

Philippine Bond Market Guide

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The ADB Team has sole responsibility for the contents of this report.

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I. Structure, Type, and Characteristics of the Bond Market

A. Overview of the market

The Philippine domestic bond market consists of short- and long-term bonds, mainly issued by the national government. The Philippine bond market is dominated mainly by Treasury notes and bonds. Although the size of the Philippine corporate bond market is still small relative to government bonds, it has been growing rapidly over the years.

B. Types of Securities

1. By Issuer Category

a. Issued by the National Government through the Bureau of the Treasury (BTr)

- i. Treasury bills (fixed-rate)
- ii. Treasury bonds (fixed-rate coupon-bearing and zeroes)
- iii. Retail treasury bonds (RTBs, fixed-rate coupon-bearing)
- iv. Multi-currency retail treasury bonds (MRTBs, fixed-rate coupon-bearing)
- v. Dollar-linked peso notes (fixed-rate)

b. Issued by the National Government through Other Entities

- i. Debt securities issued by government-owned and -controlled corporations (GOCCs)¹
- ii. Debt securities issued by government agencies

c. Issued by Private Entities²

- i. Straight bonds (corporate notes and bonds)
- ii. Zero-coupon notes and bonds
- iii. Floating-rate corporate notes
- iv. Bank-unsecured subordinated debt capital securities

¹ A list of GOCCs can be found on the website of the Commission on Audit: <http://www.coa.gov.ph/Links/links-goccs.asp>

² Private entities include financial institutions, local corporations, multilateral development banks (MDBs), and non-MDB offshore borrowers.

- v. Certificates of deposit
- vi. Commercial paper (CP), which is an evidence of indebtedness of any person with a maturity of less than 365 days.
- vii. Long-term commercial paper (LTCP), which is an evidence of indebtedness of any person with a maturity of more than 365 days. The term shall include, but not limited to, bonds and notes.
- viii. Acceptances (trade acceptances and bankers acceptances)
- ix. Securitized bonds

2. By Listing Status

a. Debt Securities Listed on the Philippine Dealing and Exchange System

There are three types of government securities issued by the national government through the Bureau of the Treasury (BTr): Treasury bonds, RTBs, and MRTBs.

b. Non-Listed Debt Securities Traded Over the Counter

3. By Offering Type

a. Public Offering. A public offering is sold to both non-qualified and qualified investors. Securities offered are typically registered with the Securities and Exchange Commission (SEC), unless qualified for exemption under the *Securities Regulation Code*.

b. Private Placement. Private placement is sold to a limited number of investors (currently set at 19) and typically to qualified investors only.

4. By Currency of Instruments

- a. Philippine Peso
- b. United States (US) Dollar
- c. Euro

C. Methods of Issuing Bonds by Type of Securities

The methods of bond issuance are different from one bond issuer to another. In the case of government bonds, the method of issuance also depends on whether it is a regular or special issuance.

1. Bonds Issued by Government

a. Regular Issuances

The national government, through the BTr, issues peso-denominated government securities through the following methods of origination as may be prescribed in an offering document:

- i. Auction is a mode of sale or offering government securities participated by accredited Government Securities Eligible Dealers (GSEDs). GSEDs submit their bids electronically through the auction front-end system of the BTr called the Automated Debt Auction Processing System (ADAPS). Submitted bids are evaluated for acceptance, award, or rejection by the Auction Committee composed of the secretary of the Department of Finance (DOF) as chairman;

the treasurer of the Philippines as vice chairman; the deputy treasurer of the Philippines as member and executive director; and an assistant secretary of the DOF, the deputy governor of the Bangko Sentral ng Pilipinas (BSP), the head of Treasury of the BSP, and the head of Market Regulation Department of the SEC as members.

A regular division of the BTr provides administrative support to the Auction Committee.

- ii. The tap method represents the sale of government securities (GS) exclusively to GSEDs whenever there is an acute shortage of securities in the market. The issuance of GS through the tap method is conducted by the BTr.
- iii. The OTC method represents the sale of government securities to tax-exempt institutions, GOCCs, and local government units (LGUs). The issuance of GS through the OTC Method is conducted by the BTr.

All types of securities may be issued or floated through any of the above methods of origination subject to legal limits applicable to a particular class of investors.

b. Special Issuances

Philippine peso-denominated RTBs are targeted for retail investors who can invest a minimum of PHP5,000. RTBs are intended to develop and provide safe investments to small savers. Unlike regular Treasury bonds, RTBs pay fixed quarterly coupon. Interest income per coupon is subject to final withholding tax, currently at 20%, as prescribed by the *1997 Tax Code*, as amended.

US dollar- and euro-denominated MRTBs are targeted for overseas Filipinos and their qualified beneficiaries.³ MRTBs are issued within Philippine jurisdiction. Apart from overseas Filipinos, Foreign Currency Deposit Units are allowed to invest in MRTBs under certain preferential tax application pursuant to the *1997 Tax Code* and tax rulings of the Bureau of Internal Revenue (BIR). Interest income per coupon is also subject to final withholding tax, which is currently at 20%, as stipulated under the *1997 Tax Code*, as amended. The issuer assumes the corresponding final withholding tax on interest income per coupon for overseas Filipino holders or their qualified beneficiaries.

As MRTBs are structured to be transferable across investors of different tax categories, the BTr employs an electronic tax-tracking system to determine investors' holding period for purposes of computing the correct amount of final tax due from investors.

2. Bonds Issued by Government-Owned and -Controlled Corporations and Government Agencies

The authority of GOCCs and government agencies to issue debt securities is subject to the statute or charter of the GOCC or government agency, and to presidential full powers or special authority whenever a sovereign guarantee is required, executed by the president of the Philippines.

Bonds are typically priced and allocated through auction to participating dealers.

³ Overseas Filipinos are Filipino citizens working outside the Philippines under any form of contractual relation.

The terms and conditions of the issuance are prescribed in an offering document or prospectus issued by the GOCC or government agency.

3. Bonds Issued by Private Entities

Private entities generally adopt one of the following methods to issue corporate bonds:

- a. **Public Offer.** Public offer of securities intended for sale to both the retail and qualified investor markets; or
- b. **Private Placement.** Private placement of securities intended to be sold to a limited number of investors, typically qualified investors.

D. Credit Rating of Bonds

As a general rule under *Republic Act (RA) No. 8799*, or the *Securities Regulation Code (SRC) Rule 12.1-6*, a credit rating from an SEC-accredited CRA is required to issue corporate bonds and CPs, except: 1) when the issuance amounts to not more than 25% of the issuer's net worth; or 2) where there is an irrevocable committed credit line with a bank covering 100% of the proposed issuance. Credit rating requirements are applicable to CPs issued by corporations to the public, the offer or sale of which is to be registered under the SRC. Credit rating requirements do not apply to government and government-guaranteed debt securities.

Under the amended Philippine Dealing and Exchange Corporation (PDEX) Rules for the fixed-income securities market, the issuer of the securities seeking to be listed on PDEX must be rated by a CRA duly recognized by the applicable governmental authorities at the time of listing, provided that if such securities are subordinated, such issuer shall also have the securities rated at the time of listing.

E. Credit Rating Agencies

1. Philippine Rating Service Corporation

The Philippine Rating Service Corporation (PhilRatings)⁴ is the only domestic credit rating agency (CRA) in the Philippines accredited by both the BSP and the SEC. The rating agency is also an affiliate of Standard and Poor's.

⁴ PhilRatings started providing credit rating services in 1985. It is accredited by both the Bangko Sentral ng Pilipinas (BSP) and the Securities and Exchange Commission (SEC). It is 70%-owned by Motan Corporation and 30%-owned by CIBI Foundation, Inc. It was initially part of a company known as the Credit Bureau, Inc. (CIBI) which was established by the SEC, and the Financial Executives Institute of the Philippines (FINEX) in 1982 to serve as a third-party source of business and credit information. The credit rating function in the Philippines started in 1985 when a company then known as Credit Information Bureau, Inc. (CIBI) began rating commercial papers as a requirement for registration with SEC. BSP has approved the recognition of PhilRatings as a domestic CRA for bank supervisory purposes. PhilRatings was also accredited by the SEC as a CRA after compliance with the requirements under SRC Rule 12.1 subject to faithful compliance with the reportorial and other requirements of said rule, applicable laws, circulars, rules and regulations and to further orders of the SEC. PhilRatings is a domestic external credit assessment institution (ECAI) which can rate domestic debt issuances in relation to BSP's implementing guidelines of Basel II. A basic profile of PhilRatings can be found in the website: <http://www.philratings.com>

2. Credit Rating and Investors Services Philippines

Credit Rating and Investors Services Philippines (CRISP),⁵ a domestic CRA in the Philippines, was launched and received its accreditation as a CRA from the SEC in 2008.

F. Bond-Related Systems for Investor Protection

1. Reportorial and Disclosure Requirements

The SRC and its Implementing Rules and Regulations (IRR or SRC Rules)⁶ prescribe reportorial requirements for corporate issuers of registered securities, consisting of periodic and current reports. Periodic reports are annual and quarterly reports, which contain information on the operation of the business and the financial condition of an issuer for the covered period.

In any event or material fact that may affect investors' decisions in relation to these securities, an issuer is required to make a full, accurate and timely disclosure to the public through the news media. An issuer should also make a disclosure to the exchange within 10 minutes after occurrence of the event, and prior to its release, to the public through the news media, furnishing a copy of the same report to the SEC. Also, an issuer is required to report the event to the SEC within 5 days after its occurrence, unless a substantially similar information has been previously reported to the SEC.

Issuers of corporate securities listed on PDEX are bound by continuing disclosure obligations.⁷ They are required to submit periodic reports such as financial statements, and disclose material information that may affect investors' decision to buy, sell, or hold listed securities.

2. Trustee System

After the appointment of a trustee bank, a registration statement shall be submitted to the SEC. The registration statement shall include a description of the circumstances under which the trustee is required to act on behalf of the bondholders, and a copy of the trust indenture or trust agreement executed by and between the company and the trustee.

Securities regulations require an issuer of registered debt securities to appoint a trustee bank that shall act on behalf of bondholders. Under current securities

⁵ A basic profile of Credit Rating and Investors Services Philippines (CRISP) can be found in: <http://crisp.com.ph>

⁶ Securities and Exchange Commission (SEC). 2004. *Amended Implementing Rules and Regulations (IRR) of the Securities Regulation Code (SRC)*. <http://www.sec.gov.ph/irr/AmendedIRRfinalversion.pdf>; SEC. 2005. *Draft version of the "Revised Implementing Rules and Regulations (IRR) of The Securities Regulation Code (SRC)"* <http://www.sec.gov.ph/src/Draft2%20SRC%20IRR.2011.pdf>; SEC. 2005. "Part I: General Financial Reporting Requirements," *SRC Rule 68, as Amended*. <http://www.sec.gov.ph/src/SRC%20rule%2068%20as%20amended.pdf>; SEC. 2005. "Part 2: Additional Requirements for Issuers of Securities to the Public," *SRC Rule 68, as Amended*. <http://www.sec.gov.ph/src/SRC%20rule%2068%20as%20amended.pdf>; SEC. 2005. *Notice of Amendments to SRC Rules 68 and 68.1*, see the following website: <http://www.sec.gov.ph/irr/amended/Notice-Rules-68&68.1-2005.pdf>; SEC. 2005. "Rules and Regulations Covering Form and Content of Financial Statements," *SRC Rule 68*. <http://www.sec.gov.ph/irr/amended/RULE68-2005.pdf>; (Rules-68-1) "Special Rule on Financial Statements of Reporting Companies Under Section 17.2 of the Securities Regulation Code," *SRC Rule 68-1*. <http://www.sec.gov.ph/irr/amended/RULE68.1-2005.pdf>

⁷ Submitted disclosures are published on the PDEX website, www.pdex.com.ph

regulations, there is no prescribed standard trust agreement, and specific provisions may differ across different bond issuances.

A trustee shall be responsible for performing, among others, the following duties for the benefit of bondholders:

- (a) Monitor compliance by the issuer with its obligations under the trust agreement.
- (b) Report regularly to bondholders any non-compliance by the issuer to the trust agreement and any development with respect to the issuer that adversely affects the interest of bondholders, and advise bondholders of the course of action that they may take to protect their interest.
- (c) Act on behalf of bondholders including calling for and/or attending meetings of bondholders.

G. Listing of Securities

Philippine-peso denominated Treasury bills, notes and bonds, as well as US-dollar denominated RTBs, are listed on PDEX for secondary trading. GOCC and private fixed-income securities offered to public investors may also be listed on PDEX. Listing of fixed-income securities on PDEX is subject to admission rules, conventions, and guidelines of PDEX.

H. Transfer of Interests in Bonds

1. Register of Bondholders

An issuer of a corporate bond shall cause the registrar duly licensed by the SEC and/or BSP to keep the Register of Bondholders in electronic or physical form. The names and addresses of bondholders and particulars of the bonds they hold, as well as all transfers of bonds, shall be entered into the register.

As required by Circular No. 428-04 issued by the BSP,⁸ the registrar shall send each bondholder a written statement of registry holdings at least quarterly. The cost for such shall be at the issuer's expense, unless specified in the terms and conditions of the bonds. The registrar shall also send a written advice confirming every receipt or transfer of the bonds effected in the registrar's system, at the relevant bondholder's expense. The statement of registry holdings shall serve as the confirmation of ownership of the bondholder as of the date thereof.

Bondholders shall bear costs related to any requests for certification, reports, and other documents from the registrar.

(i) A transfer between bondholders of different tax status occur on a day which is not an interest payment date

(ii) Tax-exempt entities trading with nontax-exempt entities are treated as nontax-exempt entities for the interest period within which such transfer occurred.

⁸ Bangko Sentral ng Pilipinas. 2004. BSP Circular No. 428-04. <http://www.bsp.gov.ph/regulations/regulations.asp?id=161>

Government securities issued by the national government through the BTr are recorded with the Registry of Scripless Securities (RoSS). RoSS is an electronic book-entry system operated by the BTr, which serves as the final and official record of ownership or interest in government securities. Debt securities issued by GOCCs may also be recorded in RoSS. Appropriate agreements are executed between the issuer-GOCC and BTr on the use of the registry system.

2. Transfers and Tax Status

Transfer provisions vary across different types of bonds, as defined in the terms and conditions for each bond issuance. Currently, Philippine-peso denominated government securities may only be transferred to investors belonging to the same tax category.

In 2010, the BTr issued MRTBs, which may be transferred between and among investors of different tax categories. Transfers of corporate securities across different tax categories are currently limited to coupon dates, under the following treatment:

- (i) Tax-exempt entities trading with nontax-exempt entities are treated as nontax-exempt entities for the interest period within which such transfer occurred, or
- (ii) Tax-exempt holders trading across tax categories are considered as tax withheld.

I. Governing Laws on Bond Issuance

The issuance of bonds in the Philippines is governed by the SRC,⁹ which is implemented by the SEC. Generally, all publicly offered securities must be registered with the SEC. Exemptions are granted, among others, to securities issued by the national government, the BSP, LGUs, banks (excluding their own shares), and any foreign government that has diplomatic relations with the Philippines.

Exemptions are also granted to securities issued only to primary institutional lenders or qualified buyers as defined in Sections 9 and 10 of the SRC and the SRC IRR.

Box 1.1 Contents of the Chapters and the Sections items of the Securities Regulation Code

[REPUBLIC ACT NO. 8799] THE SECURITIES REGULATION CODE (SRC)

CHAPTER I - Title and Definitions

Sec. 2. Declaration of State Policy.

Sec. 3. Definition of Terms.

CHAPTER II - Securities and Exchange Commission

Sec. 4. Administrative Agency.

Sec. 5. Powers and Functions of the Commission.

Sec. 6. Indemnification and Responsibilities of Commissioners.

Sec. 7. Reorganization.

CHAPTER III - Registration of Securities

Sec. 8. Requirement of Registration of Securities.

continued on next page

⁹ Republic of the Philippines. Securities and Exchange Commission (SEC). 2000. *Republic Act 8799* (Securities Regulation Code). <http://www.sec.gov.ph/index.htm?src/index>

Box 1.1 continuation

- Sec. 9. Exempt Securities
- Sec. 10. Exempt Transactions.
- Sec. 11. Commodity Futures Contracts.
- Sec. 12. Procedure for Registration of Securities.
- Sec. 13. Rejection and Revocation of Registration of Securities.
- Sec. 14. Amendments to the Registration Statement.
- Sec. 15. Suspension of Registration.
- CHAPTER IV - Regulation of Pre-Need Plans
 - Sec. 16. Pre-Need Plans.
- CHAPTER V - Reportorial Requirements
 - Sec. 17. Periodic and Other Reports of Issuers.
 - Sec. 18. Reports by Five per centum (5%) Holders of Equity Securities.
- CHAPTER VI - Protection of Shareholder Interests
 - Sec. 19. Tender Offers.
 - Sec. 20. Proxy Solicitations.
 - Sec. 21. Fees for Tender Offers and Certain Proxy Solicitations.
 - Sec. 22. Internal Record Keeping and Accounting Controls
 - Sec. 23. Transactions of Directors, Officers and Principal Stockholders.
- CHAPTER VII - Prohibitions on Fraud, Manipulation and Insider Trading
 - Sec. 24. Manipulation of Security Prices; Devices and Practices.
 - Sec. 25. Regulation of Option Trading.
 - Sec. 26. Fraudulent Transactions.
 - Sec. 27. Insider's Duty to Disclose When Trading.
- CHAPTER VIII - Regulation of Securities Market Professional
 - Sec. 28. Registration of Brokers, Dealers, Salesmen and Associated Persons.
 - Sec. 29. Revocation, Refusal or Suspension of Registration of Brokers, Dealers, Salesmen and Associated Persons.
 - Sec. 31. Development of Securities Market Professionals
- CHAPTER IX - Exchanges and Other Securities Trading Markets
 - Sec. 32. Prohibition on Use of Unregistered Exchange; Regulation of Over-the-Counter Markets.
 - Sec. 33. Registration of Exchanges.
 - Sec. 34. Segregation and Limitation of Functions of Members, Brokers and Dealers
 - Sec. 35. Additional Fees of Exchanges.
 - Sec. 36. Powers with Respect to Exchanges and Other Trading Market.
 - Sec. 37. Registration of Innovative and Other Trading Markets.
 - Sec. 38. Independent Directors.
- CHAPTER X - Registration, Responsibilities and Oversight of Self-Regulatory Organizations
 - Sec. 39. Associations of Securities Brokers, and Dealers, and Other Securities Related Organizations.
 - Sec. 40. Powers with Respect to Self-Regulatory Organizations.
- CHAPTER XI - Acquisition and Transfer of Securities and Settlement of Transactions in Securities
 - Sec. 41. Prohibition on Use of Unregistered Clearing Agency.
 - Sec. 45. Pledging a Security or Interest Therein.
 - Sec. 42. Registration of Clearing Agencies.
 - Sec. 43. Uncertificated Securities.
 - Sec. 44. Evidentiary Value of Clearing Agency Record.
 - Sec. 46. Issuer's Responsibility for Wrongful Transfer to Registered Clearing Agency
 - Sec. 47. Power of the Commission With Respect to Securities Ownership.
- CHAPTER XII - Margin and Credit
 - Sec. 48. Margin Requirements.
 - Sec. 49. Restrictions on Borrowings by Members, Brokers, and Dealers.
 - Sec. 50. Enforcement of Margin Requirements and Restrictions on Borrowing.
- CHAPTER XIII - General Provisions
 - Sec. 51. Liabilities of Controlling Persons, Aider and Abettor and Other Secondary Liability.
 - Sec. 52. Accounts and Records, Reports, Examination of Exchanges, Members, and Others.
 - Sec. 53. Investigations, Injunctions and Prosecution of Offenses.
 - Sec. 54. Administrative Sanctions.
 - Sec. 55. Settlement Offers.
 - Sec. 56. Civil Liabilities on Account of False Registration Statement.
 - Sec. 57. Civil Liabilities Arising in Connection With Prospectus, Communications and Reports.
 - Sec. 58. Civil Liability For Fraud in Connection With Securities Transactions.
 - Sec. 59 Civil Liability For Manipulation of Security Price.

