Limit of Philippine Coins for Single Transactions	
Circular No. 1162 provides for the legal tender limit of Philippine coins for a single transaction.	14

Amendments to Miscellaneous Rules on Deposits	
Circular No. 1163 amends the miscellaneous rules on deposits. The amendments aim to provide guidance on the handling of joint accounts as well as the acceptability of electronic signatures pursuant to the Electronic Commerce Act of 2000 (RA No. 8792), and the Philippine Identification Card, pursuant to the Philippine Identification System Act (RA No. 11055).	15
Anti-Money Laundering Council (AMLC) Regulatory Issuance No. 4, Series of 2022 - Rules and Regulations Implementing (RRI) Section 9(d) of Republic Act (RA) No. 9208, as amended by RA No. 11862, otherwise known as the Expanded Anti-Trafficking in Persons Act of 2022 (ATIP)	
Circular Letter No. CL-2022-078 disseminates the AMLC Rules and Regulations Implementing (RRI) Section 9(d) of the Expanded ATIP of 2022 which took effect on 28 October 2022.	16
Banco de Arevalo, Inc. (A Rural Bank)- Voluntary Surrender of Banking License	
Circular Letter No. CL-2022-079 gives notice of the Voluntary Surrender of Banking License by Banco de Arevalo, Inc. (A Rural Bank).	16
Approved Applications for New Banking Offices and Opened Banking Offices During the 2nd Quarter of 2022	
Circular Letter No. CL-2022-080 provides the list of approved applications for new banking offices, and opened banking offices during the 2 nd Quarter of 2022.	17
Revocation of BSP Authority to Operate as Pawnshop, Cancellation of Registration as Foreign Exchange Dealer (FXC)/Money Changer (MC) and Remittance Transfer Company (RTC) of Owen & Sons Pawnshop, Foreign Exchange and Remittance Services, Inc.	
Circular Letter No. CL-2022-081 gives notice to the approval of the Monetary Board.	21
Lost Bangko Sentral Registration Document (BSRD)	
Circular Letter No. CL-2022-082 gives notice that BSRD No. A016795-DE dated 4 December 2012 covering the registration of the foreign direct investment of Cisco Systems Netherlands Holdings B.V., Netherlands in Cisco Technologies Philippines, Inc. has been reported lost.	21
Notice on the Approved Application of Philippine Bank of Communications (PBCOM) to Upgrade Its Banking License	
Circular Letter No. CL-2022-083 gives notice on the approved application of Philippine Bank of Communications (PBCOM) to upgrade its banking license from a commercial bank to a universal bank under the same corporate name.	21
Peso Real Time Gross Settlement (RTGS) Rules	
Memorandum No. M-2022-049 gives notice to the approval of the following rules covering the operation of the Peso Real Time Gross Settlement Payment System (RTGS PS or the PhilPaSSplus), which is a designated payment system.	21
Guidelines on the Submission of Forms on Unit Investment Trust Funds (UITFs)	
Memorandum No. M-2022-050 provides the guidelines on the submission of duly accomplished forms on applications for the creation of UITFs and the amendment/s of key features of a fund. Moreover, the Data Entry Template (DET) for existing UITFs is introduced to provide the BSP consolidated information on the features of all UITFs available in the market.	23

Reminder on Risk Management Measures Relative to Virtual Asset Safekeeping, Liquidity Requirements, and Third-Party Engagements	
Memorandum No. M-2022-051 reminds the public of emerging threats and developments in the virtual asset (VA) landscape, particularly on practices that endanger the safety and security of customer funds. Reports indicate that FTX allegedly misused customer assets to fund unauthorized business activities. As a result, FTX suffered from liquidity issues, prompting the exchange to cease further customer withdrawals, and subsequently file for bankruptcy.	24
III. Bureau of Customs	
Definitive General Safeguard Measures on Imported High-Density Polyethylene (HDPE) pellets and granules (2017 AHTN Code 3901.20.00)	
Customs Memorandum Circular (CMC) No. 172-2022 circularizes the Department of Trade and Industry (DTI) Administrative Order (DAO) No. 22-13 series of 2022 which imposes definitive general safeguard measures on imported HDPE pellets and granules from various countries.	24
Timeline of Application for Renewal of Authority to Operate as Customs Bonded Warehouse (CBW)	
Assessment and Operations Coordinating Group (AOCG) Memo No. 404-2022 implements the provisions of Customs Memorandum Order (CMO) No. 03-2022 which sets the timeline of application for the renewal of authority to operate as a CBW and the deadline of submission to the Customs Bonded Warehouse Committee (CBWC).	25
IV. SEC Filing, Payments and Other Deadlines	
SEC Memorandum Circular no. 09 states the SEC adopted measures in the filing of annual reports with the Commission.	26
SEC Notice states completion of SEC Headquarters Transfer to Makati and Cessation of Operations in Pasay City.	29
V. Supreme Court Cases	
Assessment	
For purposes of determining the two-year prescriptive period for input VAT refund purposes, the phrase "relevant sales" refers to zero-rated or effectively zero-rated sales of the taxpayer-claimant, and not to its purchase of goods and services from which it incurred input VAT.	29
While the inclusion of a deceased person as an incorporator may be the subject of a criminal case for fraud under the Revised Penal Code, it does not equate to fraud contemplated under the Corporation Code for dissolution of a corporation.	30

BIR Administrative Requirements

RR No. 15-2022 dated 9 December 2022

- Pursuant to the provisions of Section 244 of the National Internal Revenue Code (NIRC) and the provisions of Republic Act No. 10963 otherwise known as the TRAIN Law, these regulations are hereby promulgated to implement the changes of creditable withholding tax rate under Section 57 of the Tax Code which provided that "beginning 1 January 2019, the rate of withholding shall not be less than 1% but not more than 15% of the income payment."

RR No. 15-2022 amends certain provisions of RR No. 2-98 as amended by RR No. 11-2018, which implemented provisions of Republic Act 10963, otherwise known as the TRAIN Law, relative to some changes in the rate of creditable withholding tax on certain income Payments.

- Among the salient provisions of this RR are as follows:

Section	Details
Section 1. Amendment	<p>Section 2 of RR 11-2018 on the amendments to Section 2.57.2 of RR 2-98 as amended is hereby further amended to read as follows:</p> <p>“Section 2.57.2. Income Payments Subject to Creditable Withholding Tax and Rates Prescribed Thereon. -Except as herein otherwise provided, there shall be withheld a creditable income tax at the rates herein specified for each class of payee from the following items of income payments to persons residing in the Philippines.</p> <p>(A) xxx xxx xxx xxx</p> <p>(P) MERALCO Payments on the following:</p> <p>(1) Meralco Refund arising from the ERC Case No. 2020-043 RC Order promulgated on 19 February 2021 and ERC Case Nos. 2010-069 RC, 2011-088 RC, 2012-054 RC, 2013-056 RC, and 2014-029 RC Orders promulgated on 29 April 2022 - On gross amount of refund given by MERALCO to non-residential customers - _.</p> <p>(2) Interest income on the refund of meter deposits determined, computed and paid in accordance with the “Rules to Govern Refund of Meter Deposits to Residential and Non-Residential Customers,” as approved by ERC under Resolution No. 12, Series of 2016 dated 5 April 2016 implementing Article 8 of the Magna Carta for Residential Electricity Customers and ERC Resolution No. 2005-10 RM (Otherwise known as DSOAR) dated 18 January 2006 exempting all electricity customers from payment of meter deposits.</p> <p>On gross amount of interest paid directly to the customers or applied against the customer's billings:</p> <p>(i) Residential and General Service customers whose monthly electricity exceeds 200 kWh as classified by MERALCO - <i>Ten percent (10%)</i></p> <p>(ii) Non-Residential Customers - <u>Fifteen percent (15%)</u></p>

Section	Details
	<p>(Q) Interest income on the refund paid through direct payment or application against customers billings by other electric Distribution Utilities (DUs) in accordance with the rules embodied in ERC Resolution No. 12, Series of 2016, dated 5 April 2016, governing the refund of meter deposits which was approved and adopted by ERC in accordance with the mandate of Article 8 of Magna Carta for Residential Electricity Customers and Article 3.4.2 of DSOAR, exempting all electricity consumers, whether residential or non-residential from the payment of meter deposit.</p> <p>On gross amount of interest paid directly to the customers or applied against the customer's billings:</p> <p>(i) Residential and General Service customers whose monthly electricity consumption exceeds 200 kWh as classified by the concerned DU - <i>Ten percent (10%)</i></p> <p>(ii) Non-Residential Customers - <u>Fifteen percent (15%)</u></p> <p>(R) xxx xxx xxx xxx</p>

- ▶ These regulations are effective beginning 3 December 2022.

RMC No. 148-2022 lifts the suspension on all field audit and other field operations of the BIR.

