

**RULES AND REGULATIONS IMPLEMENTING  
THE PERSONAL EQUITY AND RETIREMENT ACCOUNT (PERA) ACT OF 2008**

**PERA Rule 1 – Title.**

These rules shall be referred to as the “Implementing Rules and Regulations of the Personal Equity and Retirement Account (PERA) Act of 2008” or the “PERA Rules”.

**PERA Rule 2 – Declared Policy and Interpretation of the PERA Rules.**

These PERA Rules are promulgated pursuant to the declared policy of the State to establish a legal and regulatory framework for voluntary personal retirement plans as a means to promote savings mobilization and capital market development, to contribute to long-term fiscal sustainability through the provision of long-term financing, and to reduce the need for social pension benefits.

Any doubt in the interpretation of these PERA Rules shall be resolved in a manner which would be consistent with the above declared policy.

**PERA Rule 3 – Definition of Terms used in the PERA Rules.**

As used in these PERA Rules, unless the context requires otherwise, the following terms shall have the following meanings:

(a) “*Administrator*” is an entity accredited by the Bureau of Internal Revenue (BIR), after pre-qualification by the concerned Regulatory Authority, who shall be responsible for administering, overseeing and maintaining the records of the individual PERA.

Only an Administrator with a trust license may concurrently perform the functions of an Investment Manager as provided in PERA Rule 4.B.3.

(b) “*Contributor*” is a person of any age with the capacity to contract and possessing a Tax Identification Number (TIN) who establishes and makes contributions to a PERA. The Contributor, directly or through an Investment Manager, makes investment decisions for his PERA. A person above the age of fifty-five (55) years may still open a PERA, provided that he shall comply with the requirements of the PERA Act of 2008 and these PERA Rules.

(c) “*Custodian*” is a separate and distinct entity unrelated to the Administrator, accredited by the BSP to take custody of the PERA Assets. The Custodian, which shall operate independently from the Administrator, shall be chosen by the Contributor. The Bangko Sentral ng Pilipinas (BSP) shall impose such accreditation requirements for PERA Custodians as it may deem necessary or appropriate.

PERA Custodians may be classified as cash custodians and securities custodians. The cash custodian shall maintain custody of all funds in connection with the PERA. The securities custodian shall maintain custody of all securities, evidence of deposits or other evidence of investment. An entity may act as cash and securities custodian at the same time provided such entity is accredited by the BSP under PERA Rules 4.C.1.a and 4.C.1.b.

A Contributor, however, may be considered as a securities custodian under a self-custody arrangement for certain PERA products, which are identified by the concerned Regulatory Authority to be non-transferable, non-negotiable and non-withdrawable. Any movement of securities under a self custody arrangement shall be coursed through the Administrator.

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Notwithstanding the provisions herein, an entity may be accredited as an Administrator and a Custodian provided that such entity shall be prohibited from acting as both Administrator and Custodian with respect to the same particular PERA account.

(d) *“Early withdrawal”* shall pertain to (i) any withdrawal of PERA Assets prior to reaching the age of fifty-five (55) years or the death of the Contributor, except when the entire proceeds from such withdrawal are immediately transferred to another PERA Investment Product and/or another Administrator; (ii) any withdrawal of PERA Assets before the Contributor has made contributions to his PERA for at least five (5) years, except when the entire proceeds from such withdrawal are immediately transferred to another PERA Investment Product and/or another Administrator; or (iii) a premature termination as described in Section 11 of the PERA Act of 2008 and PERA Rule 13 below.

(e) *“Investment Manager”* is a regulated entity, accredited by the concerned Regulatory Authority and authorized by the Contributor, pursuant to a written investment management agreement, to make investment decisions for his PERA. As such, it shall assume fiduciary duty and responsibility for PERA Investments. An Investment Manager shall act with utmost fidelity by observing policies directed towards confidentiality, scrupulous care, safety and prudent management of PERA funds.

(f) *“Personal Equity and Retirement Account (PERA)”* refers to the voluntary retirement account established by and for the exclusive use and benefit of the Contributor for the purpose of being invested solely in PERA investment products in the Philippines.

(g) *“PERA Assets”* mean the aggregate of the assets in the PERA at any one time, including the cash funds and the PERA investment products into which they are invested and reinvested, and all the income earned therefrom.

(h) *“PERA Investment Product”* refers to:

- (i) unit of unit investment trust fund;
- (ii) share of stock of mutual fund;
- (iii) annuity contract;
- (iv) insurance pension product;
- (v) pre-need pension plan;
- (vi) government securities;
- (vii) share of stock or other security listed and traded in a local exchange;
- (viii) exchange-traded bond; or
- (ix) any other category of investment product or outlet which the concerned Regulatory Authority may allow for PERA purposes, provided that the product must be non-speculative, readily marketable, and with a track record of regular income payments to investors.

To qualify as a PERA Investment Product, each specific product must be approved by the concerned Regulatory Authority in accordance with the provisions of PERA Rule 5 before its income or distribution can be granted tax incentives and privileges pursuant to the PERA Act of 2008.