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Box 1.1 continuation

- Sec. 60. Civil Liability With Respect to Commodity Futures Contracts and Pre-need Plans.
- Sec. 61. Civil Liability on Account of Insider Trading.
- Sec. 62. Limitation of Actions.
- Sec. 63. Amount of Damages to be Awarded.
- Sec. 64. Cease and Desist Order.
- Sec. 65. Substituted Service Upon the Commission.
- Sec. 66. Revelation of Information Filed with the Commission.
- Sec. 67. Effect of Action of Commission and Unlawful Representations with Respect Thereto.
- Sec. 68. Special Accounting Rules.
- Sec. 69. Effect on Existing Law.
- Sec. 70. Judicial Review of Commission Order.
- Sec. 71. Validity of Contracts.
- Sec. 72. Rules and Regulations; Effectivity.
- Sec. 73. Penalties.
- Sec. 74. Transitory Provisions.
- Sec. 75. Partial use of Income.
- Sec. 76. Repealing Clause.
- Sec. 77. Separability Clause
- Sec. 78. Effectivity.

IMPLEMENTING RULES AND REGULATIONS OF THE SECURITIES REGULATION CODE (SRC IRR)

Source: Securities and Exchange Commission.

A credit rating from PhilRatings, CRISP, or any SEC-accredited CRA is required to issue corporate bonds and CPs. Generally, foreign-denominated debt instruments must be registered with the BSP.

For government securities, the following statutes or laws govern bond issuance of the Philippine national government:

1. *RA No. 245, as amended (An Act Authorizing the Secretary of Finance to Borrow to Meet Public Expenditures Authorized by Law and for Other Public Purposes)*
2. *RA 1000, as amended (An Act Authorizing the President of the Philippines to Issue Bonds to Finance Public Works Projects for Economic Development, Authorized by Law, and for Other Purposes)*
3. *RA 4860, as amended (Foreign Borrowings Act)*
4. *RA 8182 (Official Development Assistance Act)*
5. *RA 7653 (New Central Bank Act)*, which mandated the phase out of fiscal agency functions of the BSP to the DOF pertaining to the issue and placement of government securities; servicing and redemption of public debt; and management of the Securities Stabilization Fund.
6. *RA 713 (Custody of Sinking Funds)*
7. *Executive Order No. 449, Series 1997 (Reorganization of the Bureau of the Treasury)*

J. Definition of Securities

Under the Section 3 of the SRC, securities are defined as shares, participation, or interests in a corporation, a commercial enterprise, or a profit-making venture,

which are evidenced by a certificate, contract, or an instrument either in written or electronic form. These include:

1. Shares of stock, bonds, debentures, notes, evidences of indebtedness, and asset-backed securities;
2. Investment contracts, certificates of interest or participation in a profit-sharing agreement, and certificates of deposit for a future subscription;
3. Fractional undivided interests in oil, gas, or other mineral rights;
4. Derivatives like option and warrants;
5. Certificates of assignments, certificates of participation, trust certificates, voting trust certificates, or similar instruments;
6. Proprietary or non-proprietary membership certificates incorporations; and
7. Other instruments as may be determined in the future by the SEC.

The *PDEX Rules for the Fixed-income Securities Market, as Amended* (PDEX Rules)¹⁰ defines securities as fixed-income securities, including government securities.

K. Self-Governing Rules of the Market

Under the Section 39 of the SRC, the SEC granted PDEX the license to act as a self-regulatory organization (SRO) for the inter-dealer, inter-professional, and public markets. As an SRO, PDEX has adopted the PDEX Rules to govern all transactions dealt on the PDEX trading platform for fixed-income securities.

In July 2006, SEC formally recognized PDEX as a SRO in the inter-dealer market, and is thus vested with the responsibility of formulating the requisite market rules, undertaking surveillance, and enforcing compliance in the inter-dealer market.

The SEC issued Memorandum Circular No.14, s. 2006 on “Rules Governing the OTC Markets”¹¹ which included government securities; it directed that “no broker or dealer shall participate in an OTC market unless said broker or dealer is a member of an SRO that has been registered with the Commission for the purpose of regulating and supervising the activities of the broker or dealer in an OTC market.”

In November 2007, the SEC expanded the SRO registration of PDEX to cover the inter-professional market.

In January 2008, PDEX was granted an SRO status for the OTC market which resulted in the coverage of all government securities (GS) trading activities. To date, it remains the only SRO for the OTC market in GS.

Trading Participants, Non-Trading Participants and related parties under the membership of other SROs may be admitted to the PDEX markets under the applicable PDEX Rules below. As a reference, according to PDEX Rules;

¹⁰ Philippine Dealing and Exchange Corporation. 2009. *The PDEX Rules for the Fixed-income Securities Market, as Amended* (PDEX Rules). <http://pdex-hosting.bayandsl.ph/Public%20Market%20Rules%20-%20Revised%207-17-2009.pdf>

¹¹ Footnote 6. *SEC Memorandum Circular No. 14, Series of 2006*, “Rules Governing the Over-the-Counter (OTC) Market.” <http://www.sec.gov.ph/circulars/cy,2006/sec-memo-14,s2006.pdf>

Rule 1.3-1.d: All Trading Participants should: in cases where the applicant is a member of another self-regulatory organization (SRO) and/or duly accredited broker/dealer association, have a certificate from such other SRO and/or broker/dealer association certifying its good standing thereat and absence of derogatory record for three (3) years immediately prior to the application with PDEX;

Rule 1.7.b: The Associated Person: A Trading Participant shall appoint an Associated Person who shall: If the Trading Participant is a Trading Participant of another SRO and the Associated Person is such officer even with respect to such other SRO, then they must be in good standing at such other SRO;

Rule 3.6.1: Trades with Non-Trading Participants: Dealing Participants may deal directly with Non-Trading Participants upon submission to PDEX of the necessary documents as required by and in such form as may be prescribed by PDEX, provided that, if the Non-Trading Participant is a SEC-registered broker or dealer, the same and the SRO of which it is a member shall comply with the requirements of the OTC Rules.¹²

L. Bankruptcy Procedures

The *Financial Rehabilitation and Insolvency Act of 2010* (FRIA)¹³ and the *Civil Code of the Philippines* (Civil Code) govern the bankruptcy procedures in the country. The Supreme Court will soon issue the implementing rules of FRIA.

FRIA was passed into law on 18 July 2010. It repealed the country's 101-year-old *Insolvency Law* (Act 1956), which was enacted in 1909. FRIA provides for three different modes of rehabilitating an insolvent corporate debtor, namely: (a) court-supervised rehabilitation, (b) pre-negotiated rehabilitation, and (c) out-of-court or informal restructuring or rehabilitation.

In a court-supervised rehabilitation proceeding, the court appoints a receiver and determines which claims against the debtor are valid. A rehabilitation plan is to be agreed upon by the debtor and creditors representing more than 50% of the claims of each class of creditors. If the plan is not finalized or approved by the court, the debtor will be liquidated. During the pendency of the proceedings, all claims against the debtor are suspended, and taxes, as well as fees due from the debtor to the government, are deemed waived. The amount of debt reduced or forgiven will not be subject to tax.

In a pre-negotiated rehabilitation, a debtor seeks court approval of a rehabilitation plan it previously contracted with creditors, representing at least two-thirds of its total liabilities, and at least 67% and 75% of its secured and unsecured obligations, respectively. Claims against the debtor are suspended while the proceedings are pending in court.

In an out-of-court restructuring, the debtor and creditors, representing at least 85%

¹² Footnote 11.

¹³ Republic of the Philippines. 2010. *Financial Rehabilitation and Insolvency Act (FRIA) of 2010*. http://www.lawphil.net/statutes/repacts/ra2010/ra_10142_2010.html

of the debtor's total liabilities and at least 67% of its secured obligations and 75% of its secured obligations, are to agree on a restructuring or rehabilitation plan. This plan becomes binding on the contracting parties, as well as on other creditors of the debtor. During negotiations, creditors holding more than 50% of the total claims may approve a standstill of up to 120 days.

The FRIA does not cover banks, insurance companies and pre-need companies as other laws and regulations govern these entities. However, it provides for the liquidation of insolvent juridical debtors. The debtor can initiate voluntary liquidation through a verified petition or a verified motion in court-supervised or pre-negotiated rehabilitation proceedings.

Rehabilitation proceedings may also be transformed into liquidation proceedings in the following situations:

- (a) When the rehabilitation court finds that the debtor is insolvent and there is no substantial likelihood for the debtor to be successfully rehabilitated;
- (b) When the rehabilitation plan is not confirmed by the rehabilitation court within 1 year from filing of the petition;
- (c) When the rehabilitation proceedings are terminated due to failure or dismissal of the rehabilitation petition for reasons other than technical grounds; or
- (d) At any time upon the recommendation of the rehabilitation receiver that the rehabilitation of the debtor is not feasible.

Involuntary liquidation is initiated by three or more creditors whose aggregate claims amount to at least PHP1 million, or at least 25% of the subscribed capital stock or partners' contribution, whichever is higher, also through a verified petition or motion in a court-supervised or pre-negotiated rehabilitation proceedings.

FRIA has special provisions for the liquidation of a securities-market participant. It recognizes the power of a regulatory agency or an SRO to liquidate trade-related claims of clients or customers of a securities-market participant, which, for purposes of investor protection, are deemed to have absolute priority over all other claims of whatever nature or kind insofar as trade-related assets are concerned. Trade-related assets include cash, securities, trading rights, and other assets owned and used by a securities-market participant in the ordinary course of its business.

For insolvent individual debtors, the FRIA provides for:

- (a) The suspension of payments when the debtor possesses sufficient properties to cover all his debts, but foresees the impossibility of meeting them when they respectively fall due;
- (b) Voluntary liquidation initiated by the debtor who does not have sufficient properties to cover his liabilities and owes debts exceeding PHP500,000; and
- (c) Involuntary liquidation initiated by creditors with claims aggregating at least PHP500,000.

FRIA requires that the liquidation plan and its implementation shall ensure that the concurrence and preference of credits, as enumerated in the Civil Code and other relevant laws, shall be observed, unless a preferred creditor voluntarily waives his preferred right. Credits for services rendered by employees or laborers to the debtor shall enjoy first preference under Article 2244 of the Civil Code, unless the claims constitute legal liens under Article 2241 and Article 2242 of the Civil Code.

The “Asia-Pacific Restructuring and Insolvency Guide 2006” provides a guide to explain the restructuring and insolvency frameworks of Asia-Pacific countries.¹⁴

M. Meeting of Bondholders

The following is an extract taken from a prospectus of corporate bonds in the Philippines for reference purposes.

Box 1.2 Extract from a Prospectus of Corporate Bonds on Meeting of Bondholders

The Trustee may at any time call a meeting of the bondholders, on its own accord or upon the written request by the issuer or majority bondholders, for purposes of taking any actions authorized under the Trust Indenture or Trust Agreement.

1. Notice of Meetings

Notice of every meeting of bondholders, setting forth the time and place of such meeting and the purpose of such meeting in reasonable detail, shall be sent by the trustee to the issuer and to each registered bondholder not less than 14 days prior to the date fixed for the meeting. Each of such notices shall be published in a newspaper of general circulation.

2. Failure of the Trustee to Call a Meeting

The failure of the trustee to call a meeting upon the written request of either the issuer or a majority of bondholders within 3 days from such request shall entitle the requesting party to send the appropriate notice of bondholders' meeting; the costs therefor shall be charged to the account of the trustee.

3. Quorum for Meetings

The trustee shall determine and record the presence of the majority (more than 50%) bondholders, personally or by proxy. The presence of the majority bondholders shall be necessary to constitute a quorum to do business at any meeting of the bondholders.

Role of the Trustee in Meetings of the Bondholders:

Notwithstanding any other provisions of the Trust Indenture or Trust Agreement, the Trustee may make such reasonable regulations as it may deem advisable for any meeting of the Bondholders, in regard to proof of ownership of the Bonds, the appointment of proxies by registered holders of the Bonds, the election of the chairman and the secretary, the appointment and duties of inspectors of votes, the submission and examination of proxies, certificates and other evidence of the right to vote and such other matters concerning the conduct of the meeting as it shall deem fit.

Note: The above extract is derived from a generic prospectus of corporate bonds.

N. Event of Default

The following descriptions are taken from a prospectus of corporate bonds in the Philippines for reference.

¹⁴ Asian Development Bank. 2006. *The Asia-Pacific Restructuring and Insolvency Guide 2006*. Malaysia: Shearn Delamore & Co. and PricewaterhouseCoopers. <http://www.adb.org/Documents/Guidelines/restructuring-insolvency/chap4-15.pdf>

Box 1.3 Extract from a Prospectus of Corporate Bonds on an Event of Default

The Issuer shall be considered in default under the Bonds and the Trust Indenture or Trust agreement in case any of the defined events (exhibit the examples of the items, each an “Event of Default”) shall occur and is continuing:

- (a) Non-payment default
- (b) Insolvency default
- (c) Cross default
- (d) Winding up proceedings
- (e) Representation/warranty default
- (f) Covenant default
- (g) Breach of obligations default
- (h) Expropriation default
- (i) Judgment default
- (j) Writ and similar process default
- (k) Closure default
- (l) Validity default
- (m) Change of control default

Consequences of Default:

If anyone or more of the Events of Default shall occur and be continuing after the lapse of the period given to the Issuer within which to cure such Event of Default under the Trust Indenture or Trust Agreement, if any, or upon the occurrence of such Event of Default for which no cure period is provided,

- (i) the Trustee, upon the written direction of the Majority Bondholders, by notice in writing delivered to the Issuer, or
- (ii) the Majority Bondholders, by notice in writing delivered to the Issuer and the Trustee, or
- (iii) the Trustee, in its discretion, in case of a Non-Payment or Insolvency Default, may declare the Issuer in default and declare the principal of the Bonds then outstanding, together with all interest accrued and unpaid thereon and all amounts due thereunder, to be due and payable not later than (for instance) 5 Business Days (the periods provided in the Trust Agreement and in these Terms and Conditions) from the receipt of the declaration of default (“Default Payment Date”) with copy to the Paying Agent, who shall then prepare a payment report in accordance with the Registry and Paying Agency Agreement.

Thereupon, the Issuer shall pay in accordance with the Registry and Paying Agency Agreement.

Note: The above extract is derived from a generic prospectus of corporate bonds.

O. Marketplace or Facilities Involved in Bond Issuance and Trading**1. Exchange**

An exchange is an organized marketplace or facility that brings together buyers and sellers, and executes trades of securities and/or commodities.¹⁵

No buying and selling of a security may be made in an exchange unless it is registered in accordance with Section 33 (Registration of Exchanges) of the SRC and the rules and regulations prescribed by the SEC.¹⁶

To be registered, an exchange must comply with the following requirements:¹⁷

¹⁵ SEC. 2000. “Section 3.7: Definition of Terms - Exchanges,” *Securities Regulation Code* (RA 8799).

¹⁶ According to Section 32.1 of the SRC, “[n]o broker, dealer, salesman, associated person of a broker or dealer, or Exchange, directly or indirectly, shall make use of any facility of an Exchange in the Philippines to effect any transaction in a security, or to report such transaction, unless such Exchange is registered as such under Section 33 of this Code.”

¹⁷ Footnote 15. Section 33.2.