RMC No. 148-2022 dated 21 November 2022

- ▶ To carry out the mandate of the BIR to collect taxes, the suspension on all field audit and other field operations of the Bureau ordered in Revenue Memorandum Circular (RMC) No. 77-2022 dated 30 May 2022 is hereby **LIFTED effective immediately**.
- ▶ Thus, all field audit, field operations, or any form of business visitation in execution of Letters of Authority/Audit Notices (LOAs) or Mission Orders (MOs) can be already conducted, and new Letters of Authority/Mission Orders can be further issued.
- ▶ Strict compliance with the existing applicable Rules and Regulations of the Bureau on the issuance and implementation of LOAs and MOs shall be observed.
- ▶ This Order shall take effect immediately.

RMO No. 55-2022 suspends all field audit and other field operations of the BIR.

RMO No. 55-2022 dated 15 December 2022

- ▶ The BIR suspends all field audit and other field operations of the Bureau of Internal Revenue relative to the examinations and verifications of taxpayer's books of accounts, records, and other transactions for the period 16 December 2022 to 8 January 2023.

- ▶ No written orders to audit and/or investigate taxpayers Internal Revenue tax liabilities shall be served, except in the following cases:
 1. Investigation of cases prescribing on or before 15 April 2023;
 2. Tax evasion cases;
 3. Processing and verification of estate tax returns, donor's tax returns, capital gains tax returns and withholding tax returns on the sale of real properties or share of stocks together with the documentary stamp tax returns related thereto;
 4. Examination and/or verification of internal revenue tax liabilities of taxpayers retiring from business;
 5. Monitoring of privilege stores (*tiangge*); and
 6. Other matters/concerns where deadlines have been imposed.
- ▶ Examiners and investigators shall make use of this period to do office work on their cases and to complete the report on those with already completed field work.
- ▶ All efforts should be directed to ensure maximum revenue collection throughout the year. Thus, service of Assessment Notices, Warrants and Seizure Notices should still be effected. Also, taxpayers may pay voluntarily their known deficiency taxes without the need to secure approval from concerned Revenue Officials.

RMC No. 151-2022 provides the updated list of Accredited Microfinance NGOs. The Certificate of Accreditation is valid for a period of three years from the date of issuance, unless earlier revoked by the MNRC.

RMC No. 151-2022 dated 7 December 2022

Also included in the list are the MF-NGO Certificates of Accreditation revoked effective 29 April 2022, 1 June 2022 and 26 October 2022 and those expired Certificates of Accreditation effective 14 June 2022, with reference to RMC No. 144-2022.

- ▶ *The updated list of Accredited Microfinance Non-Government Organization can be fully accessed via: [Updated List Of Accredited Microfinance NGO](#)*

RMC No. 152-2022 clarifies further the transitory provisions for the VAT Zero-Rate incentives under Sections 294(E) and 295(D), Title XIII of the Tax Code, as amended, and as implemented by Section 5, Rule 2 and Section 5, Rule 18 of the CREATE IRR.

RMC No. 152-2022 dated 7 December 2022

- ▶ Pursuant to RR No. 21-2021 and as clarified under Q & A No. 26 of RMC No. 24-2022, Registered Export Enterprises (REEs) whose incentives period have already expired are already subject to 12% VAT. Thus, such entities are no longer qualified for VAT zero-rating on their local purchases starting from the effectivity of RR No. 21-2021 on 10 December 2021. However, considering that RMC No. 24-2022 was issued only on 9 March 2022, confirming that the said transactions are indeed subject to VAT at 12%, affected suppliers are now in a quandary on whether they have to revert the sales from VAT zero-rated to subject to 12% VAT.
- ▶ Considering that a retroactive application of RMC No. 24-2022 may prejudice the affected taxpayers, it is clarified that the above transactions which transpired from the effectivity of RR No. 21-2021 on 10 December 2021, up to the day before the effectivity of RMC No. 24-2022 on 8 March 2022, shall remain VAT zero-rated.

- In case the purchaser is qualified for VAT zero-rate but was imposed 12% VAT by the seller for the said transitory period, the buyer and the seller may pursue any of the following procedures to correct the situation:

 1. **Retain the transaction as subject to 12% VAT.** The seller shall still declare the sales as subject to 12% VAT. Consequently, the purchaser, if VAT-registered, can utilize the passed-on VAT as input tax and shall be deducted from output tax, if any. Should the purchaser be engaged in zero-rated activities, the same can be recovered through VAT refund pursuant to Section 112(A) of the Tax Code, as amended. If the purchaser is not a VAT-registered taxpayer, the VAT paid shall be claimed as part of the cost of sales or expenses.
 2. **Revert the transaction from VAT at 12% to VAT zero-rated.** Where the transactions have already been declared in the VAT return/s, the seller may amend the same after reimbursing/returning the VAT paid by the buyer that is an REE. The adjustment to sales shall only be to the extent of the reimbursed VAT to the REE. The resulting overpayment due to unutilized input tax credits, if any, may be recovered through VAT refund pursuant to Section 112(A) of the Tax Code, as amended, since the corresponding sale is reverted to VAT zero-rated. On the part of the VAT-registered REE purchaser, the VAT return/s filed shall likewise be amended to reflect the reduced input VAT it previously declared in the VAT return/s. In this regard, the seller shall retrieve the VAT Sales Invoice/Official Receipt (SI/OR) originally issued to the REE buyer for cancellation and replacement with a zero-rated SI/OR. The seller shall prepare a list of VAT SI/OR cancelled, together with the corresponding zero-rated SI/OR replacement subject to validation of the BIR.
- Q&A No. 31 of RMC No. 24-2022, as amended by RMC No. 49-2022, requires REEs who have completed their ITH and are now under the 5% Gross Income Tax (GIT)/ Special Corporate Income Tax (SCIT) regime or those already enjoying the 5% GIT/ SCIT upon the effectivity of CREATE Act but remained VAT-registered to change their registration to non-VAT within two months from the expiration of the ITH incentive or effectivity of RMC No. 49-2022, whichever is applicable.
- REEs that changed their status from "VAT" to "non-VAT" will not be subject to Percentage Tax (PT). The said requirement to change the registration from "VAT" to "non-VAT" does not necessarily mean that these REEs are subject to PT. "PT" tax type should not be registered since these REEs are only subject to GIT/SCIT in lieu of all other internal revenue taxes. These taxpayers are only required to file and pay the corresponding tax due in their respective Annual or Quarterly Income Tax Returns (BIR Form No. 1702/1702Q), subject to regular validation by the Revenue District Office or Large Taxpayer Audit Division where the REE is registered to verify whether no project or activity other than those that are registered under the 5% GIT/ SCIT is being carried out by the REE. If found to be in violation, a corresponding assessment and penalties shall be imposed accordingly.
- The REEs required to register as non-VAT taxpayer are still qualified and can enjoy their VAT zero-rate incentive on their local purchases of goods and services that are directly and exclusively used in their registered activity until the end of their incentive period. Note that as clarified under Q&A No. 26 of RMC No. 24-2022, REEs whose incentive periods have already expired will be subject to 12% VAT on the local purchases.

RMC No. 153-2022 circularizes the availability of the BIR ORUS through the BIR website (www.bir.gov.ph) under the eServices icon or thru the URL <https://orus.bir.gov.ph>.

RMC No. 153-2022 dated 12 December 2022

The ORUS is a web-based that gives taxpayers a convenient and alternative facility for end-to-end processing of taxpayers' registration with the BIR. Its features will be available to taxpayers on the following schedule:

Features	Covered Revenue Regions (RRs)/ Revenue District Offices (RDOs)	Rollout Date
<ul style="list-style-type: none"> Issuance of Taxpayer Identification Number (TIN) for foreign individuals 	RDO No. 39 - South Quezon City	12 December 2022
<ul style="list-style-type: none"> Registration of business and issuance of electronic Certificate of Registration (COR) and Authority to Print (ATP) Application for an ATP or use of BIR Printed Receipts/ Invoices (BPR/ BPI) Employer Account Enrollment to facilitate the TIN issuance of employees Registration of Books of Accounts 	All RDOs under the following RRs: RR No. 6 - City of Manila RR No. 7A - Quezon City RR No. 7B - East NCR RR No. 8A - Makati City RR No. 8B - South NCR RR No. 13 - Cebu City RR No. 19 - Davao City	
<ul style="list-style-type: none"> Registration of Books of Accounts 	All RDOs under the following RRs: RR No. 1 - Calasiao RR No. 5 - Caloocan City RR No. 10 - Legazpi City RR No. 14 - Eastern Visayas	19 December 2022
<ul style="list-style-type: none"> Registration of Books of Accounts 	All RDOs under the following RRs: RR No. 2 - Cordillera Admin. Region RR No. 9A - CABAMIRO RR No. 9B - LAQUEMAR RR No. 15 - Zamboanga City	22 December 2022
	All RDOs under the following RRs: RR No. 3 - Tuguegarao City RR No. 11 - Iloilo City RR No. 16 - Cagayan de Oro City RR No. 17 - Butuan City	26 December 2022
	All RDOs under the following RRs: RR No. 4 - Pampanga RR No. 12 - Bacolod City RR No. 18 - Koronadal City Large Taxpayers (LT) Service: LT Divisions LT Assistance Division (LTAD) Excise LT Regulatory Division (ELTRD)	29 December 2022

Features	Covered Revenue Regions (RRs)/ Revenue District Offices (RDOs)	Rollout Date
<ul style="list-style-type: none"> ▶ Registration of business and issuance of electronic COR and ATP ▶ Application for an ATP or use of BPR/BPI ▶ Employer Account Enrollment to facilitate the TIN issuance of employees 	All RDOs Nationwide, including LT Divisions, LTAD and ELTRD	16 January 2023

Taxpayers of covered RDOs who will use the said online registration facility of the BIR are required to **enroll or create an account** in ORUS. To successfully enroll or create an account, taxpayer should provide a **valid permanent official email address**, which is required to be updated in the BIR's registration record following the guidelines prescribed under RMC No. 122-2022.

