



BANGKO SENTRAL NG PILIPINAS

OFFICE OF THE GOVERNOR

CIRCULAR NO. 1081

Series of 2020

Subject: **Amendments to the Regulations Governing the Personal Equity and Retirement Account (PERA)**

The Monetary Board in its Resolution No. 1683 dated 31 October 2019, approved the amendments to the Manual of Regulations for Banks (MORB) and Manual of Regulations for Non-Bank Financial Institutions (MORNBF) relative to the implementation of the PERA Act of 2008 and its Revised Implementing Rules and Regulations (Revised PERA Rules).

To streamline the PERA investment process and improve operational efficiency, the Revised PERA Rules introduced the PERA cash self-custody arrangement. Under this arrangement, the Contributor will have the option to be the custodian of his own PERA funds and income thereof. The amendment also granted the concerned regulatory authority the flexibility to issue rules and regulations with respect to the accreditation requirements for custodians and administrators and to prescribe the basic security deposit for the faithful performance of Administrator's duties. In order to provide guidance on the administration and recording of PERA funds under a self-custody arrangement and to ensure adherence to the Revised PERA Rules, the following guidelines are hereby issued.

Section 1. Sections 1121/4960Q of the MORB/MORNBF are hereby amended as follows:

Secs. 1121/4960Q PERSONAL EQUITY AND RETIREMENT ACCOUNT (PERA) MARKET PARTICIPANTS AND PERA INVESTMENT PRODUCTS

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Qualification/Accreditation requirements

- a. As an Administrator. The Bangko Sentral shall issue a Qualification Certificate as Administrator to an entity upon compliance with the following requirements:

- (1) The applicant shall have a net worth of at least Php100 million.

Net worth shall refer to the total of the unimpaired paid-in capital, surplus and undivided profits, net of:

- (a) The required basic security deposit for the faithful performance of PERA Administrators' duties;
- (b) Total outstanding unsecured credit accommodations, both direct and indirect, extended by the Administrator to DOSRI; and
- (c) Other capital adjustments as may be required by the Bangko Sentral.

DOSRI cited in Item "1(b)" above shall xxx.

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Security for the faithful performance of Administrators' duties.

As a security for the faithful performance of its duties under the PERA Act, an Administrator shall hold eligible government securities, equivalent to at least one-half percent (0.5%) of the book value of the total volume of PERA assets administered, earmarked in favor of the Bangko Sentral: *Provided*, That the Administrator shall issue an authorization in favor of the Bangko Sentral 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 Bangko Sentral. The security for the faithful performance of the Administrator's duties shall be in addition to and shall be treated separately from the capital, surplus, and undivided profits of the Administrator.

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- a. Valuation of securities and basis of computation of the basic security deposit requirement.

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The provisions under Item "a(i)" above shall no longer apply effective 31 March 2018. Meanwhile, Item "a(ii)" shall no longer apply starting the reporting period 31 December 2019. The provisions on the valuation of government securities shall be adopted, as follows:

- (i) Government securities deposited with the Bangko Sentral shall be measured at fair value according to the marking-to-market guidelines for government securities under Appendix 28/Q-20, subject to applicable haircuts (effective 31 March 2018).

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(ii) The base amount for the basic security deposit shall be the PERA assets reported as of the end of the calendar quarter (effective 31 December 2019).

b. Compliance with the basic security deposit requirement.

(1) Compliance¹. The Administrator shall ensure compliance with the required basic security deposit at all times. Any deficiency arising from a withdrawal, replacement or redemption transaction must be corrected through the immediate posting of additional securities. In case a deficiency is calculated at the end of the calendar quarter, the Administrator shall have a grace period of thirty (30)-calendar days reckoned from the end of the reference calendar quarter within which to deposit with the Bangko Sentral the securities required under this Section.

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Section 2. Appendices 114/Q-63 of the MORB/MORNBFI on the Operational Guidelines on the Administration of the Personal Equity and Retirement Account are hereby amended as follows:

Appendix 114/Q-63

Operational Guidelines on the Administration of the Personal Equity and Retirement Account (PERA)
(Appendix to Section 1121/4960Q)

Pursuant to R.A. No. 9505 also known as the Personal Equity and Retirement Account (PERA) Act of 2008 (PERA Act) and its Revised Implementing Rules and Regulations (Revised PERA Rules), the following operational guidelines on the administration of PERA are hereby issued. Certain capitalized terms herein used shall have the definitions ascribed to them in the Revised PERA Rules unless the context otherwise requires.