- (i) Must be organized as a stock corporation.
- (ii) Must be engaged solely in the business of operating an exchange.
- (iii) No person may beneficially own or control more than 5% of the voting rights of the exchange for persons, or more than 20% of said voting rights for an industry or business group. However, the SEC may exempt an applicant from compliance of the third requirement where it finds that such ownership or control will not negatively impact the exchange's ability to effectively operate in the public interest.
- (iv) Must be capable of exercising authority over its members and persons associated with its members on conduct or proceedings inconsistent with just and equitable principles of fair trade, and for violations of the SRC, SRC implementing rules, and rules of the exchange.
- (v) Must have a fair procedure for disciplining members and persons associated with its members.
- (vi) Brokers sitting on the board of the exchange shall not exceed 49% of membership in the said board and shall proportionately represent the exchange membership in terms of volume or value of trade and paid-up capital.
- (vii) The president and other management of the exchange should consist only of persons who are not members and are not associated in any capacity, directly or indirectly, with any broker, dealer, member, or listed company of the exchange. However, the exchange may only appoint, and a person may only serve, as an officer of the exchange if such person has not been a member, or have not been affiliated with any broker, dealer, or member of the exchange for a period of at least 2 years prior to such appointment.
- (viii) Must be transparent in the transactions made in the exchange.
- (ix) Must have equitable allocation of fees among members, issuers, and other persons using any facility or system that the exchange operates or controls.
- (x) Must be able to prevent fraudulent and manipulative acts and practices; promote just and equitable principles of trade; and protect investors' and the public's interest.
- (xi) Must have transparent, prompt and accurate clearance and settlement.

2. Over-the-Counter Market

An OTC market refers to the market created by buying and selling securities on a bilateral basis between parties that takes place outside an exchange or in an alternative trading system. The operation and use of an OTC market by registered persons who trade or deal in securities in the secondary market are governed by OTC rules¹⁸ issued by the SEC. As with an exchange, an OTC market needs to be registered with the SEC. A group or organization operating an OTC market should be registered as an SRO in accordance with Section 39 of the SRC.¹⁹

¹⁸ Footnote 11.

¹⁹ According to Section 5 of the SEC Memorandum Circular No. 14, "[n]o group of two or more brokers, dealers and/or salesmen of broker or dealer shall act in concert in making, creating or operating an OTC market unless such group forms and causes the registration of an association of brokers and/or dealers pursuant to Section 39 of the SRC and which association shall act as a self-regulatory organization (SRO) to regulate and supervise the activities of the members of the group or unless the brokers, dealers and/or salesmen who are part of such group are currently members of an SRO in accordance with Section 6 of these rules."

Participants in an OTC market must likewise be members of the SRO operating the OTC market.²⁰

3. Self-Regulatory Organizations

An SRO is an organized exchange, registered clearing agency, or any organization or association registered as an SRO under Section 39 of the SRC to enforce compliance with relevant provisions of the code and its rules and regulations. It is mandated to make and enforce its own rules, which have been approved by the SEC, their members, and/or participants. It is an organization that enforces fair, ethical and efficient practices in the securities and commodity futures industries, including securities and commodity exchanges.

4. Clearing Agency

A clearing agency is any entity that provides a facility to a broker or dealer, salesman, associated person of a broker or dealer, or another clearing agency that performs any or all of the following activities:

- (i) Makes deliveries in connection with transactions in securities;
- (ii) Reduces the number of settlements of securities transactions, or allocates securities settlement responsibilities; and
- (iii) Provides for the central handling of securities so that transfers, loan pledges, and similar transactions can be made by bookkeeping entry, or otherwise, to facilitate the settlement of securities transactions without physical delivery of securities certificates.

5. Transfer Agents

A transfer agent is any person who performs any of the following activities on behalf of an issuer, or on its own as an issuer:

- (i) Countersigns, when applicable, certificates of securities upon their issuance;
- (ii) Monitors the issuance of securities to prevent unauthorized issuances;
- (iii) Registers the transfer of such securities;
- (iv) Exchanges or converts such securities; and/or
- (v) Records the ownership of securities by bookkeeping entry without physical issuance of securities certificates.

Transfer agents may be fiscal agents; normally, transfer agents and trustees are fiduciary agents, and trustees by their designation would not handle payments.

²⁰ According to Section 6A of the SEC Memorandum Circular No. 14, “[n]o broker or dealer shall participate in an OTC market unless he is a member of an SRO that has been registered with the Commission for the purpose of regulating and supervising the activities of the broker or dealer in an OTC market. B. In case a broker or dealer is already a member of an existing SRO whose current status is for the purpose of regulating and supervising a market other than the OTC market, such broker or dealer may be allowed to participate in the OTC market; Provided, that the broker or dealer shows proof and the existing SRO is able to demonstrate that said SRO is capable of performing its regulatory and supervisory obligations relative to the activities of the broker or dealer in the OTC market; Provided further, that the SRO has committed to regulate and supervise the broker or dealer with respect to such activities; Provided finally, that the SRO files an amendment to its current SRO registration to reflect its intention to act as SRO in such OTC market. C. The Commission may prescribe the governance and ownership structure of an SRO or require amendment thereto to ensure the effective regulation and supervision of the OTC market.”

6. Trustees

Public trustees for fixed-income securities are typically entities with trust licenses from the BSP, mostly trust units or departments of banks.

7. Lending Agents for Securities Borrowing and Lending

The SEC Rules on Securities Borrowing and Lending laid-down the rules that govern securities borrowing and lending activities.²¹

Securities borrowing and lending (SBL) is a form of securities business activity regulated by the SEC. Section 39 of the SRC mandates that SEC registers and grants licenses, and supervises and regulates organizations engaged in activities related to or connected with the securities business. Sections 33.2 (I) and 42.2 (e) of the SRC require the transparent, prompt and accurate clearance and settlement of all securities transactions. The framework for an SBL facility must be institutionalized principally because it facilitates the settlement of securities transactions, broadens trading strategies for market participants, and enhances liquidity in the market.

The SRC likewise mandates SEC to regulate the extension and maintenance of credit on securities. The SRC also authorizes the SEC to issue rules and regulations to make effective the provisions of the SRC.

P. Main Participants in the Market

1. Types of Issuers

- (i) National government
- (ii) Government agencies
- (iii) Government-Owned and -Controlled Corporations (GOCCs)
- (iv) Non-bank corporations
- (v) Banks
- (vi) Multilateral agencies

2. Types of Investors

Investors may be classified into professional or qualified investor market and non-qualified, retail or public market.

a. Qualified Investor (Qualified Buyer)

“Qualified Investor” shall theoretically refer to an investor that is not an SEC-registered securities dealer or broker, and is any one of the Qualified Investors as defined under the relevant SEC rules and regulations. However, under current market practice, Qualified Investor activity may still be conducted in entities with a dealer or broker license.

Under the *Rules Governing the Over-the-Counter (OTC) Market (OTC Rules)*,²² “qualified investor” refers to any of the qualified buyers defined under Section 10.1 (L) of the

²¹ SEC. 2006. “Rules on Securities Borrowing and Lending,” *SEC Memorandum Circular No.7, Series of 2006*. <http://www.sec.gov.ph/circulars/cy,2006/sec-memo-7,s2006.pdf>

²² SEC Memorandum Circular No. 14, Series of 2006, “Rules Governing the Over-the-Counter (OTC) Market” is available from the following website: <http://www.sec.gov.ph/circulars/cy,2006/sec-memo-14,s2006.pdf>

SRC,²³ any of the institutional accounts defined under SRC Rule 52.1 (6D),²⁴ or such other person declared by the SEC by rule or order as a qualified investor.

In doing so, the SEC takes into account if the person's net worth or financial background allows him or her to bear the risk that may arise from participating in an OTC market.

Section 10.1 (L) of the SRC lists the following qualified buyers:

- (i) Banks
- (ii) Registered investment houses;
- (iii) Insurance companies;
- (iv) Pension funds or retirement plans maintained by the Government of the Philippines or any of its political subdivisions, or those managed by a bank or other persons authorized by the BSP to engage in trust functions;
- (v) Investment companies; or
- (vi) Other persons the SEC may determine by rule as qualified buyers on the basis of financial sophistication, net worth, knowledge and experience in financial and business matters, or amount of assets under management.

Pursuant to its authority prescribed under the SRC, the SEC issued SEC Memorandum Circular No.6, Series of 2007, "Definition of Qualified Buyers (Qualified Buyer Rules)"²⁵ under Section 10 of the SRC" to prescribe regulations on determining individual or juridical persons that may be registered as qualified buyers.

A qualified individual buyer shall be a natural person who:

- (a) Has a minimum annual gross income of PHP25 million at least 2 years prior to registration, or a total portfolio in securities of at least PHP10 million registered with the SEC, or a personal net worth of at least PHP30 million; and
- (b) Has been engaged in securities trading in his personal capacity, or through a fund manager, for a period of 1 year, or held for at least 2 years a position of responsibility in any professional or business entity that requires knowledge or expertise in securities trading.

A qualified institutional buyer shall have a minimum annual gross income of PHP100 million at least 2 years prior to registration, or a total portfolio in securities of at least PHP60 million registered with the SEC, or a personal net worth of at least PHP100 million.

b. Non-Qualified Investors

Investors who do not qualify under the definition of a qualified investor are considered public or retail investors.

²³ Footnote 9. Section 10 (Exempt Transactions). <http://www.sec.gov.ph/index.htm?src/index>

²⁴ SEC. 2004. *Amended Implementing Rules and Regulations (IRR) of The Securities Regulation Code (SRC Rule)*. <http://www.sec.gov.ph/irr/AmendedIRRfinalversion.pdf>

²⁵ SEC. 2007. "Definition of Qualified Buyers under Section 10 of the Securities Regulation Code (SRC)," *SEC Memorandum Circular No.6, Series of 2007*. <http://www.sec.gov.ph/circulars/cy,2007/sec-memo-06,s2007.pdf>

3. Underwriters

An underwriter is a person who guarantees on a firm commitment and/or declared best-effort basis the distribution and sale of securities of any kind by another company.

Under *Presidential Decree (PD) No. 129*, or the *Investment Houses Law*, underwriting of securities is the act or process of guaranteeing by a duly licensed investment house or a universal bank registered as an underwriter of securities with the SEC. It also involves the distribution and sale of securities issued by another person or enterprise, including securities of the government and its instrumentalities.

Underwriters of securities must be registered with and are under the supervision of the SEC. They may either be universal banks or investment houses.

a. Universal Banks

Under the *General Banking Law of 2000* (RA 8791), a universal bank has the authority to exercise the power to invest in non-allied enterprises and the powers of an investment house as provided in existing laws and the power to invest in non-allied enterprises as provided in the same law. These are in addition to the powers authorized to commercial banks. Regulation for universal banks is under the BSP for its banking operations and the SEC for its securities business.

As of 27 June 2011, there are 19 universal banks licensed by the BSP.

b. Investment Houses

Under the *Investment Houses Law*, an investment house is an enterprise that primarily engages in the underwriting of securities of another person or enterprise, including securities of the government or its instrumentalities, whether on a regular or an isolated basis. Investment houses are under the supervision of the SEC.

4. Securities Registries or Transfer Agents (Fiscal Agents)

Under a BSP Circular Letter dated 4 August 2005, a securities registry, other than the BTr, is a BSP-accredited bank or non-bank financial institution designated or appointed by the issuer to maintain the securities registry book, either in electronic or printed form. It records the initial issuance of the securities and subsequent transfer of ownership, and issues registry confirmation to buyers and/or holders. Except otherwise provided in existing BSP regulations, a BSP-accredited securities registry is considered a third party if it has no subsidiary or affiliate relationship with the issuer of securities.

The BTr, as operator of the RoSS, which serves as the official registry for government securities, is not subject to BSP accreditation and is exempted from the independence requirement under the circular.

Under SRC Rule 36.4, no person shall act as a transfer agent for a security listed or traded on an exchange, OTC, or any other trading market without being registered with the SEC in accordance with the provisions of the said rule.

A fiscal agent is typically responsible for the disbursement of issuer payments, including tax related matters; transfer agents may be fiscal agents.

Q. Securities Market Professionals

1. Brokers

A broker is a person engaged in the business of buying and selling securities on behalf of others.²⁶

2. Dealers

A dealer is any person who buys and sells securities for his/her own account in the ordinary course of business.²⁷

3. Salesmen

A salesman refers to a natural person hired to buy and sell securities on a salary or commission basis properly endorsed to the SEC by the employing broker or dealer. He or she also includes any employee of an issuer company whose compensation is determined directly or indirectly by the sales of the issuer's securities.²⁸

4. Associated Person

An associated person is any person employed full time by a broker or dealer whose responsibilities include internal control, supervision of other employees, agents, salesmen, officers, directors, clerks, and stockholders of the broker or dealer for compliance with the SRC and its IRR.²⁹

Brokers, dealers, salesmen, and associated persons of a broker or dealer must be registered with the SEC. Moreover, brokers and dealers must be registered as members of the trading market where they trade and deal in securities, as well as with the SRO exercising regulatory authority over such trading market. Concerning salesmen and associated persons, they must include in their application for registration a proof of affiliation with a broker or dealer. Upon cessation of their affiliation with said broker or dealer, their registration is automatically terminated.

5. Dealers in Government Securities

GSED refers to a SEC-licensed dealer in government securities accredited by the BTr to participate in the primary or origination sale of government securities.

6. Authorized Registrars of Qualified Buyers³⁰

Under SEC Memorandum Circular No.6,³¹ series of 2007, "Definition of Qualified Buyers under Section 10 of the *Securities Regulation Code* (SRC)," SEC laid down the rules on the determination of qualified buyers. The said circular provides for, among others, the registration of qualified buyers by SRO or such other entities that the SEC may authorize to make the registration. The rules and procedures on the registration of qualified buyers by SRO and other entities shall be as follows:

²⁶ Footnote 9. Section 3.3.

²⁷ Footnote 9. Section 3.4.

²⁸ Footnote 24.

²⁹ Footnote 24.

³⁰ SEC. 2008. "Rules Governing Registrars of Qualified Buyers," *SEC Memorandum Circular No.3, Series of 2008*. <http://www.sec.gov.ph/circulars/cy,2008/sec-memo-03,s2008.pdf>

³¹ Footnote 25.

Authorized Registrars - The following entities, which have been granted the appropriate secondary license by the SEC, are eligible to act as registrar of qualified buyers, subject to prior authorization from the SEC:

- (i) Banks with respect to their registration as broker-dealer, GSED, and/or underwriter of securities;
- (ii) Brokers;
- (iii) Dealers;
- (iv) Investment houses;
- (v) Investment company advisers; and
- (vi) Issuer companies with respect to offerings of their own securities.

II. Primary and Secondary Market Regulatory Frameworks

A. Philippine Market Regulatory Structure

Local and foreign investors may invest in the Philippine bond market. To protect investors, the *Insolvency Law* and Civil Code provide details on bondholder rights. Guidelines on cross-border portfolio investment are issued by the Bangko Sentral ng Pilipinas (BSP).

1. Bangko Sentral ng Pilipinas

The BSP supervises banks and non-bank financial institutions that perform quasi-banking functions. It also supervises the registration of foreign investments in the country and monitors the inflow and outflow of capital.

2. Securities and Exchange Commission

The Securities and Exchange Commission (SEC) regulates both primary and secondary debt markets, and oversees the Philippine Stock Exchange, the three subsidiaries of the Philippine Dealing Systems Holdings Corporation (PDS Group), brokers, registrars, transfer agents, and clearinghouses.

3. Department of Finance and Bureau of the Treasury

The Department of Finance (DOF) regulates the issuance of government securities in the market while the DOF's Bureau of the Treasury operates and monitors daily debt-market activity.

4. Philippine Dealing System (PDS) Group of Companies

The PDS Group manages the country's first electronic platform for trading, clearing, settlement, depository, registry, and custody of fixed-income securities and derivatives. The PDS Group has three operating subsidiaries:

- (i) Philippine Dealing and Exchange Corporation (PDEX)—an entity that operates the electronic trading platforms for securities, providing price discovery and transparency services, self-regulatory functions, and is linked to the settlement systems. As market operator in the fixed income market, it likewise manages the market's liquidity programs—the Securities Lending Transactions Program and the Inter-Professional Repurchase Agreement Market Program.

- (ii) Philippine Depository and Trust Corporation (PDTC)—an entity that provides central securities depository services for both the equities and fixed income markets, and registry services for the fixed income market. It is likewise engaged in the PDEX liquidity programs as Collateral Manager.
- (iii) Philippine Securities Settlement Corporation (PSSC)—the company that provides electronic settlement facilities with straight-through process (STP) and delivery-versus-payment (DVP) capabilities.³²

B. Regulation of the Philippine Securities Markets

1. Broad Legislative Framework

As stated above, the SEC is the primary regulatory body of the primary and secondary debt markets, as well as the different participants in the Philippine bond market.

Under Section 5 (Powers and Functions of the Commission) of the Securities Regulation Code (SRC), the SEC shall have, among others, the following powers and functions:

- (i) Jurisdiction and supervision over all corporations, partnerships, or associations that are grantees of primary franchises and/or a license or permit issued by the government;
- (ii) Formulate policies and recommendations on issues concerning the securities market, advise Congress and other government agencies on all aspects of the securities market, and propose corresponding legislation and amendments;
- (iii) Approve, reject, suspend, revoke, or require amendments to registration statements and registration and licensing applications;
- (iv) Regulate, investigate, or supervise the activities of persons to ensure compliance;
- (v) Supervise, monitor, suspend, or take over the activities of exchanges, clearing agencies and other self-regulatory organizations (SROs);
- (vi) Impose sanctions for the violation of laws, rules and regulations, and orders concerning the securities market;
- (vii) Prepare, approve, amend, or repeal rules, regulations and orders, as well as issue opinions and provide guidance on and supervise compliance with such rules, regulations and orders;
- (viii) Enlist the aid and support of and/or deputize any and all enforcement agencies of the government—civil or military—as well as any private institution, corporation, firm, association, or person in the implementation of its powers and functions under the SRC;
- (ix) Issue cease-and-desist orders to prevent fraud or injury to the investing public;
- (x) Punish for contempt of the SEC, both direct and indirect, in accordance with the pertinent provisions of and penalties prescribed by the rules of court;
- (xi) Compel officers of any registered corporation or association to call meetings of stockholders or members under its supervision;
- (xii) Issue *subpoena duces tecum*³³ and summon witnesses to appear in any proceedings of the SEC and in appropriate cases; and order the examination, search and seizure of all documents, papers, files and records, tax returns, and books of accounts of any entity or person under investigation as may be necessary for the proper

³² More details may be found in the PDEX website, <http://www.pdex.com.ph>.