Banks and Other Financial Institutions

Regulations on Financial Consumer Protection to Implement Republic Act No. 11765, otherwise known as the "Financial Products and Services Consumer Protection Act"

CIRCULAR NO. 1160 Series of 2022 issued on 28 November 2022

The Framework establishes the guidelines and expectations from BSP-Supervised Institutions (BSIs) to institutionalize consumer protection as an integral component of corporate governance and culture as well as risk management. The objective of the Framework is for BSIs to manage risks and potential harm to Financial Consumers, prevent unfair business practices, achieve fair and beneficial consumer outcomes and empower Financial Consumers to make better and informed financial decisions. These mechanisms reinforce confidence in the financial market and foster the stability of the Philippine financial system.

The Framework shall apply to all financial products or services created, developed, offered or marketed by a BSI. The BSIs' adoption of the Framework shall be proportionate to their asset size, structure, nature of products and services, and complexity of operations.

A BSI should have a Consumer Protection Risk Management System (CPRMS) that is integrated into the BSI's enterprise-wide risk management processes and risk governance framework. The CPRMS includes the governance structure, policies, processes, measurement and control procedures to ensure that Financial Consumer protection-related risks are identified, measured, monitored, and mitigated.

The Board of Directors (Board) and the members of Senior Management of BSIs shall provide the means by which they shall identify, measure, monitor, and mitigate FCP risks inherent in their operations, in accordance with the Standards and all other applicable laws, rules and regulations.

Circular No. 1160 approves the adoption of the Amended Regulations and Guidelines on FCP Framework to implement Republic Act No. 11765 or the FCPA, and accordingly approved the amendments of the relevant provisions of the MORB and MORNBF1.

Moreover, BSIs must also adhere to the Standards at all times in dealing with Financial Consumers. These are specific parameters used to gauge the efficiency of a BSI's CPRMS and FCPAM, modelled after international best practices. The Standards are:

- ▶ **Disclosure and Transparency;**

Under this Standard, BSIs must ensure that their Financial Consumers have a reasonable comprehensive understanding of the financial products and services which they may be acquiring or availing. In this context, full disclosure and utmost transparency, to the extent allowed under applicable laws and regulations, are the critical elements that empower the Financial Consumer to make comparisons and informed financial decisions.

BSIs should establish and follow internal policies and procedures for setting prices for their products and services, based on, among others, the principle of responsible pricing. Pricing procedures and documentation should provide the rationale for why and how prices have been set.

- ▶ **Protection of Client Information;**

BSIs must ensure that they adhere to the general data privacy principles of transparency, legitimate purpose and proportionality under R.A. No. 10173 or the Data Privacy Act of 2012 and its IRRs.

Under this consumer protection standard on client information, Financial Consumers have the right to expect implementation of the most appropriate safeguards ensuring the confidentiality, integrity, and availability of their financial transactions, as well as expect that all relevant personal information lawfully disclosed in the course of a transaction, are kept confidential and are secured.

- ▶ **Fair Treatment;**

BSIs shall have the right to select their clients: Provided, that they shall not discriminate against clients on basis of race, age, financial capacity, ethnicity, origin, gender, disability, health condition, sexual orientation, religious affiliation and practice, or political affiliation: Provided, further, that BSIs may provide distinction, as necessary, when making a risk assessment on a specific financial product or service.

The BSI shall be responsible for the acts or omissions of its directors, trustees, officers, employees, or agents, in offering, marketing and transacting with Financial Consumers for its financial products or services.

- ▶ **Effective Recourse;**

Under this Standard, Financial Consumers should be provided with accessible, independent, fair, accountable, timely and efficient means for resolving concerns, inquiries and requests about their financial transactions. BSIs should have in place mechanisms for complaint handling and redress and may employ various modalities or technological innovations for complaints handling.

Each BSI must establish a single Financial Consumer Protection Assistance Mechanism (FCPAM), commensurate to the size, structure, nature of products and services, and complexity of operations, to provide free assistance to Financial Consumers on their concerns about the BSI's financial products, services and/or transactions. This shall include handling of complaints, inquiries and requests.

► **Protection of Consumer Assets against Fraud and Misuse**

To mitigate the risks of fraud and misuse faced by Financial Consumers, BSIs, to the extent allowed by existing laws, rules and regulations, must provide necessary assistance, including the provision of relevant information relating to fraudulent or unauthorized transactions. Further, BSIs must provide clear information on the actions taken or to be taken on a complaint, inquiry or request from a Financial Consumer involving fraudulent or unauthorized transactions. BSIs shall adequately inform Financial Consumers of their responsibilities, as users of financial products and services, and provide timely transaction notifications which are essential in curtailing and detecting fraudulent or unauthorized transactions.

A BSI should evaluate any claim made by any accountholder in relation to any disputed transaction for purposes of resolving the claim or assessing the parties' liability in accordance with the FCP Framework, and other existing laws, rules and regulations.

BSIs should provide its clients with a free and active reporting channel/s which may consist of a manned phone line, mobile number online portal, email, chatbot, instant messaging, or other closely monitored communication channels which should be available on a 24/7 basis.

Concerns or disputes about fund transfers or alleged unauthorized transactions shall be filed with the Originating Financial Institution (OFI). The OFIs and RFIs should then implement the following, pending the result of the investigation of the dispute or allegation:

1. Suspend the imposition of interest, fees or charges, if applicable;
2. Hold the disputed funds, if still intact, in compliance with BSI policies, existing BSP rules and regulations, or industry conventions;
3. Provide reasonable accommodations to the Financial Consumer, such as a non-withdrawable provisional credit of the disputed amount or temporary hold of the disputed amount within a given period as determined by the BSI; and
4. Perform such other necessary actions to protect the Financial Consumer's interest and/or assets, such as but not limited to, account blocking or freezing of funds.

If after the investigation, the disputed transaction is found to be an unauthorized or fraudulent transaction, the BSI should immediately:

1. Correct or reverse the transaction found to be unauthorized or fraudulent, including any related interest, charges and fees imposed thereon; and/or
2. Make permanent the provisionally credited amount, if any.

In determining liability for losses, BSIs may consider, among others, the following factors:

1. Actions of the accountholder before, during and after the unauthorized transaction;
2. Acts or omissions of the BSI, its employees, third-party agent, outsourced entity or service provider acting on behalf of the BSI; and/or

3. Non-compliance by the BSI, its employees, agents or service providers, with any requirement under the FCP Framework and other existing rules and regulations applicable to the BSI's provision of any financial product or service.

In case an accountholder transfers funds to a payee account other than the intended recipient account, he/she should immediately report the error to the OFI with the following details:

1. Name, contact number, and other credentials of the payor;
2. Account from which the payment was made;
3. Payee account details;
4. Transaction amount; and
5. Transaction date and time.

In case the OFI and RFI involved in an erroneous transaction are different BSIs, the OFI must immediately inform the RFI. Both the OFI and RFI should make reasonable efforts to recover the sum sent in error in accordance with existing regulations and industry conventions.

Following any product launch, the BSIs together with third-party distributors and other key stakeholders, may be required to periodically review the product design and related disclosure materials. BSI's product development, review or evaluation, distribution, and after sales process shall continuously take into consideration possible risks to Financial Consumers, evolving and sophisticated technology platforms and delivery channels.