(i) *“Regulatory Authority”* refers to the Bangko Sentral ng Pilipinas (BSP) as regards banks, quasi-banks, trust entities and other supervised financial institutions; the Securities and Exchange Commission (SEC) for investment companies, investment houses, stockbrokerages and pre-need plan companies; and the Office of the Insurance Commission (OIC) for insurance companies.

(j) *“Overseas Filipino”* refers to (1) an individual citizen of the Philippines who is working or deriving income from abroad, including one who retained or reacquired his Philippine citizenship under Republic Act No. 9225, otherwise known as the “Citizenship Retention and Reacquisition Act of 2003”; or (2) the legitimate spouse, whether or not said spouse is of Filipino ancestry, and the children of the Filipino citizen mentioned in item (1) hereof.

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### PERA Rule 4 - PERA Market Participants: Administrator, Investment Manager and Custodian.

#### PERA Rule 4.A. - Administrator.

##### 1. Entities eligible to act as Administrators

An entity must possess both the Qualification and Accreditation Certificate issued by the concerned Regulatory Authority and the Bureau of Internal Revenue, respectively, in order to act as an Administrator.

The following entities may apply with the concerned Regulatory Authority for pre-qualification as a PERA Administrator:

Regulatory Authority	Applicant
Bangko Sentral ng Pilipinas	Banks Trust Entities
Securities and Exchange Commission	Investment company advisers <sup>1</sup> Securities brokers Investment Houses, including those with quasi banking license
Insurance Commission	Insurance companies Insurance brokers *
Concerned Regulatory Authority	Other entities as may be determined by the concerned Regulatory Authority eligible to act as a PERA Administrator

\*(Only juridical entities acting as insurance broker may act as Administrator)

##### 2. Pre-qualification requirements for the Administrator.

The concerned Regulatory Authority shall issue a Qualification Certificate to the applicant upon its compliance with the following requirements:

- (a) The applicant maintains a net worth of at least One Hundred Million Pesos (Php100,000,000.00) at all times.

Net worth shall refer to the combined capital accounts of the Administrator which shall mean the total of the unimpaired paid-in capital, surplus and undivided profits, less:

- (1) The one percent (1%) of the book value of the total volume of PERA assets administered and other capital adjustments as may be required by the concerned Regulatory Authority;
- (2) Total outstanding unsecured credit accommodations, both direct and indirect, extended by the Administrator to directors, officers, all stockholders and their related interests (DOSRI); and
- (3) Appraisal surplus or appreciation credit as a result of appreciation or an increase in the book value of the assets of the Administrator.

DOSRI cited in item a(2) above shall refer to that provided in the Subsection X326.1 of the BSP Manual of Regulations for Banks (MORB), provided that for purposes of this

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<sup>1</sup> As defined under Republic Act No. 2629, otherwise known as the Investment Company Act

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provision, references to a bank as an entity shall be understood to include references to any other type of entity acting as Administrator.

- (b) It has adopted a Manual of Corporate Governance approved by the concerned Regulatory Authority, and is in full compliance therewith.
- (c) It has a clear and sufficient organization plan or structure of its personnel who will perform the PERA administration functions, stating the definition of the duties and responsibilities as well as the line and staff functional relationships.
- (d) It possesses adequate systems and technological capabilities, and the necessary technical expertise and personnel to administer all types of PERA Investment Products, ensure the proper recording and tracking of a Contributor's PERA(s), and perform the other required functions of a PERA Administrator.
- (e) It has submitted proof that it has sufficient personnel who have undergone the requisite training prescribed by the concerned Regulatory Authority to educate the Contributor on:
  - (i) The nature of a PERA;
  - (ii) Privileges, conditions and requirements of a PERA;
  - (iii) The risks and benefits of each type of PERA Investment Product; and
  - (iv) Respective roles of the Administrator, Investment Manager and Custodian.
- (f) It has submitted to, and the concerned Regulatory Authority has approved, the following forms which the Administrator shall use in dealing with the Contributor and his PERA:
  - (1) Pre-Acceptance Disclosure Policy described in PERA Rule 6.A.2.a;
  - (2) Client Suitability Assessment Questionnaire referred to in PERA Rule 6.A.2.b(i);
  - (3) Risk Disclosure Statement, which shall include the standard minimum information referred to in PERA Rule 6.A.2.d below; and
  - (4) Contract between the Contributor and the Administrator referred to in PERA Rule 6.A.2.c.
- (g) It has submitted to, and the concerned Regulatory Authority has approved, its schedule of fees and charges to be imposed for its services as Administrator.
- (h) It has submitted a certification by its Chief Executive Officer (CEO) of the applicant's compliance with all the qualification requirements and an undertaking to comply with the aforementioned requirements while it acts as an Administrator.

Failure to satisfy any of the above requirements shall be a ground for the denial of the application, without prejudice to the re-filing of an application.