I. ACCOUNT OPENING

A. Eligibility Review and Pre-acceptance Disclosure

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2) The administrator shall –

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¹ The provisions on quarterly compliance and compliance upon deposit, withdrawal, replacement or redemption became effective on 31 March 2018.

(d) Fully disclose to the potential contributor the following, using the Pre-Acceptance and General Risk Disclosure Statement (PGRDS):

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iv. xxx;

v. Option to either appoint a third-party cash custodian or to be the custodian of his own PERA funds; and

vi. Option to elect an investment manager (Advisor).

B. Account Opening Process

1) The administrator shall –

(a) xxx

(b) Inform the contributor xxx;

(c) Execute the PERA Administration Agreement (PAA) and furnish the contributor copies of the PAA along with the PGRDS and PCSA;

(d) Ensure that the contributor's account opening details are lodged in the PERA System; and

(e) Facilitate the contributor's appointment of a cash custodian, or a designated depository bank that meets the prudential criteria provided in Section 111 of the MORB (in case of PERA self-custody arrangement); and as necessary, a securities custodian.

Where the contributor elects to be the custodian of his own PERA funds, the administrator shall require the contributor to open a self-custody deposit account with the designated depository bank of the administrator. This account shall be used to custodize all PERA funds except for PERA deposit products.

2) The designated depository bank shall ensure that:

(a) The PERA self-custody deposit account shall be used exclusively for purposes contemplated under the PERA Rules;

(b) All funds under the account are non-transferrable except for instances set forth in the PERA Rules; and

- (c) Withdrawal or transfer of any amount therefrom that is not consistent with the PERA Rules shall result in the termination of the self-custody account, including all PERA investments.

Moreover, the designated depository bank shall adopt appropriate risk management systems and controls to ensure protection of PERA funds from misuse or misappropriation.

- 3) In the case of a contributor who opts to engage xxx. The said agreement shall set forth at a minimum, the overall investment philosophy, standards, and practices of the investment manager (Advisor) and the validation by the investment manager (Advisor) of the contributor's PCSA. xxx
- 4) An entity who is offering a PERA investment product xxx. Appropriateness of the PERA investment product based on PCSA of the contributor shall be validated by the administrator.

II. ACCOUNT ADMINISTRATION

A. Contributions

- 1) The administrator shall –

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- (c) Ensure that all contributions are directly remitted to the cash custodian or in the case of PERA self-custody arrangement, facilitate remittance of contribution to the depository bank;
- (d) Ensure that the funds credited to the PERA self-custody account are promptly invested in a PERA product after receipt of instruction from the contributor, except for the following instances:
 - (i) when the balance of such account is insufficient for reinvestment; or
 - (ii) in special circumstances, such as due to transfer/change of administrator or investment product. However, in no case shall the investment be made later than fifteen (15) calendar days from receipt of the contributor's instruction; otherwise, the administrator shall be personally liable for the early withdrawal penalties that may be imposed by the BIR

- (e) Maintain a record of all contributions made to the PERA on per account and aggregate basis;
 - (f) Ensure that the PCSA is periodically updated or as often as may be necessary, xxx;
 - (g) Apply for certificate xxx;
 - (h) Accept the contributions of an xxx;
 - (i) Issue to the employer xxx; and
 - (j) Secure from the employer xxx.
- 2) The cash custodian shall –
- xxx
- 3) xxx
- 4) The designated depository bank shall ensure that the PERA self-custody account is kept separate from other deposit accounts of the contributor.

B. Choice of PERA Investment Product

- 1) The administrator shall –
- (a) Execute the contributor’s or his investment manager’s (Advisor) instruction as indicated in the PCIIF;
 - (b) Based on the PCIIF, facilitate remittance of funds to the chosen PERA product provider;

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- 2) The cash custodian shall execute the administrator’s instruction as to disposition of the funds.

In case of self-custody of PERA funds, the administrator shall facilitate the execution of the contributor’s instruction as to the disposition of funds.