The BSP shall have the authority to impose enforcement actions on BSIs for non-compliance with the FCP Framework, and other existing rules and regulations on FCP. In addition, the BSP may also exercise the powers provided under Section 6(d) of the FCPA:

1. Restriction on the ability of the BSI to continue to collect excessive or unreasonable interests, fees or charges, including other interests, fees and charges that are covered under Republic Act (RA) No. 10870, otherwise known as the "Philippine Credit Card Industry Regulation Law;" or
2. Disgorgement. In any proceeding in which the BSP may impose a penalty for non-compliance with or breach of the FCPA, its IRR and other existing laws, rules, and regulations the BSP may, in addition to imposing a fine, enter an order requiring accounting and disgorgement of profits obtained, or losses avoided, as a result of a violation of the FCPA, its IRR and other existing laws, rules, and regulations under its jurisdiction, including reasonable interest. The BSP shall adopt guidelines concerning the creation and operation of a disgorgement fund, payments to Financial Consumers, rate of interest, period of accrual, and such other matters as it deems appropriate to implement this provision.

The administrative sanctions under RA No. 7653, as amended, shall be made applicable to the BSI, its directors, trustees, officers, employees or agents for violation of the FCPA, its IRR and any related rules, regulations, orders or instructions of the BSP, without prejudice to those prescribed under FCPA Section 6(d) and Section 15.

In case of profit is gained or loss is avoided as a result of the violation of the FCPA, a fine not more than three times the profit gained or loss avoided may also be imposed by the BSP; Provided, finally, that in addition to the administrative sanctions that may be imposed, the authority of the BSI to operate in relation to a particular financial product or service may be suspended or cancelled by the BSP.

Section 1 of this Circular shall also apply to NSSLAs, pawnshops, credit card, trust corporations and other NBFIs with trust license, insofar as these are applicable to their operations.

The transitory provision of this Circular are as follows:

BSIs shall be given six months from the effectivity of this Circular to: 1) perform a gap analysis of their current CPRMS, FCPAM and related financial consumer protection practices vis-à-vis the provisions of this Circular; and 2) propose an action plan duly approved by its Board of Directors to achieve full compliance within a reasonable period of time but not longer than one year from the effectivity of this Circular.

A BSI should be able to show its plan of action with specific timelines, as well as the status of initiatives being undertaken, to fully comply with the provisions of this Circular, upon request of the BSP.

Amendments to the Manual of Regulations for Payment Systems (MORPS) to Incorporate the National Retail Payment System (NRPS) Framework

CIRCULAR NO. 1161 Series of 2022 issued on 29 November 2022

Section 803 of the Manual of Regulations for Banks (MORB) on the National Retail Payment System (NRPS), including its appendices, are incorporated into Section 301 of the MORPS, which shall apply to retail payment systems and their participants, subject to the amendments on Sanctions provisions as follows:

Enforcement Actions. The BSP may deploy enforcement actions to ensure compliance with the provisions of Section 301 of the MORPS and bring about timely corrective actions. Any violation of this Section shall subject the participants of a payment system and/or their directors, officers, and/or employees to the sanctions set forth in Sections 36 and 37 of RA No. 7653, as amended, and Sections 19 and 20 of RA No. 11127, as appropriate.

Legal Tender Limit of Philippine Coins for Single Transactions

CIRCULAR NO. 1162 Series of 2022 issued on 1 December 2022

The legal tender limit for coins is set, as follows:

Coin Denomination	Limit (in Php)
0.01	200
0.05	200
0.10	200
0.25	200
1.00	2,000
5.00	2,000
10.00	2,000
20.00	2,000

The legal tender limit for single transaction of coins does not preclude transactions above the stated coin limit so long as both parties have prior and mutual agreement.

Circular No. 1161 incorporates the NRPS Framework into the MORPS pursuant to authority granted to the BSP under RA No. 11127 or the NPSA.

Circular No. 1162 provides for the legal tender limit of Philippine coins for a single transaction.

Circular No. 1163 amends the miscellaneous rules on deposits. The amendments aim to provide guidance on the handling of joint accounts as well as the acceptability of electronic signatures pursuant to the Electronic Commerce Act of 2000 (RA No. 8792), and the Philippine Identification Card, pursuant to the Philippine Identification System Act (RA No. 11055).

Amendments to Miscellaneous Rules on Deposits

CIRCULAR NO. 1163 Series of 2022 issued on 14 December 2022

Specimen signatures or biometrics, identification photos. For opening any type of deposit account/establishing relationship under the true and full name of the depositor, all banking institutions are required to obtain a minimum of three specimen signatures, simultaneously executed by the depositor, either wet or electronic, or biometrics (such as fingerprints, iris scans, or facial recognition images) from their depositors and to update the same, as applicable, based on risk and materiality. Banks may, at their option, require their depositors to submit clear ID photos.

Electronic signatures shall be accepted pursuant to the provisions of Section 8 of RA No. 8792 or the Electronic Commerce Act of 2000.

As provided under Philippine Identification System Act (RA No. 11055) and its implementing rules and regulations, where the PhilSys Card Number (PCN) or PhilSys Number (PSN) derivative, or the PhilID card, in physical or digital form, is presented by the customer, it shall be accepted as official and sufficient proof of identity, subject to the appropriate authentication methods, without the need to present other forms of identification.

On joint accounts, it is defined as a deposit account (i) held jointly by two or more natural persons, or by two or more juridical persons or entities or (ii) held by a juridical person or entity jointly with one or more natural persons. The funds deposited in the joint deposit account are governed by the rules on co-ownership, as provided under the Civil Code of the Philippines (RA No. 386), between the joint accountholders. The share or portion belonging to the joint depositors in the joint deposit account shall be presumed equal, unless the contrary is proved, and the benefits as well as the charges in the joint account shall be proportional to their respective shares. The joint account is held under the name of the depositors described using either “and” or “or”.

Depositors of joint accounts described using the conjunction “and” shall only be allowed to withdraw from the said account with the authority of all the depositors named in the joint account; and any of the depositors of joint accounts described using the conjunction “or”, acting separately, may be allowed to withdraw from the said account, even without the authority of the other depositors named in the account. Under both types of joint accounts, deposits may be placed in the account even without the authority of the other depositors named in the account.

Electronic access and transactions may be allowed for joint accounts provided that for electronic withdrawals/fund transfers/payments from a joint “and” account, the bank should have appropriate system, procedures, and controls to obtain the authorization of all the depositors in the joint account prior to effecting the transactions.

In case of death of one of the depositors in either joint “and” or “or” account, the bank shall observe applicable laws, rules and regulations, including existing implementing policies for purposes of, among others, ascertaining the identity and the right to claim of the heir/s or its authorized representative before allowing any withdrawal from the joint deposit account which law, rules and regulations, and policies should be fully disclosed to the depositors in accordance with Section 1002 (Consumer Protection Standards)

For both types of joint accounts, in case of transactions that will restrict the rights or interest of the depositors, such as assignment or voluntary lien/encumbrance of the account as security for any obligation, the bank shall ensure that the governing rules for these transaction/s and their attendant risks or obligations are explicitly, clearly and adequately provided in the terms and conditions and are explained to, understood, and accepted by the joint accountholders.

Banks shall ensure that the terms and conditions governing joint accounts are part of the deposit agreement, explained to, understood, and accepted by the customers. The provisions of RA No. 3591, as amended, and the pertinent implementing regulatory issuances, shall govern the treatment of joint accounts for deposit insurance purposes.

The following transitory provisions shall be incorporated on Joint Accounts:

- ▶ Upon effectivity of this Circular, new joint accounts shall be subject to the provisions of Section 276 as amended by this Circular.
- ▶ Within one year from the effectivity of this Circular, existing joint “and/or” deposit accounts shall be converted into joint accounts aligned with this Circular with full consent of and disclosure to the joint accountholders. In case of existing joint time deposits, these shall be converted into joint accounts aligned with Section 276 as amended by this Circular upon renewal and/or rollover of the account. The bank shall ensure that the governing terms and conditions are explained to, understood, and accepted by customers. In cases that the consent of the joint “and/or” depositors cannot be obtained within the one-year transitory period to convert the joint account to either joint “and” or “or” accounts, the same shall be monitored by the bank until such time that the joint depositors consent thereto and accept the terms and conditions.

Anti-Money Laundering Council (AMLC) Regulatory Issuance No. 4, Series of 2022 - Rules and Regulations Implementing (RRI) Section 9(d) of Republic Act (RA) No. 9208, as amended by RA No. 11862, otherwise known as the Expanded Anti-Trafficking in Persons Act of 2022 (ATIP)

Circular Letter No. CL-2022-078 Series of 2022 issued on 16 November 2022

The RRI focuses on two major items: 1) reporting of suspicious activities and transactions; and 2) bank inquiry and access to non-bank financial records. As to the reportorial requirements section, it covers a) reporting of suspicious activities to law enforcement agencies; b) reporting of suspicious transaction reports to the AMLC; and c) suspicious circumstances and red flag indicators. On the other hand, the access to financial records covers bank inquiry and financial records not covered by the bank deposit secrecy laws.