### 3. BIR Accreditation Requirements for Administrator

To be accredited by the BIR as a PERA Administrator, the applicant must file an Application for Accreditation (BIR Form No.\_\_\_\_) in triplicate copies (2 copies for the BIR and 1 file copy for the applicant) to the Taxpayer's Service Section (TSS) of the Revenue District Office (RDO) having jurisdiction over the applicant's principal place of business, and shall pay an Accreditation Fee of Five Hundred pesos (P500.00) to the Accredited Agent Bank (AAB) located within the aforementioned RDO. The Application for Accreditation and the Official Receipt of Payment of Accreditation Fee shall be accompanied by the following documents:

- a. Qualification Certificate issued by the concerned Regulatory Authority;
- b. Certified true copy of the current Certificate of BIR Registration;
- c. BIR Tax Clearance; and
- d. Duly stamped received copy of the Income Tax Returns and Value-Added Tax or Percentage Tax Returns (if any), filed for the year immediately preceding the date of application for accreditation.

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### 4. Core Functions of the Administrator

An entity shall perform the following in its role as a PERA Administrator:

- a. educating and inculcating financial literacy in the Contributor;
- b. opening the PERA account/s in the name of the Contributor;
- c. receiving and recording the cash contributions from the Contributor for investment in PERA products;
- d. implementing the Contributor's and/or his Investment Manager's instructions on where to invest the PERA funds;
- e. ensuring that PERA contributions are invested and reinvested in accordance with the prudential guidelines set by the Regulatory Authorities;
- f. observing PERA contribution limits for tax purposes and enforcing withdrawal limits;
- g. reporting to the BIR and the Contributor the contributions made to the PERA and the withdrawals therefrom;
- h. computing the values of investments in accordance with internationally accepted accounting and valuation standards, and reporting the same to the Contributor, the concerned Regulatory Authority and the BIR;
- i. custodizing the cash and securities comprising the PERA with the Custodian;
- j. applying for BIR Income Tax Credit Certificates on behalf of the Contributor;
- k. ensuring that appropriate taxes and penalties relative to PERA are paid to the Government; and
- l. keeping and consolidating records of all contributions, investments, earnings, expenses and withdrawals from the PERA and the valuations of the PERA assets, and making regular reports thereon to the Contributor and the concerned Regulatory Authority on a regular basis or upon the Contributor or concerned Regulatory Authority's request.

### 5. Security for the Faithful Performance of Administrators

As a security for the faithful performance of its duties under the PERA Act of 2008, an Administrator shall hold government securities, equivalent to one percent (1%) of the book value of the total volume of PERA assets administered, earmarked in favor of the Regulatory Authority; provided that the Administrator shall issue an authorization in favor of the respective Regulatory Authority to withdraw, dispose and disburse the proceeds thereof to settle any claims arising from the breach of its duties as evidenced by a final and executory court order; Provided further that the Administrator shall not withdraw, transfer or replace such earmarked securities without prior written instruction from the concerned Regulatory Authority; and provided finally that the Regulatory Authority shall determine the terms of the government securities eligible for such purpose. The security for the faithful performance of Administrator functions shall be in addition to and shall be treated separately from the capital, surplus and undivided profits of the Administrator.

The concerned Regulatory Authority shall determine on a quarterly basis the sufficiency of the security deposit based on the average value of the administered assets for the quarter. Any deficiency of security deposit must be replenished within one week from the end of the quarter. Failure to maintain sufficient security deposit after such period shall be subject to appropriate sanctions.

#### **PERA Rule 4.B - Investment Manager.**

##### 1. Entities Eligible to act as Investment Manager

The following entities may apply with the concerned Regulatory Authority for accreditation as Investment Manager:

- a. trust entities licensed as such by the BSP;
- b. investment company advisers licensed as such by the SEC; and
- c. other entities or individuals as may be determined by the concerned Regulatory Authority as having the qualifications to be accredited as an Investment Manager.

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### 2. Accreditation Requirements for Investment Managers

An entity applying for accreditation shall file a written application certified by the CEO with the concerned Regulatory Authority and submit the following documentary requirements:

- a. Written supervision and control procedures for the conduct of the investment management functions;
- b. Proof of at least 5 years experience in professional investment management;
- c. Certified true copy of educational, professional/technical or other academic qualifications of its principal officers;
- d. Copy of its form contract to be utilized. The agreement between the Contributor and the Investment Manager shall contain the following minimum contents:
  - 1) Overall investment philosophy, standards and practices of the Investment Manager
  - 2) Validation of Contributor's Client Suitability Assessment and Investment Policy Statement made by Contributor's Administrator referred to in PERA Rule 6.A.2.b (i) and (ii).
- e. A schedule of commission charges and/or other fees it will charge for its services; and
- f. such other requirements or qualifications as the concerned Regulatory Authorities may deem necessary.

### 3. Core function of an Investment Manager

An Investment Manager shall make investment decisions for and in behalf of the Contributor in accordance with the authority granted by the Contributor; provided that an Investment Manager shall not be allowed to recommend or sell its own investment products or that of its subsidiaries and affiliates. Such prohibition shall likewise apply to an Administrator who acts as an Investment Manager by reason of being a holder of a trust license pursuant to PERA Rule 3(a).