³³ Literally “under penalty you shall bring with you.”

- disposition of the cases before it, subject to the provisions of existing laws;
- (xiii) Suspend or revoke after proper notice and hearing the franchises or certificates of registration of corporations, partnerships or associations, upon any of the grounds provided by law; and
- (xiv) Exercise such other powers as may be provided by law, as well as those which may be implied from, or which are necessary or incidental to the carrying out of, the express powers granted the SEC to achieve the objectives and purposes of laws on the securities market.

2. Trading Participants

According to the Amended PDEX *Rules for the Fixed Income Securities Market*,³⁴ a trading participant shall be any person that has been qualified to trade on the PDEX trading system. There are three types of trading participants:

- (1) Dealing participants who may be market-making participants as defined in the PDEX Rules;
- (2) Qualified investor participants who may opt not to be members of the SRO, hence not bound by the relevant SEC rules and regulations but by the pertinent agreements; and
- (3) Brokering participants.

C. Rules and Regulations on Issuing Debt Instruments

1. Disclosure Requirements and Exemptions

Debt securities may not be offered for sale to the public, unless these securities are registered in accordance with Section 8 (Rule 8.1) and 12 (Rule 12.1) of the SRC³⁵.

However, securities that are exempt from registration under Section 9 (Exempt Securities) and Section 10 (Exempt Transactions) under Rules 9.2 and 10.1, respectively, may be offered for sale to the public.

Table 2.1 Extract on Exemption from Disclosure Requirements-Related Descriptions from the Securities Regulation Code

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| SEC. 8. Requirement of Registration of Securities. Rule 8.1 | Securities shall not be sold or offered for sale or distribution within the Philippines, without a registration statement duly filed with and approved by the Commission (SEC). Prior to such sale, information on the securities, in such form and with such substance as the Commission may prescribe, shall be made available to each prospective purchaser. |
| SEC. 9. Exempt Securities. Rule 9.1 | The requirement of registration under Subsection 8.1 shall not as a general rule apply to any of the following classes of securities: a) Any security issued or guaranteed by the Government of the Philippines, or by any political subdivision or agency thereof, or by any person controlled or supervised by, and acting as an instrumentality of said Government. b) Any security issued or guaranteed by the government of any country with which the Philippines maintains diplomatic relations, or by any state, province or political subdivision thereof on the basis of reciprocity: Provided, That the Commission may require compliance with the form and content of disclosures the Commission may prescribe. c) Certificates issued by a receiver or by a trustee in bankruptcy duly approved by the proper adjudicatory body. |

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³⁴ Footnote 10.

³⁵ Footnote 9.

Table 2.1 continuation

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| | <p>d) Any security or its derivatives the sale or transfer of which, by law, is under the supervision and regulation of the Office of the Insurance Commission, Housing and Land Use Regulatory Board, or the Bureau of Internal Revenue.</p> <p>e) Any security issued by a bank except its own shares of stock.</p> | | | | | | |
| SEC. 9. Exempt Securities. Rule 9.2 | The Commission may, by rule or regulation after public hearing, add to the foregoing any class of securities if it finds that the enforcement of this Code with respect to such securities is not necessary in the public interest and for the protection of investors. | | | | | | |
| SEC.10. Exempt Transactions. Rule 10.1 | <p>The requirement of registration under Subsection 8.1 shall not apply to the sale of any security in any of the following transactions:</p> <p>a) At any judicial sale, or sale by an executor, administrator, guardian or receiver or trustee in insolvency or bankruptcy.</p> <p>b) By or for the account of a pledge holder, or mortgagee or any other similar lien holder selling or offering for sale or delivery in the ordinary course of business and not for the purpose of avoiding the provisions of this Code, to liquidate a bona fide debt, a security pledged in good faith as security for such debt.</p> <p>c) An isolated transaction in which any security is sold, offered for sale, subscription or delivery by the owner thereof, or by his representative for the owner's account, such sale or offer for sale, subscription or delivery not being made in the course of repeated and successive transactions of a like character by such owner, or on his account by such representative and such owner or representative not being the underwriter of such security.</p> <p>d) The distribution by a corporation, actively engaged in the business authorized by its articles of incorporation, of securities to its stockholders or other security holders as a stock dividend or other distribution out of surplus.</p> <p>e) The sale of capital stock of a corporation to its own stockholders exclusively, where no commission or other remuneration is paid or given directly or indirectly in connection with the sale of such capital stock.</p> <p>f) The issuance of bonds or notes secured by mortgage upon real estate or tangible personal property, where the entire mortgage together with all the bonds or notes secured thereby are sold to a single purchaser at a single sale.</p> <p>g) The issue and delivery of any security in exchange for any other security of the same issuer pursuant to a right of conversion entitling the holder of the security surrendered in exchange to make such conversion: Provided, That the security so surrendered has been registered under this Code or was, when sold, exempt from the provisions of this Code, and that the security issued and delivered in exchange, if sold at the conversion price, would at the time of such conversion fall within the class of securities entitled to registration under this Code. Upon such conversion the par value of the security surrendered in such exchange shall be deemed the price at which the securities issued and delivered in such exchange are sold.</p> <p>h) Broker's transactions, executed upon customer's orders, on any registered Exchange or other trading market.</p> <p>i) Subscriptions for shares of the capital stock of a corporation prior to the incorporation thereof or in pursuance of an increase in its authorized capital stock under the Corporation Code, when no expense is incurred, or no commission, compensation or remuneration is paid or given in connection with the sale or disposition of such securities, and only when the purpose for soliciting, giving or taking of such subscriptions is to comply with the requirements of such law as to the percentage of the capital stock of a corporation which should be subscribed before it can be registered and duly incorporated, or its authorized capital increased.</p> <p>j) The exchange of securities by the issuer with its existing security holders exclusively, where no commission or other remuneration is paid or given directly or indirectly for soliciting such exchange.</p> <p>k) The sale of securities by an issuer to fewer than twenty (20) persons in the Philippines during any twelve-month period.^a</p> | | | | | | |
| | <table border="1"> <tr> <td>Current version - Amended Implementing Rules and Regulations (IRR) of The Securities Regulation Code (Signed version of the Amended IRR published February 2004)</td> <td>Draft version of the Revised Implementing Rules and Regulations (IRR) of The Securities Regulation Code (Posted February 2011 for public comment. Public comments were closed on March 15, 2011)</td> </tr> <tr> <td>SRC Rule 10.1 – Exempt Transactions</td> <td>Rule 10.1 – Exempt Transactions</td> </tr> <tr> <td> <p>1. Disclosure to Investors</p> <p>Any person claiming exemption under Section 10.1 of the Code shall provide to any person to whom it offers for sale or sells securities in reliance on such exemption a written disclosure containing the following information:</p> <p>i. The provision of Section 10.1 of the Code under which exemption from registration is claimed;</p> <p>ii. Whether the Commission's confirmation that such offer or sale qualifies as an exempt transaction has been obtained; and</p> <p>iii. The following statement in bold face, prominent type: THE SECURITIES BEING OFFERED OR SOLD HEREIN HAVE NOT BEEN REGISTERED WITH THE SECURITIES</p> </td> <td> <p>1. Disclosure to Investors</p> <p>Any person claiming exemption under Section 10.1 of the Code shall provide to any party to whom it offers to sell or sells securities in reliance on such exemption a written disclosure containing the following information:</p> <p>A. The specific provision of Section 10.1 of the Code on which the exemption from registration is claimed; and</p> <p>B. The following statement in bold face: THE SECURITIES BEING OFFERED FOR SALE OR SOLD HEREIN HAVE NOT BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION UNDER THE SECURITIES REGULATION CODE. ANY FUTURE OFFER TO SELL OR SALE OF THE SECURITIES IS SUBJECT TO</p> </td> </tr> </table> | Current version - Amended Implementing Rules and Regulations (IRR) of The Securities Regulation Code (Signed version of the Amended IRR published February 2004) | Draft version of the Revised Implementing Rules and Regulations (IRR) of The Securities Regulation Code (Posted February 2011 for public comment. Public comments were closed on March 15, 2011) | SRC Rule 10.1 – Exempt Transactions | Rule 10.1 – Exempt Transactions | <p>1. Disclosure to Investors</p> <p>Any person claiming exemption under Section 10.1 of the Code shall provide to any person to whom it offers for sale or sells securities in reliance on such exemption a written disclosure containing the following information:</p> <p>i. The provision of Section 10.1 of the Code under which exemption from registration is claimed;</p> <p>ii. Whether the Commission's confirmation that such offer or sale qualifies as an exempt transaction has been obtained; and</p> <p>iii. The following statement in bold face, prominent type: THE SECURITIES BEING OFFERED OR SOLD HEREIN HAVE NOT BEEN REGISTERED WITH THE SECURITIES</p> | <p>1. Disclosure to Investors</p> <p>Any person claiming exemption under Section 10.1 of the Code shall provide to any party to whom it offers to sell or sells securities in reliance on such exemption a written disclosure containing the following information:</p> <p>A. The specific provision of Section 10.1 of the Code on which the exemption from registration is claimed; and</p> <p>B. The following statement in bold face: THE SECURITIES BEING OFFERED FOR SALE OR SOLD HEREIN HAVE NOT BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION UNDER THE SECURITIES REGULATION CODE. ANY FUTURE OFFER TO SELL OR SALE OF THE SECURITIES IS SUBJECT TO</p> |
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| SRC Rule 10.1 – Exempt Transactions | Rule 10.1 – Exempt Transactions | | | | | | |
| <p>1. Disclosure to Investors</p> <p>Any person claiming exemption under Section 10.1 of the Code shall provide to any person to whom it offers for sale or sells securities in reliance on such exemption a written disclosure containing the following information:</p> <p>i. The provision of Section 10.1 of the Code under which exemption from registration is claimed;</p> <p>ii. Whether the Commission's confirmation that such offer or sale qualifies as an exempt transaction has been obtained; and</p> <p>iii. The following statement in bold face, prominent type: THE SECURITIES BEING OFFERED OR SOLD HEREIN HAVE NOT BEEN REGISTERED WITH THE SECURITIES</p> | <p>1. Disclosure to Investors</p> <p>Any person claiming exemption under Section 10.1 of the Code shall provide to any party to whom it offers to sell or sells securities in reliance on such exemption a written disclosure containing the following information:</p> <p>A. The specific provision of Section 10.1 of the Code on which the exemption from registration is claimed; and</p> <p>B. The following statement in bold face: THE SECURITIES BEING OFFERED FOR SALE OR SOLD HEREIN HAVE NOT BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION UNDER THE SECURITIES REGULATION CODE. ANY FUTURE OFFER TO SELL OR SALE OF THE SECURITIES IS SUBJECT TO</p> | | | | | | |

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Table 2.1 continuation

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| | <p>AND EXCHANGE COMMISSION UNDER THE SECURITIES REGULATION CODE. ANY FUTURE OFFER OR SALE THEREOF IS SUBJECT TO REGISTRATION REQUIREMENTS UNDER THE CODE UNLESS SUCH OFFER OR SALE QUALIFIES AS AN EXEMPT TRANSACTION.</p> <p>2. Exempt Transactions Not Requiring Notice No notice of exemption or fee shall be required for any transaction covered by Section 10.1 of the Code except those covered by subparagraphs (k) and (l) or sale to not more than nineteen (19) persons and to qualified buyers, respectively.</p> <p>3. Exempt Transactions Requiring Notice A. Notice of exemption on SEC Form 10-1 shall be required in an offering or distribution of securities under Section 10.1(k) and (l) of the Code. B. The issuer shall file with the Commission a notice of exemption from the registration requirements under Section 8 of the Code on SEC Form 10-1, including, as an exhibit thereto, all pertinent information required to be furnished to the investors pursuant to this paragraph, within ten (10) days after the sale of the securities which are subject thereto. No filing fee shall be required for the said notice. C. Private Placements under Section 10.1(k) of the Code i. A prima facie presumption of circumvention of Sections 8 and 12 of the Code shall arise when the number of non-qualified investors shall exceed nineteen (19) within one (1) year. The issuer shall be liable for penalty in accordance with the Scale of Fines of the Commission, without prejudice to other actions which may be taken against the issuer. ii. If the initial purchaser/s shall resell said securities to more than nineteen (19) non-qualified investors, Sections 8 and 12 of the SRC shall apply, notwithstanding the exemption of their issuances, unless such succeeding sale shall qualify as an exempt transaction. iii. Exemptive relief under Section 10.1(k) (Private Placement) shall be subject to the following terms and conditions: a. The issuer claiming such relief shall not engage in any form of general solicitation or advertising in connection therewith; b. Securities sold in any such transaction may only be sold to persons purchasing for their own account; c. Sale may be made to no more than nineteen (19) "non-qualified" buyers. A corporation, partnership or other entity shall be counted as one buyer; provided, however, that if the entity is organized for the specific purpose of acquiring the securities offered and is not a qualified buyer under Section 10.1(l) of the Code, then each beneficial owner of equity securities in the entity shall count as a separate buyer under this Rule; d. The issuer provides any person to whom they offer for sale or sell securities pursuant thereto with the following information:</p> | <p>THE REGISTRATION REQUIREMENTS UNDER THE CODE UNLESS SUCH OFFER TO SELL OR SALE QUALIFIES AS AN EXEMPT TRANSACTION.</p> <p>2. Restrictions for Transactions under Section 10.1(k) of the Code A) Sections 8 and 12 of the Code are violated if the number of non-qualified investors exceeds nineteen (19) within a twelve (12) month period, or when a security instrument or any document evidencing a securities transaction is issued to a nonqualified buyer by a foreign financial institution or intermediary that has a presence in the Philippines regardless of the site of the issuance or execution of the said instrument or document. The local branch, representative office or any similar office of the said foreign financial institution shall have the burden of proof, if questioned, in proving that it had no participation, direct or indirect, in the said transaction. The issuer of the security or, in the proper case, the foreign financial institution and its representative in the Philippines regardless of the nature or manner of its representation, shall be liable for penalty in accordance with the rules of the Commission, without prejudice to other actions that may be taken against it. B) If the initial purchaser/s resell the said securities to more than nineteen (19) non-qualified investors, Sections 8 and 12 of the Code shall apply, notwithstanding the exemption of the initial transaction unless such succeeding sale qualifies as an exempt transaction. C) Debt instruments issued by other Issuers, such as, financing and lending companies without quasi-banking licenses, shall not be considered exempt transactions if they exceed Fifty Million Pesos (PhP50,000,000) or such higher amount as the Commission may prescribe. D) A request for confirmation of exemption under Section 10.1(k) shall be subject to the following terms and conditions: (i) The Issuer claiming relief shall not engage in any form of general solicitation or advertising in that connection; (ii) Securities sold in any such transaction may only be sold to persons purchasing for their own account; (iii) The sale may be made to not more than nineteen (19) "non-qualified" buyers. A corporation, partnership or other entity shall be counted as one buyer; provided, that if the entity is organized for the specific purpose of acquiring the securities offered and is not a qualified buyer under Section 10.1(l) of the Code, then each beneficial owner of equity securities in the entity shall be counted as a separate buyer under this Rule; (iv) The Issuer provides any person to whom it offers for sale or sells securities the following information in writing: [1] name of the Issuer and its predecessor, if any; [2] address of its principal executive office; [3] place of incorporation; [4] title and class of the security; [5] par or issue value of the security; [6] number of shares or total amount of securities</p> |
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Table 2.1 continuation

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| | <p>1) exact name of the issuer and its predecessor, if any; 2) address of its principal executive office; 3) place of incorporation; 4) exact title and class of the security; 5) par or issue value of the security; 6) number of shares or total amount of securities outstanding as of the end of the issuer's most recent fiscal year; 7) name and address of the transfer agent; 8) nature of the issuer's business; 9) nature of products or services offered; 10) nature and extent of the issuer's facilities; 11) name of the chief executive officers and members of the board of directors; 12) issuer's most recent financial statements for each of the two preceding fiscal years or such shorter period as the issuer (including its predecessor) has been in existence; 13) whether the person offering or selling the securities is affiliated, directly or indirectly, with the issuer; 14) whether the offering is being made directly or indirectly on behalf of the issuer, or any director, officer or person who owns directly or indirectly more than ten percent (10%) of the outstanding shares of any equity security of the issuer and, if so, the name of such person; and 15) information required under paragraph 1 of this Rule. Provided, however, that where the issuer is a reporting company under Section 17 of the Code, a copy of its most recent annual report (SEC Form 17-A) may be used to provide any of the required information.</p> <p>D. Offer or Sale of Securities to Qualified Buyers under Section 10.1(l) of the Code If the initial qualified buyer/s shall resell their securities to more than nineteen (19) nonqualified buyers/investors, Sections 8 and 12 of the Code shall apply.</p> <p>4. Application for Confirmation or Declaration of Exemption</p> <p>A. If a confirmation of exemption shall be obtained from the Commission, a duly accomplished SEC Form 10-1 shall be filed with the corresponding filing fee.</p> <p>B. In cases which involve distribution of securities by way of stock dividend, the Commission shall determine the sufficiency of the retained earnings of the issuer company prior to issuing a confirmation thereto.</p> <p>C. Where the consideration for the offered securities is other than actual cash, a request for confirmation of exemption from registration under Section 10 of the Code shall deem to include an application for approval of valuation required under Section 62 of the Corporation Code of the Philippines, or vice versa.</p> <p>5. Exempt Commercial Paper Transactions</p> <p>An issuer of commercial papers under an exempt transaction shall:</p> <p>A. File a Notice or Application for Confirmation of Exemption (SEC Form 10-1) prior to issuance thereof. Said application shall be accompanied by the prescribed filing fees and include a disclosure of the following financial ratios: Current Ratio = Current Assets/Current Liabilities</p> | <p>outstanding as of the end of the issuer's most recent fiscal year; [7] name and address of the transfer agent; [8] nature of the Issuer's business; [9] nature of products or services offered; [10] nature and extent of the Issuer's facilities; [11] name of the chief executive officer and members of the board of directors; [12] the Issuer's most recent financial statements for the two preceding fiscal years or such shorter period as the issuer (including its predecessor) if it has been in existence; [13] whether the person offering or selling the securities is affiliated, directly or indirectly, with the Issuer; [14] whether the offering is being made directly or indirectly on behalf of the Issuer, or any director, officer or person who owns directly or indirectly more than ten percent (10%) of the outstanding shares of any equity security of the Issuer and, if so, the name of such person; and [15] information required under paragraph 1 of this Rule; provided, however, that if the Issuer is a reporting company under Section 17 of the Code, a copy of its most recent annual report may be used to provide the required information.</p> <p>E. Offer or Sale of Securities to Qualified Buyers under Section 10.1(l) of the Code.</p> <p>If the initial qualified buyer/s resell their securities to more than nineteen (19) non-qualified buyers/investors, Sections 8 and 12 of the Code shall apply.</p> <p>3. Application for Confirmation or Declaration of Exemption</p> <p>A. If the Issuer wants a confirmation of exemption under Section 10.1 of the Code, it shall file SEC Form 10-1 with the Commission.</p> <p>B. In cases involving the distribution of securities through stock dividends, the Commission shall determine the sufficiency of the retained earnings of the Issuer prior to issuing a confirmation of exemption.</p> <p>C. If the consideration for the offered securities is other than cash, except in the case of issuance of shares by way of stock dividends, a request for confirmation of exemption from registration shall be filed with Company Registration and Monitoring Department of the Commission and shall be deemed to include an application for approval of valuation required under Section 62 of the Corporation Code and vice versa.</p> <p>4. Exempt Commercial Paper Transactions</p> <p>An Issuer of commercial papers in an exempt transaction shall:</p> <p>A. File a Notice or Application for Confirmation of Exemption (SEC Form 10-1) prior to issuance. The application shall make a disclosure of the following financial ratios: Current Ratio = Current Assets/Current Liabilities Debt to equity Ratio = Total Liabilities/Stockholders' Equity</p> <p>B. Indicate in bold letters on the face of the instrument the words: NON-NEGOTIABLE/NON-ASSIGNABLE</p> <p>C. The Issuer of outstanding long term commercial papers</p> |
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Table 2.1 continuation