All BSFIs are enjoined to comply with the obligations of covered persons under the RRI within the timelines prescribed therein.

Banco de Arevalo, Inc. (A Rural Bank)- Voluntary Surrender of Banking License

Circular Letter No. CL-2022-079 Series of 2022 issued on 17 November 2022

The Monetary Board, in its Resolution No. 1606 dated 3 November 2022, approved the voluntary surrender by Banco de Arevalo, Inc. (A Rural Bank) (AREV) of its banking license to the BSP. Effective 9 November 2022, AREV ceased to operate as a bank.

Circular Letter No. CL-2022-078 disseminates the AMLC RRI Section 9(d) of the Expanded ATIP of 2022 which took effect on 28 October 2022.

Circular Letter No. CL-2022-079 gives notice of the Voluntary Surrender of Banking License by Banco de Arevalo, Inc. (A Rural Bank).

Circular Letter No. CL-2022-080 Series of 2022 issued on 21 November 2022

Approved Applications for New Banking Offices

- ▶ Universal and Commercial Banks

Bank Name	Type of Office	Date Approved	City/Municipality
1. BDO Unibank, Inc. (BDO)	Branch-lite Unit Branch-lite Unit	21 April 2022 21 April 2022	Makati City General Santos City
2. Development Bank of the Philippines (DBP)	Branch-lite Unit	21 June 2022	Malita, Davao Occidental

- ▶ Thrift Banks

Bank Name	Type of Office	Date Approved	City/Municipality
1. BPI Direct BanKO Inc. A Savings Bank (BPIDB)	Branch-lite Unit	25 April 2022	Alfonso, Cavite
	Branch-lite Unit	25 April 2022	Bontoc, Mountain Province
	Branch-lite Unit	25 April 2022	Isabel, Leyte
	Branch-lite Unit	25 April 2022	Las Piñas City
	Branch-lite Unit	25 April 2022	Panganiban, Catanduanes
	Branch-lite Unit	25 April 2022	Sipocot, Camarines Norte
2. China Bank Savings, Inc. (CBSI)	Branch-lite Unit	29 April 2022	Alaminos, Pangasinan
	Branch-lite Unit	29 April 2022	Balamban, Cebu
	Branch-lite Unit	29 April 2022	Bangued, Abra
	Branch-lite Unit	29 April 2022	Biliran, Leyte
	Branch-lite Unit	29 April 2022	Bislig City, Surigao del Sur
	Branch-lite Unit	29 April 2022	Boac, Marinduque
	Branch-lite Unit	29 April 2022	Camalaniugan, Cagayan
	Branch-lite Unit	29 April 2022	Gerona, Tarlac
	Branch-lite Unit	29 April 2022	Infanta, Quezon
	Branch-lite Unit	29 April 2022	Isulan, Sultan Kudarat
	Branch-lite Unit	29 April 2022	Lagawe, Ifugao
	Branch-lite Unit	29 April 2022	Luna, Apayao
	Branch-lite Unit	29 April 2022	Nabunturan, Davao de Oro
	Branch-lite Unit	29 April 2022	Odiongan, Romblon
	Branch-lite Unit	29 April 2022	San Francisco, Agusan del Sur
	Branch-lite Unit	29 April 2022	San Jose, Nueva Ecija
	Branch-lite Unit	29 April 2022	Sogod, Southern Leyte
	Branch-lite Unit	29 April 2022	Tabuk, Kalinga
	Branch-lite Unit	29 April 2022	Tanay, Rizal
	Branch-lite Unit	29 April 2022	Virac, Catanduanes
3. First Consolidated Bank, Inc. (A Private Development Bank) (FCDB)	Regular Branch	7 April 2022	Baybay City
	Branch-lite Unit	7 April 2022	Boac, Camarines Sur

► Rural and Cooperative Banks

Bank Name	Type of Office	Date Approved	City/Municipality
1. Cooperative Bank of Cotabato (CCOT)	Regular Branch	23 May 2022	Sta. Cruz, Davao del Sur
	Regular Branch	23 May 2022	Sulop, Davao del Sur
	Regular Branch	23 May 2022	Gian, Sarangani
	Regular Branch	23 May 2022	City of Tacurong
	Branch-lite Unit	23 May 2022	Makilala, North Cotabato
2. Rural Bank of Donsol (Sorsogon), Inc. (DNSOL)	Branch-lite Unit	29 April 2022	Polangui, Albay
3. Rural Bank of Lebak (Sultan Kudarat), Inc. (LEBAK)	Branch-lite Unit	8 June 2022	Palimbang, Sultan Kudarat
4. Rural Bank of Tanjay, Inc. (TNJAY)	Branch-lite Unit	10 May 2022	Bayawan City

Opened Banking Offices

► Universal and Commercial Banks

Bank Name	Type of Office	Date Approved	City/Municipality
1. BDO Unibank, Inc. (BDO)	Branch-lite Unit	8 April 2022	Tagaytay City
	Branch-lite Unit	25 April 2022	Cebu City
	Branch-lite Unit	23 May 2022	General Santos City
	Branch-lite Unit	13 June 2022	Makati City
2. Land Bank of the Philippines (LBP)	Regular Branch	27 June 2022	Manila City

► Thrift Banks

Bank Name	Type of Office	Date Approved	City/Municipality
1. 1st Valley Bank, Inc. A Development Bank (1VBDB)	Regular Branch	29 June 2022	Maragusan, Davao de Oro
	Regular Branch	29 June 2022	Panabo City
2. China Bank Savings, Inc. (CBSI)	Branch-lite Unit	6 April 2022	Zamboanga City
	Branch-lite Unit	7 April 2022	Santa Rosa City
	Branch-lite Unit	6 May 2022	Solano, Nueva Vizcaya
	Branch-lite Unit	10 May 2022	Baler, Aurora
	Branch-lite Unit	1 June 2022	Dipolog City
	Branch-lite Unit	6 June 2022	Valencia City
	Branch-lite Unit	27 June 2022	Masbate City
	Branch-lite Unit	28 June 2022	Daet, Camarines Norte
3. Northpoint Development Bank, Inc. (NORDB)	Branch-lite Unit	29 April 2022	Tagaytay City
	Branch-lite Unit	11 May 2022	Dagupan City
	Branch-lite Unit	20 June 2022	Balayan, Batangas

Bank Name	Type of Office	Date Approved	City/Municipality
4. BINHI Rural Bank, Inc. (Formerly: Rural Bank of Balingasag (Misamis Oriental, Inc.) (BINHI))	Branch-lite Unit	19 April 2022	Alubijid, Misamis Oriental
5. Cantilan Bank, Inc. (A Rural Bank) (CANBK)	Regular Branch	18 May 2022	Ormoc City
6. Cebuana Lhuillier Rural Bank, Inc. (CLHUI)	Regular Branch	18 April 2022	Cebu City
7. Country Builders Bank, Inc. (A Rural Bank) (CBBRB)	Regular Branch Regular Branch Regular Branch Regular Branch	12 April 2022 12 April 2022 19 April 2022 19 April 2022	Antipolo City Trece Martires City Imus City Silang, Cavite
8. First Isabela Cooperative Bank (FICOBANK) (FICO)	Branch-lite Unit	10 May 2022	Ramon, Isabela
9. Rural Bank of Angeles, Inc. (ANGEL)	Regular Branch Regular Branch Regular Branch Regular Branch	8 April 2022 16 May 2022 16 May 2022 16 May 2022	Luna, Apayao Calapan City Pinamalayan, Oriental Mindoro Victoria, Oriental Mindoro
10. Rural Bank of Calinog (Iloilo), Inc. (CLNOG)	Branch-lite Unit	8 June 2022	Iloilo City
11. Rural Bank of San Jose (Camarines Sur), Inc. (SJOCN)	Branch-lite Unit	5 April 2022	Goa, Camarines Sur
12. Rural Bank of Sta. Ignacia, Inc. (SIGNA)	Regular Branch	8 June 2022	Mayantoc, Tarlac

► Digital Banks

Bank Name	Type of Office	Date Approved	City/Municipality
1. Overseas Filipino Bank, Inc. A Digital Bank of LANDBANK (OFBDB)	Head Office	20 April 2022	Manila City
2. UNOBank, Inc. (UBI)	Head Office	6 June 2022	Makati City

Revocation of BSP Authority to Operate as Pawnshop, Cancellation of Registration as Foreign Exchange Dealer (FXC)/Money Changer (MC) and Remittance Transfer Company (RTC) of Owen & Sons Pawnshop, Foreign Exchange and Remittance Services, Inc.

Circular Letter No. CL-2022-081 gives notice to the approval of the Monetary Board.