#### **PERA Rule 4.C - Custodian.**

##### 1. Accreditation Requirements

###### a. Cash Custodian

In addition to the standard pre-qualification requirements for the grant of banking authorities enumerated in Appendix 5 of the MORB, banks applying for authority to act as cash custodian for PERA shall also comply with the following conditions:

- 1) The applicant bank must have complied with the minimum capital required under Subsections X106.1 and X106.2 of the MORB; and
- 2) The Bank's capital adequacy, management, earnings, liquidity, and sensitivity to market risk (CAMEL) composite rating in its latest examination is not lower than "3" with management component score of not lower than "3".

###### b. Securities Custodian

Only banks and other entities with trust license which have complied with the requirements under Subsection X441.5 of the MORB may be accredited as securities custodian.

The BSP may issue from time to time rules and regulations on the accreditation requirements for cash and securities custodian.

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### 2. Core Functions of a Custodian

#### a. Cash Custodian

- 1) To receive all funds in connection with the PERA;
- 2) To receive instructions from the Administrator with regard to the custody and disposition of all funds of the PERA; and
- 3) To report to the Contributor, the Administrator and the concerned Regulatory Authority within ten (10) days after the end of each quarter all financial transactions and all funds in its custody under a PERA.

#### b. Securities Custodian

- 1) To maintain custody of all securities, evidence of deposits or other evidence of investment;
- 2) To receive instructions from the Administrator with regard to the custody and disposition of non-cash assets of the PERA; and
- 3) To report to the Contributor, the Administrator and the concerned Regulatory Authority within ten (10) days after the end of each quarter all financial transactions and all documents in its custody under a PERA.

### **PERA Rule 4.D - Grounds for Suspension or Revocation of Accreditation of Administrator, Investment Manager or Custodian.**

The qualification of an Administrator, and the accreditation of Investment Manager and Custodian may be refused, restricted, suspended or revoked by the concerned Regulatory Authority if, after due notice and hearing, the concerned Regulatory Authority determines that the applicant or licensee:

1. Has willfully violated any provision of the PERA Act of 2008, the PERA Rules or any regulations and issuances by the concerned Regulatory Authority made pursuant hereto, or any other law administered by the concerned Regulatory Authority relevant to its function as a PERA market participant, or providing prudential standards for asset management or has aided, abetted, counseled, commanded, induced or procured such violation;
2. Has failed to supervise, with a view to preventing such violation, a person associated to the applicant or licensee by virtue of an agreement or other types of arrangement and who commits such violation;
3. Has willfully made or caused to be made a materially false or misleading statement in the application for pre-qualification or report filed with the concerned Regulatory Authority, or has willfully omitted to state any material fact that is required to be stated therein or necessary to make the statement therein not misleading;
4. Has failed to maintain the qualifications or requirements for accreditation prescribed under these PERA Rules or has failed to maintain compliance with any of them;
5. Has failed to carry on and manage its PERA-related business and activities in a proper, diligent and efficient manner to the prejudice of the Contributor;
6. Has been subject to regulatory sanctions for (1) violations, which the concerned Regulatory Authority determines to affect its operating conditions and ability as a PERA market participant, such as but not limited to violations affecting required capitalization and/or solvency, or (2) any act or behavior prejudicial to the Contributors;
7. Has been enjoined or restrained by a competent body from engaging in securities,

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banking, or insurance activities;

8. Has failed to enforce or monitor PERA contribution limits entitled to tax incentives; or
9. Has failed to manage or adequately address conflicts of interest in the performance of its functions, which may be identified by the concerned Regulatory Authority as prejudicial to the interests of the Contributor.

For purposes of this subsection, the term "competent body" shall include a foreign court of competent jurisdiction and a foreign financial regulator.

### **PERA Rule 4.E. - Duties of the Administrator, Investment Manager or Custodian in the Event of Suspension or Revocation of their Accreditation**

#### 1. Common Provisions to Administrator, Investment Manager and Custodians

In the event of suspension or revocation of the qualification of an Administrator, or the accreditation of an Investment Manager or Custodian, the concerned entity shall, within three (3) working days from receipt of notice of suspension or revocation from the concerned Regulatory Authority, advise the Contributors of such suspension or revocation by way of direct written notice to each Contributor and through the posting of notices in the premises of the head office and branches of the Administrator, Investment Manager or Custodian.

The Contributor should advise the Administrator of his choice of a new Administrator, Investment Manager or Custodian within three (3) working days from receipt by the Contributor of such notice of suspension or revocation.

#### 2. Administrator

In case of a revocation of the Administrator's qualification, the Administrator shall effect the transfer of Contributor's PERA Assets to the new Administrator of the Contributor's choice, within two working days from receipt of Contributor's advice on the chosen Administrator.

In case of a suspension of the Administrator's qualification, the Contributor may opt to transfer his PERA to a new Administrator and the suspended Administrator shall effect the transfer of the PERA assets to the new Administrator within two (2) working days from receipt of Contributor's advice on the chosen Administrator.