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C. Change of PERA Investment Product

- 1) PERA investment product/s may be changed: *Provided*, That the entire PERA assets arising from the sale shall be transferred to another PERA Investment Product/s within fifteen (15) calendar days from withdrawal thereof.
- 2) xxx
- 3) The administrator shall –
 - (a) Execute the investment instructions of the contributor or his investment manager (Advisor) as indicated in the PCIIF; and
 - (b) Coordinate with PERA Product provider, cash custodian/designated depository bank and securities custodian as to disposition of the PERA assets.

D. Suspension or Revocation of Qualification/Accreditation

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In the event of suspension or revocation of their qualification/accreditation:

- 1) The former administrator shall –
 - a) Effect the transfer of PERA assets to the new administrator chosen by the contributor within fifteen (15) calendar days from receipt of contributor's advice; otherwise, the former administrator shall be personally liable for the early withdrawal penalties which may be imposed by the BIR; and

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E. PERA Records and Reports

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- 3) The cash and securities custodians shall submit the following reports to –

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- (b) The Bangko Sentral – quarterly reports on all PERA assets and documents under their custody which shall form part of the financial reporting package of banks and trust entities.

The quarterly reporting requirements as provided under Items “3(a)” and “3(b)” shall not apply in case of self-custody of PERA funds.

- 4) All funds received from contributors under a PERA self-custody arrangement shall be recorded as part of deposit liabilities under the “PERA Self-Custody Deposit Account” in the books of the designated depository bank. This account shall be governed by the following guidelines:
 - (a) The account shall have the following features:
 - (i) No dormancy charges;
 - (ii) No minimum maintaining balance;
 - (iii) Non-interest bearing; and
 - (iv) Reserve requirement against deposit liabilities of zero percent (0%)
 - (b) The account shall be used exclusively for facilitating the PERA-related transactions of the contributor.
 - (c) All funds debited therefrom shall be in accordance with the written instruction of the contributor and accepted by the administrator.
- 5) The investment manager (Advisor) shall provide periodic reports to the contributor as stipulated in the PERA investment management (Advisory) agreement.

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III. ACCOUNT WITHDRAWALS, DISTRIBUTIONS AND TERMINATION

A. Early Withdrawal

- 1) The following shall not be subject to early withdrawal penalties:

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- (c) Immediate transfer of assets to another eligible PERA investment product and/or another administrator, who have been discredited either by the BIR or the Bangko Sentral, within fifteen (15) calendar days from withdrawal thereof.

Similarly, the transfer of PERA assets to another administrator for reasons other than the suspension or revocation of

qualification/accreditation of the previous administrator shall not be subject to early withdrawal penalties: *Provided*, That such transfer shall be made within fifteen (15) calendar days from withdrawal thereof.

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B. Qualified PERA Distributions

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C. Release of PERA Assets

1) The administrator shall –

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(d) Compute the early withdrawal penalties, if any in accordance with the rules set forth by the BIR which shall be deducted from the divestment proceeds and instruct the cash custodian to remit the early withdrawal penalties to the BIR;

In case of PERA self-custody arrangement, the administrator shall ensure remittance of early withdrawal penalties to the BIR.

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Section 3. The indicated sections of the Financial Reporting Package (FRP) prescribed under Section 172 of the MORB are hereby amended as follows:

MANUAL OF ACCOUNTS

BALANCE SHEET ACCOUNTS

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3. Deposit Liabilities

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(a) Demand Deposit – xxx

(b) Savings Deposit – xxx

(1) Regular savings account xxx

(2) Kiddie and teen savings account xxx

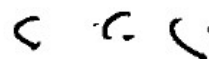
- (3) Basic deposit account xxx
- (4) PERA Self-Custody Deposit Account – refers to the self-custody account of contributors under a PERA self-custody arrangement.
- (5) Other savings account xxx

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Section 4. The corresponding guidelines to implement the relevant reporting structures and dissemination of the accompanying data entry templates including the procedures for electronic submission shall be covered by a separate issuance.

Section 5. Effectivity. This Circular shall take effect fifteen (15) calendar days after its publication either in the Official Gazette or in a newspaper of general circulation.

FOR THE MONETARY BOARD:



BENJAMIN E. DIOKNO
Governor

04 March 2020