Circular Letter No. CL-2022-081 Series of 2022 issued on 1 December 2022

The circular letter gives notice to the approval of the Monetary Board as to the following:

- ▶ Revocation of authority to operate as Pawnshop of OWEN & SONS PAWNSHOP, FOREIGN EXCHANGE AND REMITTANCE SERVICES, INC., pursuant to Section 172-P of the MORNBF; and
- ▶ Cancellation of registration as FXD/MC and RTC of OWEN & SONS PAWNSHOP, FOREIGN EXCHANGE AND REMITTANCE SERVICES, INC., pursuant to Section 901-N of the MORNBF.

Lost BSRD

Circular Letter No. CL-2022-082 gives notice that BSRD No. A016795-DE dated 4 December 2012 covering the registration of the foreign direct investment of Cisco Systems Netherlands Holdings B.V., Netherlands in Cisco Technologies Philippines, Inc. has been reported lost.

Circular Letter No. CL-2022-082 Series of 2022 issued on 1 December 2022

Said registration document has been applied for replacement and should not be honored if found and presented for purchase of foreign exchange for capital repatriation or remittance of earnings, pursuant to Section 38 of the Manual of Regulations on Foreign Exchange Transactions, as amended.

Notice on the Approved Application of PBCOM to Upgrade Its Banking License

Circular Letter No. CL-2022-083 gives notice on the approved application of PBCOM to upgrade its banking license from a commercial bank to a universal bank under the same corporate name.

Circular Letter No. CL-2022-083 Series of 2022 issued on 6 December 2022

The Securities and Exchange Commission approved the amended Articles of Incorporation bearing the universal banking license on 17 August 2022. The corresponding Certificate of Authority to Operate as a universal bank was signed by the BSP Governor on 29 September 2022.

PBCOM commenced its operations as a universal bank on 1 December 2022.

Peso Real Time Gross Settlement (RTGS) Rules

Memorandum No. M-2022-049 gives notice to the approval of the following rules covering the operation of the RTGS PS or the PhilPaSSplus, which is a designated payment system.

Memorandum No. M-2022-049 Series of 2022 issued on 22 November 2022

The Peso Real Time Gross Settlement Payment System (RTGS PS) is critical for maintaining price and financial stability, as well as preserving public interest. This payment system ensures the smooth flow of funds between financial institutions that maintain settlement accounts (SAs) with the BSP. It also facilitates funds transfers in financial markets where these institutions trade securities and foreign currencies for business and risk management purposes. By providing the settlement facility for the open market operations of the BSP, the RTGS PS also supports the BSP's mandate of maintaining price stability. Moreover, this system plays an indispensable role in upholding public welfare, enabling the efficient and low-risk settlement of retail payments in central bank money. In this regard, the BSP adopts rules in its capacity as owner and operator of the RTGS PS to govern the operation of this designated payment system. These rules shall apply to the participants of the RTGS PS, including banks and other financial institutions, financial market infrastructures (FMIs), clearing switch operators (CSOs), and critical service providers (CSPs).

The participants in the RTGS PS are, as follows:

- ▶ Participants with SAs. These include banks, non-bank financial institutions with quasi-banking functions, non-bank electronic money issuers, and government agencies, as well as BSP departments that conduct monetary operations and those responsible for disbursing and receiving funds on behalf of the BSP. The participating financial institutions may sponsor other entities into settlement.

Except for the BSP departments, a Participation Agreement mutually executed with the BSP shall document and govern the participation of these entities in the RTGS system.

- ▶ Sponsored Participants. These are financial institutions sponsored into settlement through the RTGS system.
- ▶ FMIs. These are infrastructures that are interlinked with the RTGS system to enable settlement of security, foreign exchange (FX), and other financial market transactions in accordance with the DvP and PvP mechanisms, which minimize the principal risk associated with such transactions.

The business between the BSP and the operator of an FMI that interfaces with the RTGS PS shall be conducted in accordance with a contract in an appropriate form (e.g., Terms of Reference, Memorandum of Agreement, Memorandum of Understanding, etc.), the provisions of which shall be compliant with these rules.

- ▶ CSOs. These are clearing organizations that are permitted to interconnect with the RTGS system for purposes of settling retail payments in accordance with the National Retail Payment System regulatory framework.

The interlinkage of the CSOs with the RTGS PS shall be in accordance with operating guidelines or a formal agreement between the BSP and the CSO. The provisions of the guidelines or agreement shall be consistent with these rules.

- ▶ CSPs. These are technology companies that provide solutions which are vital to the operation of the RTGS PS.

Prior to providing services to the RTGS PS, a CSP shall enter into a service contract with the BSP, the provisions of which shall be aligned with these rules.

Participation in the RTGS PS may be terminated through any of the following modes, as applicable to the case of the concerned participant:

- ▶ Voluntary Withdrawal- refers to a mode where the participant voluntarily ends its participation or surrenders its secondary license (e.g., banking license), subject to the approval of the BSP;
- ▶ Closure of Operation- results from a decision of the MB or any lawful authority to order the dissolution, revocation of license, or prohibit a participant from doing business in the Philippines;
- ▶ Merger or consolidation- terminates the participation of the merged or acquired entity after the approval of the merger or consolidation by the MB or any lawful authority; or
- ▶ Placement under insolvency, bankruptcy or rehabilitation by a competent court or quasi-judicial agency- results in the deactivation of a participant's account upon receipt by the BSP of a notification from the participant, which is required to inform the BSP on the day of the participant's receipt of the order or resolution issued by the court or quasi-judicial agency.

The RTGS system shall settle Peso-denominated funds transfers. These transfers represent time-critical and high-value payments, which include:

- ▶ Movements of funds between the individual participants' proprietary accounts;
- ▶ Interbank/inter-institution transfers for proprietary transactions;
- ▶ Interbank/inter-institution transfers for further credit to customer accounts;
- ▶ Government collections;
- ▶ Withdrawals from and deposits into the accounts maintained with the BSP;
- ▶ Transactions with the BSP Financial Markets, including placements in deposit facilities and maturities of deposits, availments and maturities of the Overnight Lending Facility, and purchase or sale of FX and securities;
- ▶ Settlements related to the BSP's Intraday Liquidity Facility (ILF);
- ▶ The money settlement leg of security trades;
- ▶ The Peso leg of FX trades;
- ▶ Clearing results for checks, automated teller machine (ATM) transactions, digital payments, and other types of retail payments; and
- ▶ Other large value transactions or those that are not considered as retail payments under BSP regulations.

Guidelines on the Submission of Forms on Unit Investment Trust Funds (UITFs)

Memorandum No. M-2022-050 provides the guidelines on the submission of duly accomplished forms on applications for the creation of UITFs and the amendment/s of key features of a fund. Moreover, the DET for existing UITFs is introduced to provide the BSP consolidated information on the features of all UITFs available in the market.

MEMORANDUM NO. M-2022-050 Series of 2022 issued on 29 November 2022

The DET on the Application to Create a UITF shall be duly accomplished for each UITF that will be created. Meanwhile, the DET on the Amendment/s of a UITF shall be duly accomplished for each UITF that had amendments to the fund features that are enumerated under Section 414/414-Q of the MORB/MORNBFI.

For UITFs that were approved prior to the effectivity of Circular No. 1152, TEs shall likewise summarize features of the UITFs using the prescribed DET on Existing UITFs. The duly accomplished DET on Existing UITFs shall be submitted to the BSP on or before 15 December 2022.

Electronic copies of the DET can be downloaded from: www.bsp.gov.ph/ses/reporting_templates under the "Templates on UITFs" section or directly requested from the Capital Markets and Trust Supervision Department (CATSD) through electronic mail (catsd-reports@bsp.gov.ph). When requesting for the DETs, TEs shall use the following prescribed format for the subject line of the email.

The duly accomplished DET on the *Application to Create a UITF or Amendment/s of a UITF*, as applicable, shall be submitted through electronic mail to catsd-reports@bsp.gov.ph using an e-mail address that is officially registered with the BSP's Department of Supervisory Analytics (formerly Supervisory Data Center). Further, the applicable DET shall be submitted on the day that the application or notification for the creation or amendment of a UITF is submitted to the BSP. In accordance with BSP Memorandum M-2017-028 dated 11 September 2017, the BSP shall only accept submissions made through the supervised entity's registered e-mail address/es. Submissions using registered e-mail accounts are considered as the official submissions of the TE.

TEs that are unable to electronically transmit the DET may save the file to any portable storage device (e.g., USB flash drive) and transmit the same through messengerial or postal services. Printed copies of the DET shall not be accepted.

Submissions of DETs on the *Application to Create a UITF and Amendment/s of a UITF* that do not conform with the prescribed guidelines shall not be accepted. In such cases, the application for/notification on the creation of a UITF or notification on the amendment/s to a UITF, as applicable, shall be returned to the TE due to non-submission of the required forms on UITFs.