Any withdrawal of PERA Assets from the Administrator by reason of the suspension or revocation of the accreditation of the Administrator shall not be treated as early withdrawal described herein provided that the entire PERA Assets are transferred to another Administrator within the period provided in the preceding paragraph; provided that if the non-compliance with the mandatory period of transfer is due to the Administrator, it shall be personally liable for the early withdrawal penalties on such account.

The BIR may issue rules and regulations on the refusal or revocation of BIR accreditation of an Administrator.

#### 3. Investment Manager

In case of suspension or revocation of the accreditation of the Investment Manager, the Investment Manager shall likewise advise the Administrators of the Contributors. Absent any advice from the Contributor on the choice of a new Investment Manager, the Investment Manager shall turn over to the Administrators such records and documents in his possession pertaining to the Contributors and their PERA within three (3) working days from notification.

#### 4. Custodian

In case of suspension or revocation of the accreditation of the Custodian, the Custodian



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shall likewise advise the Administrators of the Contributors. The Custodian, shall, within two (2) working days, turn over to the new Custodian of the Contributor's choice, with the assistance of the Administrator, all of the Contributor's PERA assets in its custody. The Custodian shall also submit to the Administrator a report on all financial transactions and documents in its custody under the PERA within the same period.

### PERA Rule 5 - PERA Investment Product.

#### A. Prior Approval for PERA Investment Product

1. An Investment Product falling under any category of PERA Investment Products enumerated in PERA Rule 3.A(h), must be approved by the concerned Regulatory Authority before the BIR can grant tax-exempt privileges to its holders.
2. Any other investment product or outlet may be offered as a PERA Investment Product, provided that the concerned Regulatory Authority approves such if in its judgment, other investment product or outlet shall be:
  - a. Non-speculative;
  - b. Readily marketable; and
  - c. Have a track record of regular income payment to investors.

The concerned Regulatory Authority shall issue guidelines relative to the application of the aforementioned criteria in qualifying an investment product or outlet as PERA Investment Product.

#### B. Disclosure of Risks

The concerned Regulatory Authority shall prescribe the standard minimum information on the nature and risks of each category of PERA Investment Product which all Administrators and Investment Managers shall be required to give all Contributors who engage their services. (General Risk Disclosure Statement)

A risk disclosure statement in conformity with the form prescribed by the concerned Regulatory Authority shall be a requirement for the approval of a PERA Investment Product. Such statement shall be provided by the Administrator and/or the Investment Manager to the Contributors who may wish to invest therein. (Specific Risk Disclosure Statement)

The Administrator and/or the Investment Manager and the Contributor shall affix their signatures in the General Risk Disclosure Statement which shall form part of the Administrator's files.

#### C. Classification of PERA Investment Products

The Administrator must classify individual PERA products according to the following investor-risk profile classification:

1. Conservative – for investment products which are investment grade and composed of highly liquid investments, government securities, Republic of the Philippines' bonds, deposits with local banks/branches of foreign banks operating in the Philippines and deposits with financial institutions provided that said financial institution has at least an investment grade credit rating from a reputable credit rating agency duly accredited by the SEC.
2. Moderate – for investment products which may provide potential returns that are higher than the regular traditional deposit products but with higher level of risk.
3. Aggressive – for investment products which provide considerably high return on capital but may involve volatility of returns and higher possibility of loss of investment.

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The Administrator must disclose such classification for each category of PERA Investment Product to the Contributor.

### D. Valuation of PERA Investment Products

Each PERA Investment Product shall be valued in accordance with the valuation methodology, standards and reporting requirements as prescribed by the concerned Regulatory Authority for that category of PERA Investment Product; provided that such valuation methods and standards are in accordance with internationally accepted accounting and valuation standards.

### PERA Rule 6. - Establishment and Administration of PERA.

#### PERA Rule 6.A. - Establishment of PERA.

1. A Contributor may create and maintain a maximum of five (5) PERA at any one time, provided the Contributor shall designate and maintain only one (1) Administrator for all his PERAs. Each PERA shall be confined to one category of investment product.

The Contributor shall make all investment decisions pertaining to his PERA. However, he has the option of appointing an Investment Manager, either in writing or in electronic form, to make investment decisions on his behalf without prior consultation.

2. The Administrator must observe the following procedures in the establishment of a PERA:

#### a. Pre-Acceptance Disclosure Policy

The Administrator shall adopt a Pre-Acceptance Disclosure Policy which shall provide for the disclosure to the potential Contributor of the following:

- 1) the nature of a PERA, the privileges and conditions of its establishment; emphasis must be placed on the long-term nature of PERA, the conditions for tax exemption and penalties for early withdrawal unless the early withdrawal is allowed under the exceptions provided in the PERA Act of 2008;
- 2) the category and classification of PERA Investment Products available to a Contributor;
- 3) the risks associated with each category of PERA Investment Product and forming part of the Risk Disclosure Statement; and
- 4) the specific obligations and responsibilities of the Administrator, Investment Manager and Custodian of PERAs.