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| | <p>Acid Test Ratio = Cash, receivables and marketable securities/Current Liabilities Net Profit Margin= Net income after income tax/Net Sales or revenues Return on Equity= Net income after income tax/Total Stockholders' Equity Interest Service Charge Ratio = Net income before interest expense/Interest Expense Debt to equity ratio = Total Liabilities/Stockholders'Equity</p> <p>B. Indicate in bold letters on the face of the instrument the words: “NON-NEGOTIABLE/NON-ASSIGNABLE”</p> <p>C. That any issuer with outstanding long term commercial papers shall likewise file the prescribed disclosure statement and quarterly reports on such borrowings.</p> <p>6. Other Requirements and Limitations</p> <p>A. Exemptive relief under Section 10.1(c) (Isolated Transaction) of the Code shall not be available to an issuer of securities which shall not be considered as an “owner” thereof.</p> <p>B. In connection with a transaction under Section 10.1(i) of the Code, any fee paid pursuant to the requirements of the Corporation Code may be applied in satisfaction of fees owed in relation to an application for confirmation of exemption.</p> <p>C. The Commission shall not be precluded from taking whatever action it may deem appropriate on any application for confirmation even if filed after the offer or sale of the securities without prejudice to the imposition of penalties when warranted by the situation.</p> <p>7. Burden of Proof that Such Exemption is Available</p> <p>A. Unless confirmation of the availability of such exemption is applied for under paragraph 4 of this Rule, any person claiming an exemption under Section 10 has the burden, if challenged, to establish that the exemption is available. The Commission may challenge such exemption at any time.</p> <p>B. A presumption that an exemption is not available may arise from the failure to file a notice as required by paragraph 3 of this Rule. Failure to file such notice shall also subject a person claiming an exemption under Section 10 to sanctions under the Code.</p> <p>8. The sale or offer for sale of a security in any transaction exempt under Section 10 shall not be exempt from antifraud, civil liability or other provisions of the Code.</p> <p>9. In view of the objective of full and fair disclosure under the Code, exemptive relief under Section 10 of the Code shall not be available to any issuer or other persons for any transaction or chain of transactions that, although in technical compliance with the Code and this Rule, shall be a part of a plan or scheme to evade the registration provisions of the Code. In such cases, registration under the Code shall be required.</p> | <p>shall also file the prescribed disclosure statement and semestral reports on such borrowings.</p> <p>5. Other Requirements and Limitations</p> <p>A. A request for confirmation of exemption under Section 10.1(c) of the Code shall be available only to Issuers.</p> <p>B. The Commission may take any action it may deem appropriate in an application for confirmation even if it is filed after the offer or sale of the securities without prejudice to the imposition of penalties if warranted.</p> <p>6. Burden of Proof on the Availability of Exemption</p> <p>Unless a confirmation of exemption is applied for under paragraph 4 of this Rule, any person claiming exemption under Section 10 of the Code has the burden of proof, if challenged, of showing that it is entitled to the exemption. The Commission may challenge such exemption any time.</p> <p>7. The sale or offer for sale of a security in an exempt transaction under Section 10 of the Code shall not exempt it from anti-fraud, civil liability or other liability provisions of the Code.</p> <p>8. A request for confirmation of exemption under Section 10 of the Code shall not be available to any Issuer or other persons to any transaction or chain of transactions that, although it may appear to be in compliance with the Code and these Rules, is a part of a plan or scheme to evade compliance with the registration requirements of the Code. In such cases, registration shall be mandatory.</p> <p>9. Qualified Buyers</p> <p>A. For purposes of Section 10 of the Code, a natural person shall be considered a qualified individual buyer if he has registered as such with a Self Regulatory Organization and such other entities that may be authorized by the Commission, and possesses the following qualifications: (i) Has an annual gross income of at least Twenty Five Million Pesos at least two (2) years prior to registration, or a total portfolio investment in securities registered with the Commission of at least Ten Million Pesos, or a personal net worth of not less than Thirty Million Pesos; and (ii) Has been engaged in securities trading personally or through a fund manager for a minimum period of one (1) year, or has held for at least two (2) years a position of responsibility in any professional business entity that requires knowledge or expertise in securities trading, such as, legal consultant, financial adviser, sales person, or associated person of a broker-dealer, bank finance or treasury officer, trust officer or other similar executive officers.</p> <p>B. If the buyer is a juridical person, it shall, at the time of registration with an authorized registrar, (i) have an annual gross income of at least One Hundred Fifty Million Pesos at least two (2) years prior to registration; or (ii) a total portfolio investment in securities registered with the Commission of at least Sixty Million Pesos; or (iii) a net worth of not less than One Hundred Million Pesos.</p> |
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| | <p>C. All persons registering as qualified buyers shall, in addition, show proof that they possess the above- enumerated qualifications and submit under oath certified copies of the documents that show the following matters: (i) total portfolio of securities; (ii) annual gross income for the last two (2) years based on their income tax returns stamped-received by the BIR; (iii) their net worth; and (iv) threshold risk (low, medium, high risk). D. The registration as qualified buyers shall be valid for two years. It may renewed by the Commission upon favorable recommendation of an authorized registrar. For this purpose, the registrar shall maintain a registry which shall be open for inspection by the Commission. E. No securities acquired by qualified buyers shall be assigned, transferred or sold to investors who do not possess similar qualifications.</p> | |
| | <p>I) The sale of securities to any number of the following qualified buyers: (i) Bank; (ii) Registered investment house; (iii) Insurance company; (iv) Pension fund or retirement plan maintained by the Government of the Philippines or any political subdivision thereof or managed by a bank or other persons authorized by the Bangko Sentral to engage in trust functions; (v) Investment company; or (vi) Such other person as the Commission may by rule determine as qualified buyers, on the basis of such factors as financial sophistication, net worth, knowledge, and experience in financial and business matters, or amount of assets under management.</p> | |
| <p>Rule 10.2</p> | <p>The Commission may exempt other transactions, if it finds that the requirements of registration under this Code is not necessary in the public interest or for the protection of the investors such as by reason of the small amount involved or the limited character of the public offering.</p> | |
| | <p>Amended Implementing Rules and Regulations (IRR) of The Securities Regulation Code (Signed version of the Amended IRR published February 2004)</p> | <p>Draft version of the Revised Implementing Rules and Regulations (IRR) of The Securities Regulation Code (Posted February 2011 for public comment. Public comments were closed on March 15, 2011)</p> |
| | <p>Rule 10.2 – None.</p> | <p>Rule 10.2 – Small or Limited Public Offerings</p> |
| | <p>None.</p> | <p>1. An offering of securities shall be considered as small amount if the aggregate amount of securities covered by the application for exemption is less than five percent (5%) of the Issuer’s total net assets and that the number of shares covered by the application for exemption does not exceed five percent (5%) of the outstanding shares of the same class of the Issuer.</p> <p>2. For a public offering to be considered of limited character, the covered securities should be available only to the parties or persons named in the application for exemption for a specified period.</p> <p>3. The following documents shall be submitted in support of an application for exemption under Section 10.2 of the Code: A. Letter-request which shall contain the following information:</p> |

continued on next page

Table 2.1 continuation

| | | |
|---|--|--|
| | | <p>(i) Registered name of the applicant; (ii) Primary purpose of the applicant; (iii) Number of option shares to be issued; (iv) Profile of the optionees or persons to whom the offer shall be made; (v) Latest audited financial statement of the applicant; (vi) If applicable, the names and addresses of the applicant's subsidiaries and affiliate companies and their dates of registration with the Commission; issue price or exchange rate, including its source or basis, of the option shares at the time of filing; and last quoted price of the option shares.</p> <p>B. Notarized certificate of the corporate secretary of the applicant attesting to the following: (i) Approval by the applicant's board of directors and stockholders of the stock offering plan ("the Plan"); (ii) Genuineness and due execution of the Plan, a copy of which shall be attached to the certificate; and (iii) If applicable, a breakdown of the number of shares earlier exempted from registration, the shares subscribed by the optionees, and the remaining unissued shares computed on a year-to-year basis, and an explanation on why the applicant has renewed its application in spite of the availability of unissued shares.</p> <p>4. Issuers of securities of small or limited character that are granted exemption under this Rule shall submit to the Commission, on an annual basis, the amount of securities issued and the persons to whom the same were issued, or such other reports and for such period as the Commission may from time to time require.</p> <p>5. Applications for exemption filed under this Rule shall pay a filing fee in such amount as may be prescribed by the Commission.</p> |
| <p>Rule 10.3</p> | <p>Any person applying for an exemption under this Section, shall file with the Commission a notice identifying the exemption relied upon on such form and at such time as the Commission by rule may prescribe and with such notice shall pay to the Commission a fee equivalent to one-tenth (1/10) of one percent (1%) of the maximum aggregate price or issued value of the securities.</p> | |
| <p>SEC.12. Procedure for Registration of Securities. Rule 12.1</p> | <p>All securities required to be registered under Subsection 8.1 shall be registered through the filing by the issuer in the main office of the Commission, of a sworn registration statement with respect to such securities, in such form and containing such information and documents as the Commission shall prescribe. The registration statement shall include any prospectus required or permitted to be delivered under Subsections 8.2, 8.3 and 8.4.</p> | |
| <p>^a Known as Private Placement. Source: SEC.</p> | | |

Likewise, no information relating to the offering of securities shall be disseminated unless a registration statement (RS) has been filed with the SEC, along with a preliminary prospectus of the securities intended to be sold and distributed to the public.

If the securities, which are the subject of the RS, are intended to be listed in an exchange, a copy of said RS and all other pertinent documents shall also be filed with that exchange.

The application for the listing shall also be filed with the SEC.

The registrant may circulate a preliminary prospectus to prospective buyers of the securities upon filing the RS, even before SEC renders the RS as effective. The preliminary prospectus should prominently state that the RS pertaining to the securities has been filed but has not yet been approved by the SEC, and that the said prospectus does not constitute an offer to sell or a solicitation of an offer to buy. Both the preliminary and final prospectus shall be worded in plain language understandable to an ordinary person. The registrant shall also be able to show that the prospectuses were made readily available to those who want a copy in sufficient number.

The sale of securities, whose RS has been applied for, shall be commenced within 2 business days from the date of effectivity of the RS, and shall be continued until the end of the offering period or until sale has been terminated by action of the issuer.

A written notice of completion or termination of the offering shall be filed with the SEC within 3 business days, indicating the number of securities sold.

If the remaining registered but unsold securities shall be offered after the completion or termination of the sale, an updated RS shall be filed with the SEC prior to said offering or sale.

a. Exemptions from Registration

Exemption from registration with the SEC may pertain to securities (Section 9.1, SRC) or transactions (Section 10.1, SRC). Refer to Table 2.1 for details.

The exempt securities (Section 9.1, SRC) are as follows:

- (a) Any security issued or guaranteed by the Government of the Philippines, or by any political subdivision or agency thereof, or by any person controlled or supervised by, and acting as an instrumentality of said Government.
- (b) Any security issued or guaranteed by the government of any country with which the Philippines maintains diplomatic relations, or by any state, province or political subdivision thereof on the basis of reciprocity: Provided, That the Commission may require compliance with the form and content of disclosures the Commission may prescribe.
- (c) Certificates issued by a receiver or by a trustee in bankruptcy duly approved by the proper adjudicatory body.
- (d) Any security or its derivatives the sale or transfer of which, by law, is under the supervision and regulation of the Office of the Insurance Commission, Housing and Land Use Regulatory Board, or the Bureau of Internal Revenue.
- (e) Any security issued by a bank except its own shares of stock.

On the other hand, exempt transactions (Section 10.1, SRC) are summarized as follows: (See details in Table 2.1).

- (a) Judicial sales or sales by an executor, administrator, guardian, receiver, or trustee in insolvency or bankruptcy
- (b) Sales made pursuant to the foreclosure of a pledge or mortgage

- (c) Isolated transactions
- (d) Payment of stock dividends
- (e) Sale of capital stock by a company to its own stockholders exclusively without any paid remuneration or commission
- (f) Issuance of bonds or notes secured by a mortgage to a single purchaser
- (g) Conversion of previously registered convertible securities
- (h) Broker's transactions on a registered exchange or trading market
- (i) Pre-incorporation subscription or subscription to increase a company's authorized capital stock
- (j) Exchange of securities by the issuer with its existing security holder exclusively without remuneration
- (k) Sale of securities by an issuer to less than 20 persons in the Philippines during any 12-month period, also known as private placement
- (l) Sale to qualified buyers
See details in Table 2.1.

A Notice of Exemption on SEC Form 10-1 shall be required in an offering or distribution of securities under Section 10.1(k) and (l) of the SRC.

Any person claiming exemption under Section 10 of the SRC shall provide a written disclosure stating the exemption relied upon to any other person whom it offers to sell securities relying on any of the exemptions mentioned above. The written disclosure shall also indicate whether SEC's confirmation has been obtained that such offer or sale qualifies as an exempt transaction.

b. Commercial Papers Registration

The conditions for the registration of commercial papers (CPs) issued by corporations to the public are provided under SRC Rule 12.1, the salient points of which are as follows:

- (i) RS (Registration Statement) under SEC Form 12-1 in accordance with SRC Rules 8.1 and 12.1.
- (ii) Firm commitment underwriting agreement for the CP with a universal bank, investment house, or any other financial institution duly licensed under the Investment Houses Law.
- (iii) A commercial paper issue shall be rated by a rating agency accredited by the SEC, except for issuance amounting to not more than 25% of the issuer's net worth. A rating shall also be made where there is an irrevocable committed credit line with a bank covering 100% of the proposed issuance.
- (iv) Payment of a filing fee, which shall be based on the total amount of CP proposed to be issued, and shall be subject to a diminishing fee in accordance with SEC Form 12-1.

Furthermore, SRC Rule 12.1 requires the issuer to comply with the conditions imposed for the registration of its CPs for the duration of the effectivity of the RS covering said securities. Failure to satisfy these conditions shall be sufficient ground, after notice and hearing, for the revocation or suspension of said registrations.

Registration of short-term CPs shall be valid for less than 1 year and may be renewed annually with respect to the unissued balance of the authorized amount upon demonstration of strict compliance with the SRC and applicable rules. The application for renewal of registration shall be filed at least 45 days before expiry date.

On the other hand, registration of long-term CPs shall be a closed-end process where the issued portion of the authorized amount may no longer be subject to re-issuance to the public, unless re-applied for registration in accordance with the rules.

Long-term CPs, except bonds, which have a maturity period of 5 years or more, shall not be pre-terminated by the issuer or lender within 730 days from the date of issue. Pre-termination shall include optional redemption, partial installments, and amortization payments.

It should be noted that the given rules do not constitute an exemption or a waiver of applicable BSP requirements governing the performance of quasi-banking functions of financial intermediaries duly authorized to engage in such activities. Thus, all applications covering the registration of CPs to be issued for relending purposes shall be endorsed by the SEC to the BSP. Otherwise, only SEC approval is necessary.

An issuer of commercial papers under an exempt transaction shall:

- a) File a Notice or Application for Confirmation of Exemption (SEC Form 10-1) prior to issuance thereof. The said application shall be accompanied by the prescribed filing fees and include a disclosure of the following financial ratios:
 - (i) Current Ratio = Current Assets/Current Liabilities
 - (ii) Acid Test Ratio = Cash, receivables and marketable securities/Current Liabilities
 - (iii) Net Profit Margin = Net income after income tax/Net Sales or revenues
 - (iv) Return on Equity = Net income after income tax/Total Stockholders' Equity Interest Service
 - (v) Charge Ratio = Net income before interest expense/Interest Expense
 - (vi) Debt to equity ratio = Total Liabilities/Stockholders' Equity

Above Exempt Commercial Paper Transaction is currently proposed to be changed to:

- b) File a Notice or Application for Confirmation of Exemption (SEC Form 10-1) prior to issuance. The application shall make a disclosure of the following financial ratios:
 - (i) Current Ratio = Current Assets/Current Liabilities
 - (ii) Debt to equity Ratio = Total Liabilities/Stockholders' Equity

c. Availability of Shelf Registration and Associated Documentation Requirements

Under SRC Rule 8.1 on the Requirement to file an RS, if the remaining registered but unsold securities shall be offered after the completion or termination mentioned under paragraph 1D,³⁶ an updated RS shall be filed with the SEC prior to the said offering or sale.