Any of the following shall result in a failed submission:

- ▶ Failure to submit via an officially registered e-mail address;
- ▶ Failure to use the prescribed templates;
- ▶ Failure to use the prescribed subject line;
- ▶ Failure to include the applicable form as attachment to the email;
- ▶ Failure to adopt the prescribed file name and file format; or
- ▶ Submission to an e-mail address other than the prescribed address.

Reminder on Risk Management Measures Relative to Virtual Asset Safekeeping, Liquidity Requirements, and Third-Party Engagements

MEMORANDUM NO. M-2022-051 Series of 2022 7 issued on December 2022

The BSP cautions all BSP-licensed Virtual Asset Service Providers (VASPs), particularly those providing safekeeping and/or administration services for VAs (i.e., VA Custodian), to ensure that customer VAs are not being used for any business activities other than for safekeeping on the customers' behalf. Pursuant to BSP Circular No. 1108, VA Custodians are expected to ensure adequacy of reserves for VAs held in custody and institute mechanisms to properly record and segregate customers' VAs from their proprietary VAs. Meanwhile, related-party transactions should comply with appropriate reporting and disclosure requirements in accordance with relevant regulations and standards.

VASPs are reminded to employ robust risk management systems and practices in managing their liquidity, third-party, and operational risks, among others. VASPs that facilitate the conversion or exchange of fiat currency to VA or vice versa are expected to maintain sufficient unencumbered liquid assets to ensure that VA redemptions are adequately met at all times. Moreover, those engaging with third-party liquidity providers should adopt appropriate due diligence procedures and conduct periodic risk assessment. In determining the risk profile of liquidity providers, VASPs should consider important factors such as, the license/registration status, legal/supervisory framework of the jurisdiction from which the liquidity providers are domiciled, and supervisory/enforcement capabilities of relevant regulatory bodies/enforcement agencies, among others. In addition, contingency funding plans should be established in the event of prolonged service delivery failure or untimely cessation of the third-party liquidity providers.

Bureau of Customs

Definitive General Safeguard Measures on Imported High-Density Polyethylene (HDPE) pellets and granules (2017 AHTN Code 3901.20.00)

CMC No. 172-2022 dated 16 November 2022

- ▶ Imposition of definitive general safeguard duty in the amount of Php1,338.00/MT for the first year, Php1,271.00/MT for the second year and Php1,208.00/MT for the third year of the implementation period, subject to the regular review by the DTI.

Memorandum No. M-2022-051 reminds the public of emerging threats and developments in the VA landscape, particularly on practices that endanger the safety and security of customer funds. Reports indicate that FTX allegedly misused customer assets to fund unauthorized business activities. As a result, FTX suffered from liquidity issues, prompting the exchange to cease further customer withdrawals, and subsequently file for bankruptcy.

CMC No. 172-2022 circularizes the DTI DAO No. 22-13 series of 2022 which imposes definitive general safeguard measures on imported HDPE pellets and granules from various countries.

- ▶ Imports originating from developing countries per Annex “A” of the issuance shall not be subject to the definitive general safeguard measure.
- ▶ The following products shall be excluded from the imposition of the general safeguard duty: (i) PE wax (AHTN 2017 subheading 3404.90.90); (ii) ethylene acrylic acid copolymer (AHTN 2017 subheading 3906.90.99); (iii) PP (AHTN 2017 subheadings 3902.10.30, 3902.10.40, and 3902.10.90); (iv) LDPE (AHTN 2017 subheadings 3901.10.19 and 3901.10.99); and (v) PET resin (AHTN 2017 subheading 3907.61.00).
- ▶ Imported HDPE grades specially made for use in the manufacture of wire and cable jackets or coatings, shall be excluded from the imposition of the general safeguard duty.
- ▶ Importers of HDPE originating from a country that is exempt from safeguard duty and those not covered by preferential tariffs shall submit a Certificate of Country Origin (CO) issued by authorized agency/office in the source country of manufacture subject to affixation of “Apostille” to the document or authenticated by the Philippine Embassy/Consulate General, as applicable.
- ▶ The application of the definitive general safeguard measure shall be monitored and reviewed in accordance with Section 15 and 16 of RA No. 8800 also known as “the Safeguard Measures Act.”

Timeline of Application for Renewal of Authority to Operate as Customs Bonded Warehouse (CBW)

AOCG Memo No. 404-2022 implements the provisions of CMO No. 03-2022 which sets the timeline of application for the renewal of authority to operate as a CBW and the deadline of submission to the CBWC.

AOCG Memorandum No. 404-2022 dated 21 November 2022

- ▶ By virtue of Section 4.1 of CMO No. 03-2022, the Application for Renewal shall be filed with the Collection District having jurisdiction over the Customs Bonded Warehouse (CBW) not earlier than 120 days but not later than 91 days before the expiration of the Authority.
- ▶ Moreover, Section 4.2 thereof states that Common Customs Bonded Warehouses (CCBW), Industry-Specific Customs Bonded Warehouses (ICBW) and Manufacturing Customs Bonded Warehouses (MCBW) with more than 10 members or Client End-Users or Client-Exporters, may file the application for renewal jointly within 150 days but shall not be later than 91 days before the expiration of the Authority.
- ▶ All District Collectors are enjoined to follow Section 4.4.4 of the abovementioned CMO, which provides that endorsement of the complete documents to the CBWC its Secretariat headed by the Warehousing Coordination Division, shall be made within 20 days from the receipt thereof.

SEC Memorandum Circular no. 09 states the SEC adopted measures in the filing of annual reports with the Commission

SEC Filing, Payments and Other Deadlines

SEC Memorandum Circular no. 09 dated 12 December 2022

In compliance with the zero-contact policy and automation of business-related transactions mandated by Republic Act. No. 10032, otherwise known as the "Ease of Doing Business and Efficient Government Service Delivery Act of 2018", the SEC adopted measures in the filing of annual reports with the Commission.

AUDITED FINANCIAL STATEMENTS

► Coverage and Filing Periods

Coverage	Annual Report	Filing Periods
<p>All corporations, including branch offices, representative offices, regional headquarters and regional operating headquarters of foreign corporations, whose <i>fiscal years ended on 31 December 2022</i></p> <p>Note: All corporations under the jurisdiction of the SEC Extension Offices shall be governed by the same coding schedule in 2023.</p>	Audited Financial Statements (AFS)	Through the SEC Electronic Filing and Submission Tool (eFAST), in accordance with the following schedule, depending on the last numerical digit of their SEC registration or license numbers:
Those whose <i>fiscal years end on a date other than 31 December 2022</i>	AFS	Within 120 calendar days from the end of their respective fiscal years

Coverage	Annual Report	Filing Periods
1) Those with securities listed on the Philippine Stock Exchange (PSE) 2) those whose securities are registered but not listed on the PSE 3) those considered as public companies, and 4) other entities covered under Sec.17.2 of the Securities and Regulation Code (SRC)	AFS	Within 105 calendar days after the end of fiscal year, as attachment to their Annual Reports (SEC Form 17-A), in accordance with the Implementing Rules and Regulations of the SRC
Brokers and dealers whose fiscal years end on 31 December	SEC Form 52-AR	Depending on the last numerical digit of the brokers and dealers' registration numbers as prescribed by the Commission
Brokers and dealers whose fiscal years end on a date other than 31 December		Within 110 calendar days after the close of their respective fiscal years
Exception: Those whose AFS are being audited by the Commission on Audit (COA) provided that the following documents are attached to their AFS:		
(i) An affidavit signed by the President and Treasurer (or Officer, where applicable) attesting to the fact that the company provided the COA with the financial statements and supporting documents in a timely manner and that the audit of the COA has just been concluded; and		
(ii) A letter from the COA confirming the information provided in the above affidavit.		

► **Other Requirements - AFS**

1. The AFS to be submitted, other than the consolidated financial statements, shall be stamped "**received**" by the BIR or its authorized banks, unless the BIR allows an alternative proof of submission. For companies which filed their AFS through the BIR e-AFS system, they shall attach the system-generated *Transaction Reference Number* issued by the BIR, in lieu of the manual "received" stamp.
2. The AFS shall include the basic components prescribed under the Revised SRC Rule 68. Failure to comply with any of the formal requirements under said Rule shall be considered a sufficient ground for the imposition of penalties by the SEC.

3. The following shall submit annual audited financial statements (AAFS), as provided under the general financial reporting requirements stated in Revised SRC Rule 68:

- ▶ Stock corporations with total assets or total liabilities of Php600,000.00 or more
- ▶ Nonstock corporations with total assets or total liabilities of Php600,000.00 or more
- ▶ Branch offices/representative offices of stock foreign corporations with assigned capital in the equivalent amount of Php1,000,000.00 or more
- ▶ Branch offices/representative offices of nonstock foreign corporations with total assets in the equivalent amount of Php1,000,000.00 or more
- ▶ Regional operating headquarters of foreign corporations with total revenues in the equivalent amount of Php1,000,000.00 or more

Financial statements of branch offices of foreign corporations licensed to do business in the Philippines shall comply with the requirements of this Rule unless they are otherwise determined by the Commission as not applicable.