#### b. Account Opening Process

The account opening process shall at least involve the following:

##### 1) Conduct of Client Suitability Assessment

The Administrator shall require Contributors to accomplish a client suitability questionnaire prior to the acceptance of such Contributor's PERA investment.

The Client Suitability Assessment shall aim to provide the Administrator with information leading to the prudent administration of the PERA suited to the investment objectives and risk tolerance of the Contributor. The Client Suitability

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Assessment shall be formulated to solicit, at the minimum, the following information:

- a) Personal Data – Minimum personal information that are unique to the Contributor which shall also cover demographics and know-your-client (KYC) information, as required by the Anti-Money Laundering Act of 2001, as amended, the designated beneficiaries and other relevant personal information.
- b) Investment Objective – A clear statement or definition of the Contributor's investment goals/purposes.
- c) Knowledge and Financial Sophistication – The Administrator must take into account the knowledge, experience, and financial sophistication of the potential Contributor to assess the level of investment sophistication. Experience relates to the categories of investment products the Contributor is familiar with, acquired from actual/personal investment experience, or of similar investment circumstances.
- d) Risk Tolerance – The Administrator shall classify a Contributor in accordance with its pre-set internal risk classification only after a careful and objective overall assessment of the Contributor's personal and financial circumstances, attitude towards risk, investment expectations, level of investing experience, and the degree of uncertainty that the Contributor can handle in regard to a negative change in the value of his/her investment PERA product.

### 2) Formulation of Investment Policy Statement

Based on the results of the Client Suitability Assessment the Administrator shall formulate an Investment Policy Statement which shall communicate to Contributors the results of the assessment. The Investment Policy Statement must reflect the investment objectives and risk tolerance of the Contributor and provide a clear frame of reference for investment decisions. It must include, at a minimum, a description of the following:

- a) investment objective(s)
- b) investment strategy – indicating the categories and classification(s) of PERA Investment Products suited to the Contributor's investment objective(s).
- c) investment performance review – indicating proposed market benchmarks, if any, and the desired frequency of the performance review / reporting.
- d) investment limits – identifies any limitation which the Contributor may have for the PERA.

A copy of the Investment Policy Statement shall be furnished the Contributor, and shall form part of the Contributor's contract with the Administrator.

### c. Documentation

The contract between the Administrator and the Contributor shall be established formally through a written agreement which shall contain the following provisions:

- 1) Nature of the relationship between the Administrator and Contributor – whether that of trust or agency;
- 2) Description of the services to be provided;

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- 3) All fees and charges to be imposed and how the charges are calculated;
- 4) Reporting and notice obligations of the Administrator to the Contributor;
- 5) Identification of the Contributor's Investment Manager, if any, authorized by the Contributor to direct the PERA investments;
- 6) Provision for the appointment by the Contributor of a Custodian unrelated to the Administrator; and
- 7) General Statement on the long-term nature of PERA, the conditions for tax exemption and penalties for early withdrawal.

### d. Risk Disclosure Statement

The Administrator shall provide the Contributor with a clearly stated and easily understood General Risk Disclosure Statement, which shall form part of the contract between the Administrator and the Contributor. The Risk Disclosure Statement shall contain, among others, the following provisions:

- 1) The general risks associated with each category of PERA Investment Product, as provided in PERA Rule 5.2 above;
- 2) Cautionary statement on the general risks of investing associated with each category of PERA Investment Product;
- 3) Such statement must be given due prominence, and not to be concealed or masked in any way by the wording, design or format of the information provided;
- 4) Advisory statement for certain types of PERA Investment Products that said Investment Products can be subject to sudden and sharp falls in value such that the Contributor may lose some or all investment;

### e. Investment Options

The Administrator shall inform the Contributor of the full range of PERA Investment Products with emphasis on the specific category of products corresponding to his risk profile classification as borne by the results of his Client Suitability Assessment. The Administrator, however, shall provide a process for allowing Contributors to invest in PERA Investment Products not falling within his risk profile classification; provided that any such investment may be allowed only upon the prior written instruction of the Contributor.

The Contributor shall indicate in writing whether he intends to make investment decisions for his own PERA or if he intends to appoint an Investment Manager.

### **PERA Rule 6.B - Account Administration.**

It is the duty of the Administrator to administer the PERA and perform its core functions as PERA Administrator solely for the benefit of the Contributor.

PERA administration shall involve the following basic duties, among others:

1. Reporting to the BIR on:
  - a. Establishment of a PERA by the Contributor;
  - b. Tax-privileged contributions made to a PERA;
  - c. PERA investment products to which the tax-privileged Contributions are invested;
  - d. Termination of a PERA or withdrawals made by the Contributor; and
  - e. Taxes withheld and penalties paid in case of early termination or withdrawal.

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2. Applying for tax credit certificates from the BIR for and behalf of the Contributor and furnishing the same to the Contributor.
3. Reporting to the Contributor the sale and purchase of PERA Assets.
4. Providing the Contributor, at least quarterly, with a summary of the following information:
  - a. Total contributions and withdrawals for each PERA, indicating therein the total amount of contributions entitled to tax incentives;
  - b. Total income earned on the Contributions, indicating those entitled to income tax exemption;
  - c. Total fees and charges assessed and paid by the Contributor to:
    - 1) the Administrator for PERA administration services;
    - 2) the Investment Manager, if any, for investment management services; and
    - 3) the Custodian for custodial services with respect to the PERA assets;
  - d. Purchase and sale transactions of PERA assets implemented and those pending execution; and
  - e. Valuation of the PERA assets and investments.