³⁶ Paragraph 1D of the SRC Rule 8.1 states that [a] A written notification of completion or termination of the offering shall be filed with the Commission within three (3) business days from such completion or termination, indicating therein the number of securities sold.

D. Rules and Regulations on Buying Debt Instruments and Investment in Debt Securities

1. Rules or Requirements for Continuous Disclosure

There are no restrictions for investors who would want to purchase debt instruments.

2. Definition of Qualified Institutional Investors

Please also refer to Chapter I, P.2.a “Qualified Investor (qualified buyer)”.

a. Qualified Buyer

According to SEC OTC Rules,³⁷ “qualified investor” refers to any of the qualified buyers defined under Section 10.1 (L) of the SRC, as follows:

- (i) Banks;
- (ii) Registered investment houses;
- (iii) Insurance companies;
- (iv) Pension funds or retirement plans maintained by the Government of the Philippines or any of its political subdivisions, or managed by a bank or other persons authorized by the BSP to engage in trust functions;
- (v) Investment companies; or
- (vi) Other persons as the SEC may determine, by rule, as qualified buyers on the basis of financial sophistication, net worth, knowledge and experience in financial and business matters, or amount of assets under management.

Qualified investors may also be any of the institutional accounts defined in SRC Rule 52.1,³⁸ which include:

- (i) A bank, insurance company, or registered investment company;
- (ii) Any other entity set forth in Section 10.1(L) of the SRC³⁹ as a qualified buyer; or
- (iii) Any other entity (whether a natural or juridical person, corporation, partnership, trust, or otherwise) with total assets of at least PHP1.2 billion; provided, however, that the broker or dealer shall obtain from such entity a declaration, under oath, confirming ownership of such assets;
- (iv) Other persons declared by the SEC by way of rule or order as a qualified investor taking into consideration such person’s net worth or financial background that would enable him to bear the risk that may arise from participating in an over the counter (OTC) market.

b. Qualified Individual Buyer

To implement the provisions of Section 10.1(L)(vi) of the SRC, SEC issued *Memorandum Circular No. 6, Series of 2007* (Qualified Buyer Rules)⁴⁰ on 10 December 2007. Under

³⁷ Footnote 11.

³⁸ According to SRC Rule 52.1, the term “institutional account” shall mean the account of:

- (i) A bank, insurance company, or registered investment company;
- (ii) Any other entity set forth in Section 10.1(L) of the Code as a qualified buyer; or
- (iii) Any other entity (whether a natural person, corporation, partnership, trust or otherwise) with total assets of at least =PHP1,200,000,000; provided, however, that the Broker Dealer shall obtain from such entity a declaration, under oath, confirming ownership of such assets.

³⁹ Footnote 9.

⁴⁰ SEC. 2006. “Definition of Qualified Buyers under Section 10 of the Securities Regulation Code.” SEC Memorandum Circular No. 6, Series of 2006. <http://www.sec.gov.ph/circulars/cy,2007/sec-memo-06,s2007.pdf>

the circular, the SEC distinguishes a qualified individual buyer from a “qualified institutional buyer.” A qualified individual buyer is a natural person who, at the time of his or her registration with an SRO, or such other entities that the SEC may authorize to make the registration, possesses the following qualifications:

- a. Has a minimum annual gross income of PHP25 million for at least 2 years prior to registration, or a total portfolio investment in securities registered with the SEC of at least PHP10 million, or a personal net worth of not less than PHP30 million); and
- b. Has been legally engaged in securities trading, in his personal capacity, or through a fund manager, for a period of 1 year; or held for at least 2 years a position of responsibility in any professional or business entity that requires knowledge or expertise in securities trading, such as legal consultant, financial adviser, sales person, or associated person of broker-dealer, or finance, treasury or trust officer of a bank, or other executive positions with related responsibilities.

c. Prospective Qualified Buyer

Under the Qualified Buyer Rules, prospective qualified buyers, whether institutional or individual, who possess all the qualifications and wish to become qualified buyers shall file their application for registration with an accredited registrar of qualified buyers.

d. Qualified Institutional Buyer

On the other hand, a qualified institutional buyer is one that possesses any of the following qualifications at the time of its registration:

- (i) Has a minimum annual gross income of at least PHP100 million for at least 2 years prior to registration;
- (ii) A total portfolio investment in securities registered with the SEC of at least PHP60 million; and
- (iii) A net worth of not less than PHP100 million.

e. Non-Qualified Investor

Meanwhile, the OTC Rules⁴¹ simply define non-qualified investors as:

- (i) Those that do not fall under the classification of qualified investors; and
- (ii) Qualified investors that do not want to participate in the OTC market as qualified investors.

The consequence under the OTC Rules is that a qualified investor can directly buy or sell securities in an OTC market while a non-qualified investor cannot participate in an OTC market, unless such participation is through an intermediary such as a broker, investment house, or bank in its capacity as a broker; or through participation in a mutual fund, pension fund, or non-directional trust fund.

⁴¹ SEC Memorandum Circular No. 14, Series of 2006, “Rules Governing the Over-the-Counter (OTC) Market” is available from the following website: <http://www.sec.gov.ph/circulars/cy,2006/sec-memo-14,s2006.pdf>

The Implementing Rules and Regulations (IRR) of the SRC (SRC Rules) likewise recognize the following as primary institutional lenders, and do not require registration of instruments issued to the following:

- (i) Banks,
- (ii) Bank trust accounts wherein the bank-trustee is granted discretionary powers in the investment disposition of the trust funds,
- (iii) Investment houses,
- (iv) Investment houses and their trust accounts wherein the investment house-trustee is granted discretionary powers in the investment disposition of the trust funds,
- (v) Trust companies,
- (vi) Financing companies,
- (vii) Investment companies,
- (viii) Pre-need companies,
- (ix) Non-stock savings and loan associations,
- (x) Building and loan associations,
- (xi) Venture capital corporations,
- (xii) Insurance companies,
- (xiii) Government financial institutions,
- (xiv) Pawnshops,
- (xv) Pension and retirement funds approved by the Bureau of Internal Revenue (BIR),
- (xvi) Educational assistance funds established by the national government, and
- (xvii) Other entities that the BSP, in consultation with the SEC, classifies as primarily institutional lenders. Conditions to this include (a) all evidence of indebtedness shall only be negotiated or assigned to any of the primary institutional lenders, such as the Development Bank of the Philippines, with respect to private development banks in relation with their rediscounting privileges; (b) in case of non-banks without underwriting licenses, such negotiation or assignment shall be through banks or non-banks licensed to be an underwriter or a securities dealer; and (c) that in no case shall the said instruments be negotiated or assigned to non-qualified investors.

For more discussion on qualified investor (qualified buyer), please refer to I.P.2a of this market guide

3. Requirements and Restrictions for Non-Resident Investors

BSP regulations on inward foreign investments are found in Section 32 to 44 of the *Manual of Regulations on Foreign Exchange Transactions* (FX Manual) 1.⁴² These may be in the form of:

- (i) Foreign direct investments (FDIs), in cash or in kind, in Philippine firms or enterprises;
- (ii) Investments in peso-denominated government securities;
- (iii) Investments in securities listed in the Philippine Stock Exchange (PSE);

⁴² Section 32 to 44 can be found in the Part 2, Chapter II on Foreign Investments of the *Manual of Regulations on Foreign Exchange Transactions*. Full text of the FX Manual is available in the Bangko Sentral ng Pilipinas (BSP) website: <http://www.bsp.gov.ph/downloads/Regulations/MORFXT/MORFXT.pdf>;

- (iv) Investments in money-market instruments;⁴³ and
- (v) Investments in peso time deposits with authorized agent banks (AABs) with a minimum maturity of 90 days.

Investments may be registered with the BSP Head Office through the International Operations Department (IOD) or with custodian banks in the Philippines to allow capital repatriation and remittance of profits, dividends and earnings to be funded with foreign exchange sourced from AABs or AAB foreign exchange corps.⁴⁴

Such minimum requirements include the original certificate of inward remittance of foreign exchange Bangko Sentral Remittance Document (BSRD) in the BSP-prescribed format, which contains information on the inward remittance of foreign exchange and its conversion to pesos through an AAB.

However, a foreign investor, or his or her authorized representative, can opt to register the foreign investments with the BSP.

For this purpose, the minimum documentary requirements must comply with the requirements provided under Appendix 10 of the FX Manual. Such minimum requirements include the original certificate of inward remittance of Foreign Exchange Bangko Sentral Remittance Document (BSRD) in the BSP-prescribed format, which contains information on the inward remittance of foreign exchange and its conversion to pesos through an AAB.

4. Resident Investor Requirements and Restrictions

Under Section 44 of the FX Manual, residents can freely purchase foreign exchange from AABs and/or AAB-foreign exchange corporations for investments abroad. These include investments in bonds and/or notes of the Republic of the Philippines or other Philippine-resident entities requiring settlement in foreign currency. An investor, or a fund of qualified investors, can invest up to USD60 million, or its equivalent, per year.

E. Investor Protection

1. Bondholders Rights

The *Insolvency Law* and Civil Code cover bondholder rights. Claims of creditors against debtors through insolvency proceedings fall under the *Insolvency Law*. Meanwhile, the Civil Code prescribes the order of payments to different types of creditors in the event of liquidation of a debtor's estate. The same rules apply to domestic and foreign bondholders.

⁴³ These include peso-denominated debt instruments, such as but not limited to bonds and notes, bills payables, and non-participating preferred shares issued onshore by private resident firms and not included in Section 23 of the FX Manual.

⁴⁴ Foreign direct investment, peso-denominated government securities, securities listed in the Philippine Stock Exchange (PSE), and money-market instruments are registered with the BSP's International Operations Department (IOD). Registration for peso-denominated government securities and securities listed in the PSE, as well as peso-time deposits with authorized agent banks (AABs) are filed with custodian banks.

2. Prevention of Fraud

Section 24 (Manipulation of Security Prices Devices and Practices) of the SRC⁴⁵ and SRC Rules prohibit fraudulent and manipulative transactions.

F. Regulatory Reporting Requirements

Reportorial requirements are provided under SRC Chapter V (Reportorial Requirements) and corresponding SRC Rule 17.1. Refer to Tables 2.2 and 2.3.

A summary or salient points of the SRC Chapter V (Reportorial Requirements) and SRC Rule 17.1 are as follows:

- (i) As a general rule, every issuer shall file an annual report and quarterly report with the SEC using SEC Forms.
- (ii) Every issuer shall file the same report with the exchange where the issuer is listed within 10 minutes after the event has occurred and prior to the report’s release to the public through the news media. A copy of the report shall be provided to the SEC.
- (iii) Any disclosure signed and filed with the SEC and with the exchange where the securities are listed, or released through mass media—in the personal capacity of any director, executive officer, or a substantial stockholder (as defined under SRC Rule 38.1) directly or indirectly—by an issuer shall be considered as part of any report mentioned above, and deemed as an official filing of such company if it does not deny the subject information within 2 days from the filing and/or release of the aforementioned disclosure. Any misleading statement, misrepresentation, or omission of a material fact shall be the joint responsibility of the issuer and the reporting director, officer, or substantial stockholder.

An owner of more than 5% of the voting rights of a listed company, or any related person, who holds material information which may materially affect such company, may be required by the SEC to disclose such information within the period prescribed under SRC Rule 17.1. Failure to provide the required information shall subject the said stockholder to sanctions applicable to violations of this rule.

Table 2.2 Securities Regulation Code Chapter V: Reportorial Requirements

| REPUBLIC ACT NO. 8799 THE SECURITIES REGULATION CODE (SRC) 17 July 2000 | |
|---|--|
| CHAPTER V | Reportorial Requirements |
| SEC. 17. | Periodic and Other Reports of Issuers. |
| 17.1. | Every issuer satisfying the requirements in Subsection 17.2 hereof shall file with the Commission: <ul style="list-style-type: none"> a) Within one hundred thirty-five (135) days, after the end of the issuer’s fiscal year, or such other time as the Commission may prescribe, an annual report which shall include, among others, a balance sheet, profit and loss statement and statement of cash flows, for such last fiscal year, certified by an independent certified public accountant, and a management discussion and analysis of results of operations; and b) Such other periodical reports for interim fiscal periods and current reports on significant developments of the issuer as the Commission may prescribe as necessary to keep current information on the operation of the business and financial condition of the issuer. |

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⁴⁵ Footnote 9; Footnote 24.

Table 2.2 continuation

| REPUBLIC ACT NO. 8799 THE SECURITIES REGULATION CODE (SRC) 17 July 2000 | |
|--|---|
| 17.2. | The reportorial requirements of Subsection 17.1 shall apply to the following: a) An issuer which has sold a class of its securities pursuant to a registration under Section 12 hereof: Provided, however, That the obligation of such issuer to file reports shall be suspended for any fiscal year after the year such registration became effective if such issuer, as of the first day of any such fiscal year, has less than one hundred (100) holders of such class of securities or such other number as the Commission shall prescribe and it notifies the Commission of such; b) An issuer with a class of securities listed for trading on an Exchange; and c) An issuer with assets of at least Fifty million pesos (P50,000,000.00) or such other amount as the Commission shall prescribe, and having Two hundred (200) or more holders each holding at least One hundred (100) shares of a class of its equity securities: Provided, however, That the obligation of such issuer to file reports shall be terminated ninety (90) days after notification to the Commission by the issuer that the number of its holders holding at least one hundred (100) shares is reduced to less than One hundred (100). |
| 17.3. | Every issuer of a security listed for trading on an Exchange shall file with the Exchange a copy of any report filed with the Commission under Subsection 17.1 hereof. |
| 17.4. | All reports (including financial statements) required to be filed with the Commission pursuant to Subsection 17.1 hereof shall be in such form, contain such information and be filed at such times as the Commission shall prescribe, and shall be in lieu of any periodical or current reports or financial statements otherwise required to be filed under the Corporation Code. |
| 17.5. | Every issuer which has a class of equity securities satisfying any of the requirements in Subsection 17.2 shall furnish to each holder of such equity security an annual report in such form and containing such information as the Commission shall prescribe. |
| 17.6. | Within such period as the Commission may prescribe preceding the annual meeting of the holders of any equity security of a class entitled to vote at such meeting, the issuer shall transmit to such holders an annual report in conformity with Subsection 17.5. |
| SEC. 18. | Reports by Five per centum (5%) Holders of Equity Securities. |
| 18.1. | In every case in which an issuer satisfies the requirements of Subsection 17.2 hereof, any person who acquires directly or indirectly the beneficial ownership of more than five per centum (5%) of such class or in excess of such lesser per centum as the Commission by rule may prescribe, shall, within ten (10) days after such acquisition or such reasonable time as fixed by the Commission, submit to the issuer of the security, to the Exchange where the security is traded, and to the Commission a sworn statement containing the following information and such other information as the Commission may require in the public interest or for the protection of investors: a) The personal background, identity, residence, and citizenship of, and the nature of such beneficial ownership by, such person and all other persons by whom or on whose behalf the purchases are effected; in the event the beneficial owner is a juridical person, the lines of business of the beneficial owner shall also be reported; b) If the purpose of the purchases or prospective purchases is to acquire control of the business of the issuer of the securities, any plans or proposals which such persons may have that will effect a major change in its business or corporate structure; c) The number of shares of such security which are beneficially owned, and the number of shares concerning which there is a right to acquire, directly or indirectly, by: (i) such person, and (ii) each associate of such person, giving the background, identity, residence, and citizenship of each such associate; and d) Information as to any contracts, arrangements, or understanding with any person with respect to any securities of the issuer including but not limited to transfer, joint ventures, loan or option arrangements, puts or calls, guarantees or division of losses or profits, or proxies naming the persons with whom such contracts, arrangements, or understanding have been entered into, and giving the details thereof. |
| 18.2. | If any change occurs in the facts set forth in the statements, an amendment shall be transmitted to the issuer, the Exchange and the Commission. |
| 18.3. | The Commission, may permit any person to file in lieu of the statement required by Subsection 17.1 hereof, a notice stating the name of such person, the shares of any equity securities subject to Subsection 17.1 which are owned by him, the date of their acquisition and such other information as the Commission may specify, if it appears to the Commission that such securities were acquired by such person in the ordinary course of his business and were not acquired for the purpose of and do not have the effect of changing or influencing the control of the issuer nor in connection with any transaction having such purpose or effect. |

Source: Republic of the Philippines. Securities and Exchange Commission (SEC). 2000. *Republic Act 8799 (Securities Regulation Code)*. <http://www.sec.gov.ph/index.htm?src/index>