4. Corporations, which do not meet the thresholds stated above, may submit their AFS accompanied by a duly notarized Treasurer's Certification only.

GENERAL INFORMATION SHEET

Coverage	Annual Report	Filing Period
All corporations	General Information Sheet (GIS)	File through eFAST, their GIS within 30 calendar days from: <ul style="list-style-type: none"> a. For stock Corporations, the date of actual annual stockholders' meeting b. For nonstock Corporations, the date of actual annual members' meeting c. For Foreign Corporations, the anniversary date of the issuance of their respective SEC licenses

▶ ALL REPORTS

1. All corporations, both stock and nonstock, are required to file their annual reportorial requirements through eFAST, formerly known as the Online Submission Tool (OST), which may be accessed at <https://cifss-ost.sec.gov.ph/>, following the coding schedule provided above in the case of AFS submissions.

Other reports not yet accepted through eFAST may be submitted through email at ictdsubmission@sec.gov.ph. Submission of reports over the counter and/or through mail or courier under the SEC Express Nationwide Submission (SENS) facility shall no longer be accepted.

Any problem encountered in the enrollment and submission of AFS and GIS in the eFAST shall be accommodated through the email addresses and telephone numbers provided in the SEC Contact Center posted at <https://www.sec.gov.ph/contact-us/>.

2. The SEC shall accept all reports filed through eFAST regardless of their form and contents, and will be reverted only for the following reasons:
 - ▶ Poor image quality (e.g., blurred and unreadable);
 - ▶ Horizontal image orientation;
 - ▶ Wrong company profile; and
 - ▶ Wrong period covered.
3. The reckoning date for the receipt of reports is the date they are initially submitted through eFAST, if the filed report is compliant with the requirements stated above. A report which is reverted, is considered not filed or not received.
4. Reportorial requirements submitted by corporations shall be filed through eFAST, subject to review by the Commission, and further subject to fines and/or penalties for violation of existing laws, rules and regulations, if any.

All other circulars, memoranda and implementing rules and regulations inconsistent with the foregoing provisions shall be deemed modified or amended accordingly.

This Memorandum Circular shall be published in two newspapers of general circulation.

SEC Notice states completion of SEC Headquarters Transfer to Makati and Cessation of Operations in Pasay City.

SEC Notice dated 1 December 2022

The SEC informs the public that it has moved its main-office operations to The SEC Headquarters, 7907 Makati Avenue, Salcedo Village, Bel-Air, Makati City, as of 30 November 2022. Accordingly, the Commission has ceased operations at its former main office within the Philippine International Convention Center (PICC) Complex in Pasay City.

Further, the Commission shall accept and process all applications for company registration, submissions of reportorial requirements, and other transactions through its online portals, email, courier, and other remote means, in observance of the “zero face-to-face transaction” policy, in line with the zero-contact policy and automation of business-related transactions mandated by Republic Act No. 11032, or the Ease of Doing Business and Efficient Government Service Delivery Act of 2018.

Supreme Court Cases

Maibara Geothermal, Inc. v. Commissioner of Internal Revenue

Supreme Court (Second Division) G.R. 250479, promulgated on 18 July 2022

Facts:

Petitioner Maibara Geothermal, Inc. (MGI) filed an administrative claim for refund of its unutilized input VAT for the first, second, third, and fourth quarters of taxable year 2011. The Commissioner of Internal Revenue (CIR) failed to act on MGI's administrative claim which prompted MGI to file various petitions for review before the Court of Tax Appeals (CTA). However, the CTA in Division denied the consolidated petitions, which was affirmed by the CTA *En Banc*.

For purposes of determining the two-year prescriptive period for input VAT refund purposes, the phrase “relevant sales” refers to zero-rated or effectively zero-rated sales of the taxpayer-claimant, and not to its purchase of goods and services from which it incurred input VAT.

MGI now argues that the two-year prescriptive period under Section 112(A) of the Tax Code should be reckoned from the close of the taxable quarter when the sales were made pertaining to the input VAT, and not from the time of its zero-rated or effectively zero-rated sales. In other words, MGI argued that the two-year prescriptive period provided under Section 112(A) of the NIRC, as amended, should be reckoned from the time of the said purchase of goods and services from which it incurred input VAT.

Issue:

Does the phrase “relevant sales” for purposes of refund of unutilized input VAT attributable to zero-rated sales refer to the purchase of goods and services for which the input VAT was generated?

Ruling:

No. The phrase “relevant sales” refers to zero-rated or effectively zero-rated sales of the taxpayer-claimant, and not to its purchase of goods and services from which it incurred input VAT.

Section 112(A) of the Tax Code provides that a VAT refund may be filed within two years from the close of the taxable quarter when the sales were made.

It can be inferred that the phrase “*when the relevant sales were made*” refers to zero-rated or effectively zero-rated sales. Based on the heading of Section 112(A), it is clear that the intent of the said provision is to cover only the refund or tax credits of unutilized input VAT attributable to zero-rated or effectively zero-rated sales. This is supported by the last sentence of Section 112(A) stating that “*where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods or properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales.*”

The phrase “when the relevant sales were made” simply means that the input VAT incurred must be regarded as being related to “such relevant sales,” which should be zero-rated. There must be a direct relation of the purchases that incurred input VAT to the relevant zero-rated sales that were made.

As admitted by MGI, it had no zero-rated or effectively zero-rated sales from the first to fourth quarters of taxable year 2011 unto which the input taxes could be attributable to. Thus, without any zero-rated or effectively zero-rated sales, the attribution requirement or that the input tax due or paid must be attributable to “such sales” cannot be fulfilled or complied with. Hence, MGI is not entitled to refund or tax credit.

Securities and Exchange Commission vs. AZ 17/31 Realty, Inc.

Supreme Court (Second Division) G.R. No. 239010, promulgated on 6 July 2022

Azucena Locsin-Garcia vs. AZ 17/31 Realty, Inc.

Supreme Court (Second Division) G.R. No. 240888, promulgated on 6 July 2022

Facts:

AZ 17/31 Realty, Inc. is a close corporation incorporated on 23 April 2008. By letter addressed to the Compliance and Enforcement Division (CED) of the Securities and Exchange Commission (SEC), Petitioner Azucena Locsin-Garcia sought to revoke the incorporation and registration of AZ 17/31 Realty, Inc. on the grounds of fraud committed in procuring its certificate of registration. It was alleged that one of the incorporators, Pacita Javier, had long been dead at the time of its incorporation.

While the inclusion of a deceased person as an incorporator may be the subject of a criminal case for fraud under the Revised Penal Code, it does not equate to fraud contemplated under the Corporation Code for dissolution of a corporation.

The SEC revoked the certificate of registration and held that Pacita could not have been an incorporator as she already died before the company's incorporation. By misrepresenting that Pacita still had the legal capacity to become an incorporator effectively deceived not only the investing public but also the SEC into approving its AOI. This decision was, however, reversed by the Court of Appeals.

The SEC now argues that the falsification and misrepresentation of material facts in the AOI, such as the name of the incorporator, amount to fraud.

Issue:

Is the inclusion of a dead person as an incorporator considered fraud in procuring a certificate of registration?

Ruling:

No, the inclusion of a dead person as an incorporator is not considered as fraud. While the inclusion of a deceased person as an incorporator may be the subject of a criminal case for fraud under the Revised Penal Code, it does not equate to fraud contemplated under the Corporation Code for dissolution of a corporation.

Fraud in procuring a certificate of registration contemplates two situations:

- a. A company was incorporated with the specific and dominant intention of pursuing a fraudulent business purpose; and
- b. Misrepresentation in Articles of Incorporation to meet the minimum qualifications for incorporation.

These two indicators are not present in the case. The first contemplates that there is exploitation and taking undue advantage of the corporate form and process. While the second one pertains to the compliance with the minimum requirements for incorporation.

In the instant case, there are seven incorporators reflected in AZ 17/31 Realty, Inc. Articles of Incorporation (AOI). Even if Pacita is removed as an incorporator, the company will still have six remaining qualified incorporators. Furthermore, her monetary contribution was not necessary to meet the required minimum paid-up capital of the company.

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We welcome your comments, ideas and questions. Please contact Allenierey Allan V. Exclamador via e-mail at allenierey.v.exclamador@ph.ey.com or at telephone number (632) 8894-8398.

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The deadlines and timelines mentioned in this Tax Bulletin are pursuant to our understanding of the existing administrative issuances of the BIR as of the date of writing. These may be subject to change in light of the recently passed Bayanihan 2, which also authorizes the President to move statutory deadlines and timelines for the submission and payment of taxes, fees, and other charges required by law, among others.