### **PERA Rule 7. - Maximum Annual PERA Contributions.**

#### **A. Maximum Annual PERA Contribution and Tax Incentives thereto**

The maximum amount of annual contributions entitled to a five percent (5%) tax credit shall be One Hundred Thousand Pesos (P100,000.00) or its equivalent in any convertible foreign currency at the prevailing rate at the time the Administrator receives the contribution.

If the Contributor is married, each of the spouses shall be entitled to make a maximum annual contribution of One Hundred Thousand pesos (P100,000.00) or its equivalent in any convertible foreign currency to his/her respective PERA.

Overseas Filipinos shall be allowed to make maximum contributions double the allowable maximum amount provided herein.

A Contributor has the option to contribute more than the maximum annual amount prescribed herein, provided that the excess contribution shall no longer be entitled to a tax credit of five percent (5%) and that the investment income made therefrom is not exempt from tax.

The Secretary of Finance may adjust the maximum contribution from time to time, taking into consideration the present value of the said maximum contribution using the Consumer Price Index as published by the National Statistics Office, the fiscal position of the government and other pertinent factors.

#### **B. Special Rules for Overseas Filipinos**

##### **1. Special requirements for Overseas Filipinos**

An Overseas Filipino can avail of the tax incentives corresponding to his contributions of twice the allowable maximum amount, upon submission of the following additional requirements:

- a. For an individual citizen of the Philippines who is working or deriving income from abroad, he shall submit the Overseas Employment Certificate (OEC) or its equivalent document issued by the Philippine Overseas Employment Administration (POEA).

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- b. For an individual who has retained or reacquired his Philippine citizenship under Republic Act No. 9225, otherwise known as the "Citizenship Retention and Reacquisition Act of 2003", he shall submit the Identification Certificate issued by the Bureau of Immigration, to prove his reacquisition of Philippine citizenship, and his income tax return filed in the foreign country, to show that he is earning income in such foreign country.
- c. For the legitimate spouse of the individual referred to in (i) and (ii), the marriage certificate shall be submitted in addition to the documents mentioned in (i) and (ii).
- d. For any child of the individual mentioned in letter (i) and (ii), the birth certificate of the child shall be submitted in addition to the documents mentioned in (i) and (ii).

### **PERA RULE 8 - Employer's Contribution.**

A private employer may contribute to its employee's PERA to the extent of the maximum amount allowable to the Contributor: *Provided, however,* that the employer complies with the mandatory Social Security System (SSS) contribution and retirement pay under the Labor Code of the Philippines. Such contribution shall be allowed as a deduction from the employer's gross income. The Contributor, however, retains the prerogative to make investment decisions pertaining to his PERA.

### **PERA Rule 9. Separate Asset.**

The PERA shall be kept separate from the other assets of the Administrator/Custodian and shall not be part of the general assets of the Administrator/Custodian for purposes of insolvency.

### **PERA Rule 10 – Tax Treatment of Contributions.**

The Contributor shall be given an income tax credit equivalent to five percent (5%) of the total PERA contribution: *Provided, however,* that in no instance can there be any refund of the said tax credit arising from the PERA contributions. If the Contributor is an overseas Filipino, he shall be entitled to claim tax credit from any tax payable to the National Government under the National Internal Revenue Code of 1997, as amended.

### **PERA Rule 11 - Tax Treatment of Investment Income.**

All income earned from the investments and reinvestments of the maximum amount allowed herein are tax-exempt.

### **PERA Rule 12 - Tax Treatment of Distributions.**

All distributions in accordance with PERA Rule 14 hereof are tax-exempt.

### **PERA Rule 13- Premature Termination.**

A. Any termination not falling under PERA Rule 14 on tax-free distributions shall constitute premature termination of a PERA and shall be treated as an early withdrawal under PERA Rule 15 hereof: *Provided,* That the penalties thereunder shall not apply if the PERA Assets are transferred to another PERA investment and/or another Administrator within the mandatory periods herein.

B. Premature termination shall not occur in the event that the Contributor, upon giving the instruction to terminate the PERA or to withdraw the PERA Investment Products, directs the

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Administrator to transfer the entire proceeds therefrom to other PERA Investment Products and/or to another Administrator.

### **PERA Rule 14 -Tax –Free Distributions Upon Retirement/Death.**

A. Upon attaining the age of fifty-five (55) years and subject to the requirement that the Contributor has made contributions for at least five (5) years, the Contributor may elect to terminate the PERA and withdraw the PERA Assets therefrom.

The Contributor shall inform the Administrator whether he elects to receive the proceeds of his PERA in either lump sum or pension for a definite period or lifetime pension.