Table 2.3 Securities Regulation Code Rule 17.1 Reportorial Requirements (Signed Version and Draft Version)

| AMENDED IMPLEMENTING RULES AND REGULATIONS (IRR) OF THE SECURITIES REGULATION CODE (Signed version of the Amended IRR published February 2004) | | Draft version of the Revised Implementing Rules and Regulations (IRR) of The Securities Regulation Code (Posted February 2011 for public comment. Public comments were closed on March 15, 2011) | |
|--|--|--|--|
| SRC Rule 17.1 | Reportorial Requirements | Rule 17.1 | Reportorial Requirements |
| 1. Reporting and Public Companies | <p>The reportorial provisions of this paragraph shall apply to reporting and public companies, as defined under SRC Rule 3. However, the obligation of a company, which has sold a class of its securities pursuant to a registration under Section 12 of the Code shall be suspended for any fiscal year if as of the first day of any such fiscal year, it has less than one hundred (100) holders of such class of securities and the Commission is duly notified of the same. Such suspension shall only be availed of after the year said registration becomes effective.</p> <p>A. Every issuer set forth in paragraph 1 hereof, shall file with the Commission:</p> <p>i. An annual report on SEC Form 17-A for the fiscal year in which the registration statement was rendered effective by the Commission, and for each fiscal year thereafter, within one hundred five (105) days after the end of the fiscal year.</p> <p>ii. A quarterly report on SEC Form 17-Q, within forty five (45) days after the end of each of the first three quarters (3) of each fiscal year. The first quarterly report of the issuer shall be filed either within forty five (45) days after the effective date of the registration statement or on or before the date on which such report would have been required to be filed if the issuer had been required previously to file reports on SEC Form 17-Q, whichever is later.</p> <p>iii. 1. a current report on SEC Form 17-C, as necessary, to make a full, fair and accurate disclosure to the public of every material fact or event that occurs, which would reasonably be expected to affect investors' decisions in relation to those securities. In the event a news report appears in the media involving an alleged material event, a current report shall be made within the period prescribed herein, in order to clarify said news item, which could create public speculation if not officially denied or clarified by the concerned company. 2. The disclosure required by paragraph 1(A)(iii)(1) above shall be made by the issuer: a. promptly to the public through the news media; b. if the issuer is listed on an Exchange, to that Exchange within ten (10) minutes after occurrence of the event and prior to its release to the public through the news media, copy furnished the Commission;</p> | 1. Public and Reporting Companies | <p>This paragraph shall apply to all public and reporting companies as defined in Rule 3. However, the obligation of a company which has sold a class of its securities pursuant to a registration under Section 12 of the Code shall be suspended for any fiscal year if, as of the first day of any such fiscal year, it has less than one hundred (100) holders of such class of securities and the Commission is notified of that fact. The suspension shall be availed of only after the year the registration became effective.</p> <p>A. The public and reporting companies shall file with the Commission:</p> <p>(i) An annual report on SEC Form 17-A for the fiscal year in which the registration statement was rendered effective by the Commission, and for each fiscal year thereafter, within one hundred five (105) business days after the end of the fiscal year.</p> <p>(ii) A quarterly report on SEC Form 17-Q within forty five (45) business days after the end of each of the first three quarters of each fiscal year. The first quarterly report of the Issuer shall be filed either within forty five (45) business days after the effective date of the registration statement or on or before the date on which such report would have been required to be filed if the Issuer had been required previously to file reports on SEC Form 17-Q, whichever is later.</p> <p>(iii) [a] A current report on SEC Form 17-C, as may be necessary, to make a full, fair and accurate disclosure to the public of every material fact or event that occurs which would reasonably be expected to affect the investors' decisions in relation to those securities. In the event a news report appears in the media involving an alleged material event, a current report shall be made within the period prescribed herein in order to clarify the said news item which may create public speculation if not officially denied or clarified by the concerned company. [b] The disclosure required by paragraph 1(A)(iii)[a] above shall be made by the company in accordance with the following guidelines: (1) promptly to the public through the news media; (2) if the company is listed on an Exchange, to that Exchange within ten (10) minutes after the occurrence of the event and prior to its release to the public through the news media, copy furnished the Commission;</p> |

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Table 2.3 continuation

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| <p>c. to the Commission on SEC Form 17-C within five (5) days after occurrence of the event being reported, unless substantially similar information as that required by Form 17-C has been previously reported to the Commission by the registrant.</p> <p>3. An illustrative, non-all inclusive, list of events which shall be reported pursuant to this paragraph is contained in SEC Form 17-C. Merely because an event does not appear in that list does not mean that it does not have to be reported if, in fact, it is material.</p> <p>iv. In addition to the above reports, issuers of registered commercial papers shall file the following in the form prescribed by the Commission until all the outstanding commercial papers have been paid:</p> <ol style="list-style-type: none"> 1. Monthly reports (M-101-40) on commercial paper total issuances/outstanding as at the end of each month, to be submitted within ten (10) business days following the end of the reference month; 2. A list of issuances, outstanding balance and maturing commercial papers as at the end of each quarter, to form part of the required SEC Form 17-Q. <p>The obligation to file reports under this item shall not be suspended even when the number of holders of the issuer's commercial papers shall be reduced to less than one hundred (100).</p> <p>B. Any disclosure signed and filed with the Commission and the Exchange where the securities of the issuer are listed, or released in mass media, in the personal capacity of any director, executive officer or a substantial stockholder (as defined under SRC Rule 38.1) direct or indirect, of an issuer shall be considered as part of any report mentioned in paragraph 1(A)(iii) hereof and deemed as an official filing of such company if it does not deny the subject information within two (2) days from the filing/ release of the aforementioned disclosure. Any misleading statement, misrepresentation or omission of a material fact therein shall be the joint responsibility of the issuer and the reporting director, officer or substantial stockholder.</p> <p>C. An owner of more than five percent (5%) of the voting rights of a listed company or any related party thereof, who holds material information which may materially affect such company may be required by the Commission to disclose such information within the period prescribed under paragraph 1(A)(iii) of this Rule. Failure to provide the required information shall subject said stockholder to sanctions applicable to violations of this Rule.</p> | <p>(3) if it is not listed, to the Commission through SEC Form 17-C within five (5) business days after the occurrence of the event reported, unless substantially similar information as that required by Form 17-C has been previously reported to the Commission by the company.</p> <p>B. Any disclosure signed and filed with the Commission and the Exchange where the securities of the Issuer are listed, or released to the news media by any director, executive officer or a substantial stockholder (as defined under Rule 38.1) of an Issuer shall be considered as part of any report mentioned in paragraph 1(A)(iii) above and deemed as an official filing of such company if it does not deny the subject information within two (2) business days from the filing or release of the disclosure. Any misleading statement, misrepresentation or omission of a material fact therein shall be considered the joint responsibility of the Issuer and the reporting director, officer or substantial stockholder.</p> <p>C. An owner of more than five percent (5%) of the voting rights of a public and reporting company that meets the requirements of Section 17.2 of the Code who holds material information which may materially affect such company may be required by the Commission to disclose such information within the period prescribed under paragraph 1(A)(iii) of this Rule. Failure to provide the required information shall subject the said stockholder to the sanctions applicable to violations of this Rule.</p> <p>D. Issuers of securities registered with the Commission shall file an annual report on SEC Form 17-A for its predecessors that registered securities with the Commission during the last full fiscal year of the predecessor prior to the registrant's succession, unless such report has already been filed by the predecessor. The annual report shall contain the information required if it were filed by the predecessor.</p> <p>E. In the event a non-reporting Issuer (in connection with succession by merger, consolidation, exchange of securities or acquisition of assets) issues equity securities to holders of equity securities issued by a reporting Issuer, the non-reporting Issuer shall assume the same obligation as the reporting Issuer to file reports pursuant to Section 17 of the Code, and the nonreporting Issuer shall file such reports on the same forms as the reporting Issuer.</p> <p>F. Notification of Inability to File on Time All or Any Required Portion of SEC Form 17-A or 17-Q.</p> |
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Table 2.3 continuation

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| <p>D. Every issuer having securities registered with the Commission shall file an annual report on SEC Form 17-A for each of its predecessors which had securities registered with the Commission covering the last full fiscal year of the predecessor prior to the registrant's succession, unless such report has been filed by the predecessor. Such annual report shall contain the information that would be required if filed by the predecessor.</p> <p>E. In the event that a non-reporting issuer (in connection with succession by merger, consolidation, exchange of securities or acquisition of assets) issues equity securities to holders of equity securities issued by a reporting issuer, the non-reporting issuer shall assume the same obligation as the reporting issuer to file reports pursuant to Section 17 of the Code, and the non-reporting issuer shall file such reports on the same forms as the reporting issuer.</p> <p>F. Notification of Inability to File On Time All or Any Required Portion of SEC FORM 17-A or 17-Q</p> <p>i. If all or any required portion of an annual report (SEC Form 17-A) or quarterly report (SEC Form 17-Q) required to be filed pursuant to Section 17 of the Code and SRC Rule 17.1 thereunder is not filed within the period prescribed for such report, the issuer shall, no later than the due date for such report, file with the Commission and, if applicable, with the Exchange where any class of its securities are listed, a SEC Form 17-L which shall contain a disclosure in reasonable detail of its inability to file the report timely and the reasons therefore. All information which are available on the date of the required filing shall be filed.</p> <p>ii. With respect to any report or portion of any report described in paragraph (A) above which is not timely filed because the issuer is unable to do so without unreasonable effort or expense, such report shall be deemed to be filed on the prescribed due date for such report if:</p> <ol style="list-style-type: none"> 1. The issuer files SEC Form 17-L in compliance with paragraph (i) hereof and, when applicable, furnishes the exhibit required by paragraph (iii) hereof; 2. The issuer represents in SEC Form 17-L that: <ol style="list-style-type: none"> a. The reason(s) causing the inability to file timely could not be eliminated by the issuer without unreasonable effort or expense; and b. Either the subject annual report on SEC Form 17-A, or portion thereof, will be filed no later than the fifteenth calendar day following the prescribed | <p>(i) If all or any required portion of an annual report (SEC Form 17-A) or quarterly report (SEC Form 17-Q) required to be filed pursuant to Section 17 of the Code and Rule 17.1 is not filed within the period prescribed for such report, the Issuer shall, not later than the due date for such report, file with the Commission and, if applicable, with the Exchange where any class of its securities is listed, SEC Form 17-L which shall contain a disclosure in reasonable detail of its inability to timely file the report and the reasons for such failure. All information available on the date of the required filing shall be filed.</p> <p>(ii) If any report or portion of any report described in paragraph (A) above is not timely filed because the Issuer is unable to do so without unreasonable effort or expense, such report shall be deemed to be filed on the prescribed due date for such report if:</p> <ol style="list-style-type: none"> (a) The Issuer files SEC Form 17-L in compliance with paragraph (i) hereof and, if applicable, furnishes the document required by paragraph(iii) below; (b) The Issuer states in SEC Form 17-L that: (i) the reason(s) that caused the inability to timely file could not be eliminated by the Issuer without unreasonable effort or expense; (ii) either the subject annual report on SEC Form 17-A, or portion thereof, will be filed not later than the fifteenth calendar day following the prescribed due date, or the subject quarterly report on SEC Form 17-Q, or portion thereof, will be filed not later than the fifth calendar day following the prescribed due date; and (iii) the report or portion thereof is actually filed within the period specified by paragraph 1(A) above. <p>(iii) If paragraph (ii) above is applicable and the reason the subject report or portion thereof cannot be timely filed without unreasonable effort or expense relates to the inability of any person, other than the Issuer, to furnish any required opinion, report or certification, a statement signed by such person stating the specific reasons why that person is unable to furnish the required opinion, report or certification on or before the date must be filed with SEC Form 17-L.</p> <p>(iv) Notwithstanding paragraph (ii) above, a registration statement filed on SEC Form 12-1 pursuant to Rule 8.1, the use of which is predicated on timely filed reports, shall not be declared effective until the subject report is actually filed pursuant to paragraph (A) above.</p> <p>(v) If the Form 17-L filed pursuant to paragraph (ii) above relates only to a portion of a subject report, the Issuer shall:</p> <ol style="list-style-type: none"> (a) File the balance of such report and indicate on its cover page which disclosure items are omitted; and |
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Table 2.3 continuation

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| <p>2. Issuers of Exempt Securities</p> | <p>due date, or the subject quarterly report on SEC Form 17-Q, or portion thereof, will be filed no later than the fifth calendar day following the prescribed due date; and</p> <p>3. The report/portion thereof is actually filed within the period specified by paragraph 1(A) hereof.</p> <p>iii. If paragraph (ii) above is applicable and the reason the subject report/portion thereof cannot be filed timely without unreasonable effort or expense relates to the inability of any person, other than the issuer, to furnish any required opinion, report or certification, SEC Form 17-L shall have attached as an exhibit a statement signed by such person stating the specific reasons why such person is unable to furnish the required opinion, report or certification on or before the date such report must be filed.</p> <p>iv. Notwithstanding paragraph (ii) above, a registration statement filed on SEC Form 12-1 pursuant to SRC Rule 8.1, the use of which is predicated on timely filed reports, shall not be declared effective until the subject report is actually filed pursuant to paragraph A hereof.</p> <p>v. If SEC Form 17-L filed pursuant to paragraph (ii) above relates only to a portion of a subject report, the issuer shall:</p> <p>1. File the balance of such report and indicate on the cover page thereof which disclosure items are omitted; and</p> <p>2. Include, on the upper right corner of the amendment to the report which includes the previously omitted information, the following statement: "The following items were the subject of SEC FORM 17-L and are included herein: (List Item Numbers)"</p> <p>A. Issuers of exempt commercial papers shall file the following</p> <p>i. Monthly reports (M-2-3-01) within ten (10) days after the end of the month;</p> <p>ii. Quarterly reports (Q-EPS for non-banks and Q-2-3-01 for banks) within fortyfive (45) days after the end of the quarter, respectively.</p> <p>B. Issuers shall furnish BSP copies of said reports.</p> <p>C. Underwriters or issuers of commercial papers shall file an annual information statement (SEC Form 85-18-1) on commercial paper transactions on or before January 30 of each year. A fee of Ten Thousand Pesos (P10,000.00) shall be paid in connection therewith.</p> | <p>(b) Include at the upper right corner of the amendment to the report which includes the previously omitted information the following statement: "The following items were the subject of SEC FORM 17- L and are included herein: (List Item Numbers)"</p> <p>A. Issuers of exempt commercial papers shall file the following reports:</p> <p>(i) Monthly reports (M-2-3-01) within ten (10) business days after the end of the month;</p> <p>(ii) Quarterly reports (Q-EPS for non-banks and Q-2-3-01 for banks) within forty-five (45) business days after the end of the quarter, respectively.</p> <p>B. Issuers shall furnish the BSP copies of the said reports.</p> <p>C. Underwriters or Issuers of commercial papers shall file an annual information statement (SEC Form 85-18-1) on commercial paper transactions on or before January 30 of each year. The corresponding fee shall be paid for such filing.</p> |
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Note: The signed version of the Amended Implementing Rules and Regulations (IRR) of the *Securities Regulation Code* (SRC) was published in February 2004. This version is available in the SEC website (<http://www.sec.gov.ph/irr/AmendedIRRfinalversion.pdf>). The draft version of the Revised Implementing Rules and Regulations (IRR) of the SRC (SRC Rule) was posted for public comments in February 2011. Public comments were closed on 15 March 2011. The draft version of the SRC Rule can be accessed through the SEC website, <http://www.sec.gov.ph/src/Draft2%20SRC%20IRR.2011.pdf>
Source: SEC.

G. Reporting Requirements for Cross-Border Deal

For purchase and sale of bonds issued offshore or onshore by residents regardless of denomination, reporting requirements are provided as follows:

Circular No. 32 dated 19 July 1994 requires all foreign loans, including bonds and notes, of residents—whether or not approved and/or registered with the BSP—to be regularly reported by the borrower to the BSP through the IOD, for statistical purposes until fully paid. This is in line with the BSP’s mandate to keep a comprehensive and updated record of the country’s external debt.

The transactions on or status of foreign loans are to be reported monthly to IOD using Form 2 (Monthly Report on Foreign Borrowings). A report shall be made as well on the disposition of bonds and/or notes proceeds under the Monthly Report on Disposition of Bonds and/or Notes Proceeds within 3 banking days from the end of each reference month until the bond and/or note proceeds are fully utilized, and the obligation is fully paid.

Under a BSP circular letter dated 23 April 2003, all AABs and offshore banking units (OBUs) shall report to the BSP, through the IOD, foreign portfolio investment transactions using prescribed report formats. Moreover, all foreign exchange transactions (e.g., trade, loans, investments, other current account and transfers) that pass through the banks are being reported under Foreign Exchange Form 1 (Consolidated Foreign Exchange Assets and Liabilities) every week within 5 banking days after the end of reference week.

H. Reporting Requirements for Foreign Currency-Denominated Instruments

Circular No. 32 dated 19 July 1994 requires all foreign loans (including bonds and/or notes) of residents—whether or not approved and/or registered with the BSP—to be regularly reported to the BSP through the IOD for statistical purposes until fully paid. This is in line with the BSP’s mandate to keep a comprehensive and updated record of the country’s external debt.

The transactions on or status of foreign loans are to be reported monthly to IOD using Form 2 (Monthly Report on Disposition of Bonds and/or Notes Proceeds) within 3 banking days from the end of each reference month until the bond and/or note proceeds are fully utilized, and the obligation is fully paid.

III. Trading of Bonds and Trading Market Infrastructure

This chapter focuses on trading in the Over-the-counter (OTC) market and Trading Market Infrastructure.

A. Trading

OTC transactions for trading bonds take place through two channels: 1) through the Bureau of the Treasury (BTr) for the primary market and 2) through the facilities of the Philippine Dealing and Exchange (PDEX).

BTr's OTC window sells government securities (GS) to specific investors who are participants of the primary market. PDEX facilities, through which the secondary market conducts OTC trading, are commonly referred to as the "organized" or "regulated" OTC market.

On 22 January 2008, the Securities and Exchange Commission (SEC) granted PDEX the authority to operate an OTC market and to function as a Self-Regulatory Organization (SRO) under the framework of the OTC Rules.⁴⁶

PDEX's electronic trading platform currently supports an OTC bilateral market where trading can occur through either a quote-driven or an order-driven system.

In March 2005, PDEX launched the Negotiated Dealing Trading Board for the inter-dealer market. It is a quote-driven system that allows dealers to electronically quote and request for quotes from one another. Once both counterparties agree on the details of the transaction, it automatically gets confirmed through the system.

To facilitate trading, inter-dealer brokers also operate in the secondary market, pre-arranging deals between counterparts, which are then entered into the PDEX trading system by the counterparties for incorporation into the price discovery, clearing and settlement, and SRO processes.

⁴⁶ Footnote 11.

In November 2006, PDEX launched the Auto-Matching Trading Board to complement the negotiated dealing system. It is an order-driven system that allows trading participants to enter bids and offers in a central order book that automatically matches these orders based on bilaterally set trading limits, price and time. It provides the basic structure for trading between public investors.