Notwithstanding the presence of the conditions for tax-free distributions, the Contributor may opt to continue his PERA and enjoy the corresponding tax-privileges.

B. Upon the death of the Contributor, the Administrator shall terminate the PERA and release the PERA Assets to the designated beneficiary/ies. However, should there be no designated beneficiary/ies, the PERA Assets shall be paid to the estate of the deceased Contributor in accordance with the laws on succession and Rules of Court. The proceeds of the PERA distribution shall not form part of the estate subject to estate tax.

### **PERA Rule 15 - Penalty on Early Withdrawal.**

A. Any premature termination under PERA Rule 13 shall constitute an early withdrawal subject to penalties.

The Administrator shall forthwith:

1. Compute and withhold from the proceeds due to the Contributor the early withdrawal penalty in an amount equivalent to the tax incentives enjoyed by the Contributor during the entire period of the PERA.
2. Notify the BIR of the early withdrawal of the PERA and remit the early withdrawal penalties withheld from the Contributor.

B. No early withdrawal penalty shall be imposed on any withdrawal of funds upon presentation of the following documents evidencing the purposes stated under Section 13 of the PERA Act of 2008:

1. A notarized doctor's certificate attesting to an accident or illness-related hospitalization in excess of thirty (30) days; or
2. Certification from the pertinent government agency that the Contributor has been subsequently rendered permanently totally disabled as defined under the Employees Compensation Law, Social Security Law or Government Service Insurance System Law.

C. The distribution of the funds for which the Contributor did not enjoy any tax incentive shall not be subject to any early withdrawal penalty.

### **PERA Rule 16 - Non-Assignability.**

No portion of the PERA Assets may be assigned, alienated, pledged, encumbered, attached, garnished, seized or levied upon. The prohibition against involuntary attachment, garnishment, seizure or levy shall continue to apply to PERA Assets which have been distributed in accordance with Section 12 of the PERA Act of 2008 and PERA Rule 14. PERA

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Assets shall not be considered assets of the Contributor for purposes of insolvency and estate taxes.

### **PERA Rule. 17 - Administration of Tax Incentives.**

The BIR shall issue the implementing revenue rules and regulations regarding all aspects of tax administration relating to PERA.

### **PERA Rule 18 - Penalty.**

A fine of not less than Fifty thousand pesos (P50,000.00) nor more than Two hundred thousand pesos (P200,000.00) or imprisonment of not less than six (6) years and one (1) day to not more than twelve (12) years or both such fine and imprisonment, at the discretion of the court, shall be imposed upon any person, association, partnership or corporation, its officer, employee or agent, who, acting alone or in connivance with others, shall:

- a. Act as Administrator, Custodian or Investment Manager without being properly qualified or without being granted prior accreditation by the concerned Regulatory Authority;
- b. Invest the contribution without written or electronically authenticated authority from the Contributor, or invest the contribution in contravention of the instructions of the Contributor;
- c. Knowingly and willfully make any statement in any application, report, or document required to be filed under this Act, which statement is false or misleading with respect to any material fact;
- d. Misappropriate or convert, to the prejudice of the Contributor, contributions to and investments or income from the PERA;
- e. By gross negligence, cause any loss, conversion, or misappropriation of the contributions to, or investments from the PERA; or
- f. Violate any provision of this Act or rules and regulations issued pursuant to this Act.

Notwithstanding the foregoing, any willful violation by the accredited Administrator, Custodian or Investment Manager of any of the provisions of this Act, the PERA Rules, relevant rules and regulations issued by the concerned Regulatory Authorities or other terms and conditions of the authority to act as Administrator, Custodian or Investment Manager may be subject to the administrative sanctions provided for in applicable laws.

The above penalties shall be without prejudice to whatever civil and criminal liability provided for under applicable laws for the same act or omission.

### **PERA Rule 19 - Abuse of the Tax Exemption and Privileges.**

Any person, natural or juridical, who unduly avails of the tax exemption privileges herein granted shall be subject to the penalties provided in Section 17 of the PERA Act of 2008. In addition, the offender shall refund to the government double the amount of the tax exemptions and privileges enjoyed under the PERA Act of 2008, plus interest of twelve percent (12%) per year from the date of enjoyment of the tax exemptions and privileges to the date of actual payment.



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**PERA Rule 21 - Effectivity.**

These rules shall take effect immediately upon its publication in a newspaper of general circulation.

**APPROVED ON 21 OCTOBER 2009**

**BY:**

**BANGKO SENTRAL NG PILIPINAS**

By:

  
**AMANDO M. TETANGCO, JR.**  
Governor


**SECURITIES AND EXCHANGE COMMISSION**

By:

  
**FE B. BARIN**  
Chairman

**DEPARTMENT OF FINANCE**

By:

  
**JEREMIAS N. PAUL, JR.**  
Undersecretary

**OFFICE OF THE INSURANCE COMMISSIONER**

By:

  
**EDUARDO T. MALINIS**  
Commissioner

**BUREAU OF INTERNAL REVENUE**

By:

  
**NELSON M. ASPE**  
Deputy Commissioner