In February 2008, PDEX opened its trading platforms to the public market where broker participants can enter orders and transact on behalf of their clients. This was further expanded in June 2009 when PDEX launched its Fixed-Income Broker Internet Order System (FI-BIOS), which allowed broker participants to enter orders for their clients in the Auto-Matching Trading Board remotely via an Internet-accessible electronic interface. This expanded the reach of PDEX's trading platform even to municipalities and regions outside the capital, Manila.

In addition to being licensed as an operator and an SRO for the OTC market, PDEX is also licensed by the SEC as an exchange under the provisions of the Securities Regulation Code (SRC). In this capacity, PDEX provides a centralized infrastructure for trading, clearing and settlement of fixed-income securities, which ensures price discovery, transparency and investor protection.

In July 2006, SEC formally recognized PDEX as an SRO in the inter-dealer market and is thus vested with the responsibility of formulating the requisite market rules, undertaking surveillance, and enforcing compliance in the inter-dealer market.

In November 2007, the SEC expanded the SRO registration of PDEX to cover the inter-professional market, and in February 2008, its SRO authority was expanded to cover its members in all markets within the PDEX trading system, including the public market through their brokers, which entered the market at that time.

The exchange is currently developing a multilateral trading board, which will run on an order-driven system. However, bilaterally set trading limits will be replaced by a system that will automatically calculate the trading limits of a firm based on the amount of collateral it delivers.

Trading of listed debt securities is subject to the rules, conventions and guidelines of PDEX.

B. Bond Repurchase Market

Bond repurchase (or repo) refers to the sale of bonds with a commitment to repurchase them at some specific future date. In August 2008, the Philippine Dealing System (PDS) Group of Companies launched the PDEX Inter-Professional Repurchase Agreement Market Program to provide the necessary cash liquidity to dealers. Crucially, this also opened the way for other professional market participants such as trusts, mutual funds, pension funds, insurance companies, and other qualified institutional investors to become providers of cash to dealers. Currently, only government securities are allowed as subject of a repo transaction. Repurchased securities are transferred on the near leg to the account of the repo buyer (investor) and are held there during the tenor of the repo, after which it is returned to the repo seller, on the far leg.

Repo securities are subject to daily valuation during the tenure of the repo to maintain its value. Should there be a decline in the market value, the repo seller is required to deliver additional margin (cash or securities) to the repo buyer (investor, cash lender). However, should there be an increase in value; the repo buyer may release some portion of the repo securities equivalent to the excess in value.

PDEX provides the repo trading platform while the Philippine Depository and Trust Corporation (PDTC) provide third-party valuation management.

The SEC has approved the program rules for the PDEX Repo Program. The Bangko Sentral ng Pilipinas (BSP), the country's central bank, issued a letter signifying that it does not interpose any objection to the participation of its regulated entities in the program. The BSP also conducts repurchase agreements and reverse repurchase agreements with banks as part of its Open Market Operations (OMO) outside the PDEX Repo Program.

The repo market is still in its early stages of growth. At this time, there are 13 repo sellers and 27 repo buyers. Table 3.1 shows the total repo trading volume as of the end of 30 June 2011.

Table 3.1 Philippine Dealing Exchange Inter-Professional Repurchase Agreements (IP-Repo) Trading Volume (PHP billions)

| Year | Volume |
|--------------------|--------|
| 2008 | 9.65 |
| 2009 | 345.59 |
| 2010 | 255.87 |
| As of 30 June 2011 | 53.53 |

Source: Philippine Dealing and Exchange Corporation.

C. Secondary Market Yields and Transparency in Bond Pricing

1. Trade Reporting Obligations under the Securities and Exchange Commission Over-the-Counter Rules⁴⁷

Under Section 16 of the SEC OTC Rules, brokers and dealers are required to “post or publish in its quotation system all transactions executed in said system within [a] minute from execution.” Brokers and dealers are required to report done trades on a security in a central trade-reporting system. These two requirements are automatically complied with for trades negotiated or executed using the PDEX trading platforms.

The OTC Rules provide flexibility for the existence of multiple trading platforms, in which case all such trades from various trading platforms should be reported to a central trade reporting system (CTRS). This manner of trading or reporting is yet to be utilized.

⁴⁷ Footnote 11

Under the SRC, among the requirements for the registration of an exchange is transparency of transactions on such exchange.⁴⁸ Moreover, SROs are required to ensure that their rules provide for the transparency of securities transactions and prices.⁴⁹

2. Data Dissemination

PDEX Trading participants may view on a real-time basis live bid and offer prices and/or yields and market-wide trade on debt securities listed and traded on PDEX through the trading system or through the PDEX MarketPage, a data publication facility. Access to the MarketPage is free of charge to PDEX trading participants. It is also available to non-trading participants on a paid subscription basis.

Real-time data is also viewable through the Reuters terminal and PDEX’s FI-BIOS, which is available through the Internet. Price and trade data are available on a delayed basis on the PDEX website.⁵⁰

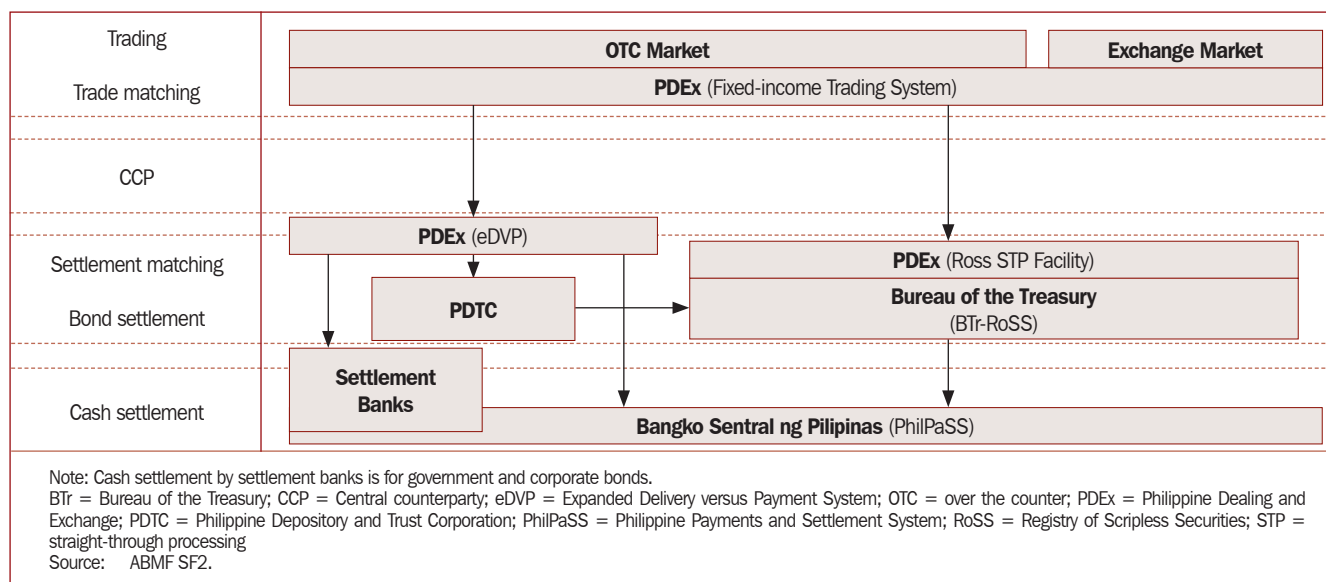
Information on the terms and conditions of listed corporate debt securities, including the issue date, maturity date and coupon rate, may likewise be found in the respective prospectuses, offering circulars, or information memoranda posted on the PDEX website.

Trade data is also available through broadsheets, such as *BusinessWorld*.

D. Bond Settlement Infrastructure Diagram (PH:T+3)

Figure 3.1. shows the key elements of the bond market infrastructure in the Philippines.

Figure 3.1 Bond Settlement Infrastructure Diagram



⁴⁸ Footnote 9, Section 33.2 (i).

⁴⁹ Footnote 24, Rule 40.4.

⁵⁰ Philippine Dealing and Exchange. <http://www.pdex.com.ph>

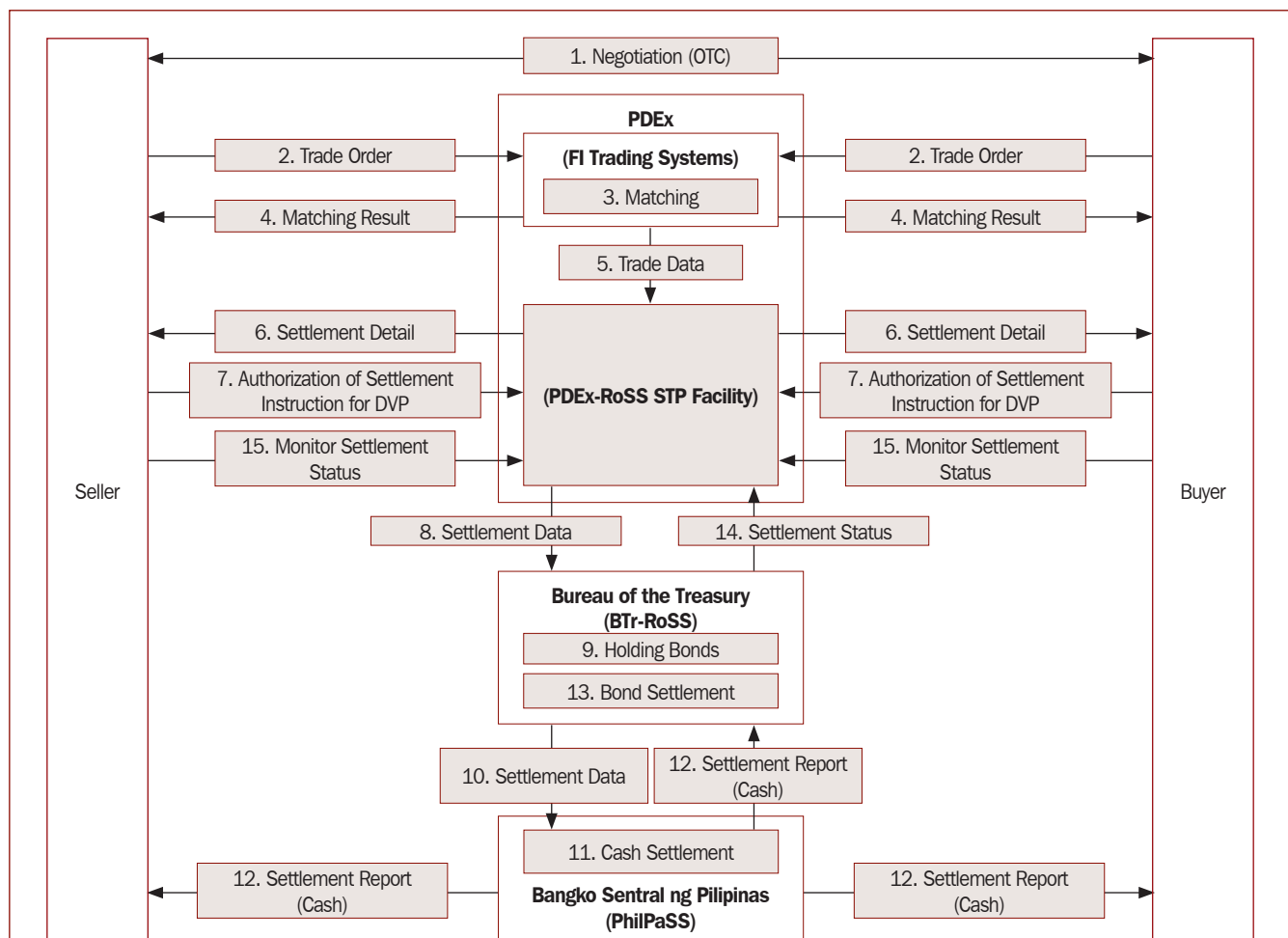
Cash settlement by settlement banks is for government and corporate bonds.

E. Bond Transaction Flow Charts

The flowcharts (Figures 3.2 and 3.3) in this section are intended to illustrate the transaction steps in the Philippine market, as seen between the buyer side and seller side of a bond transaction, and following through from the original trade negotiation to cash settlement and participant reporting. The flows illustrate typical transactions for Government Securities Eligible Dealers (GSED, Figure 3.2) and non-GSED market participants (Figure 3.3). For easy reference, the individual steps are explained after Figure 3.2 and before Figure 3.3, respectively.

a. Philippine Bond Market Government Securities Eligible Dealers and Delivery-versus-Payment System

Figure 3.2 Bond Transaction Flow for Domestic Trades Government Securities Eligible Dealers Market/ Delivery Versus Payment



BTr = Bureau of the Treasury; DVP = Delivery versus Payment System; FI = fixed income; OTC = over the counter; PEx = Philippine Dealing and Exchange; PDTC = Philippine Depository and Trust Corporation; PhilPaSS = Philippine Payments and Settlement System; RoSS = Registry of Scripless Securities; STP = straight-through processing
 Source: ABMF SF2.

The process in the exchange market for government securities eligible dealers (GSEDs) are as follows:

Exchange Market-Government Securities Eligible Dealers (GSEDs)

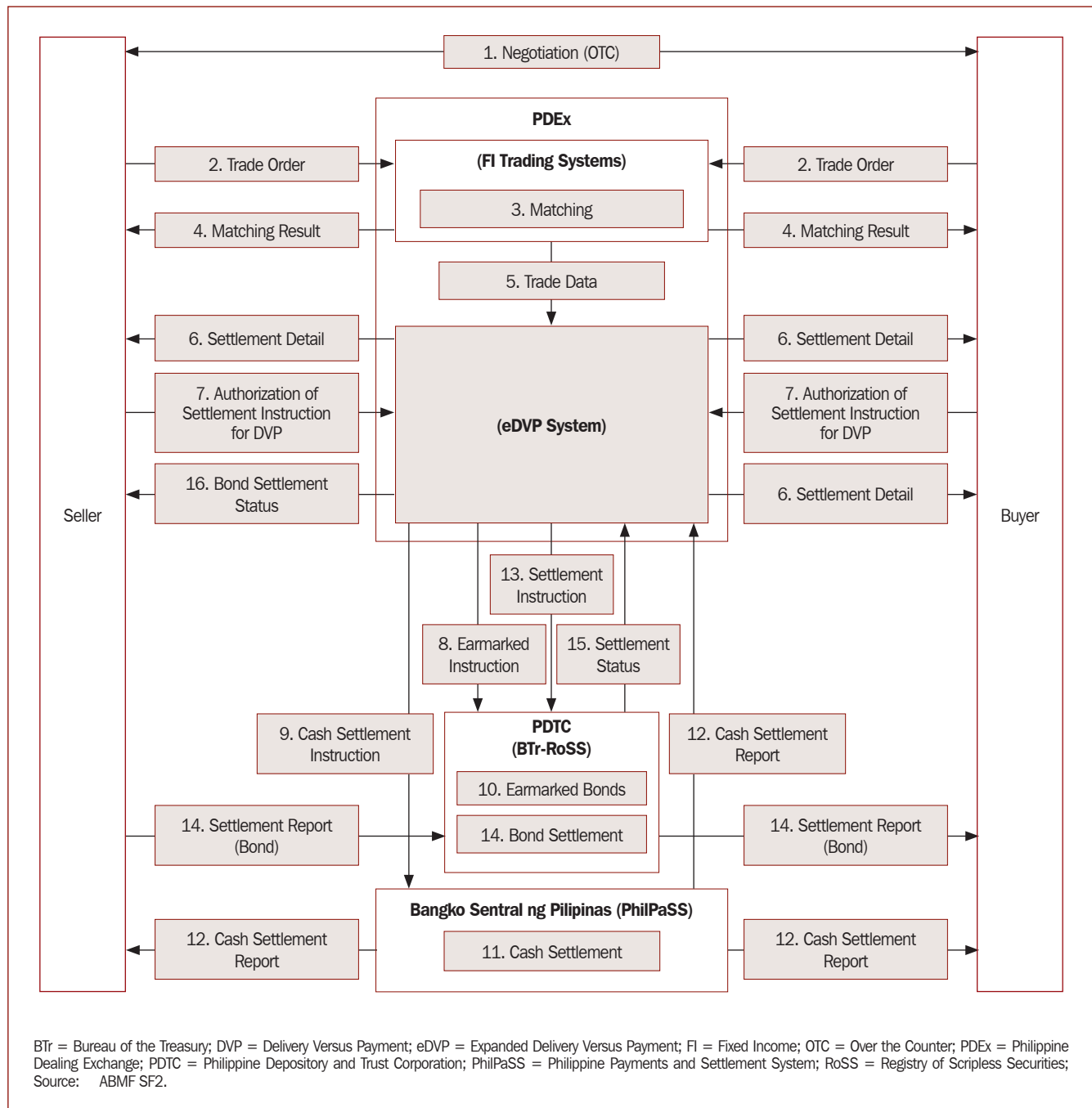
1. In the OTC market, the seller and buyer negotiate before they input the trade data to PDEX. This process is omitted in the Exchange Market.
2. The seller and buyer trade via PDEX (Fixed Income [FI] Trading System).
3. PDEX (FI Trading System) matches order or records negotiated deals between buyer and seller
4. PDEX (FI Trading System) sends matching result to the seller and buyer.
5. PDEX (FI Trading System) sends trade data to PDEX(PDEX-RoSS STP Facility).
6. PDEX (PDEX-RoSS STP Facility) sends settlement detail to the seller and buyer.
7. The seller and buyer authorize the settlement instruction for DVP.
8. PDEX (PDEX-RoSS STP Facility) sends settlement data to Bureau of the Treasury Registry of Scripless Securities (BTr-RoSS).
9. BTr-RoSS holds bonds before cash settlement.
10. BTr-RoSS sends settlement data to Bangko Sentral ng Pilipinas (BSP).
11. BSP executes cash settlement.
12. BSP sends cash settlement report to Seller, Buyer and BTr-RoSS.
13. BTr-RoSS executes bond settlement.
14. BTr-RoSS sends bond settlement status to PDEX-RoSS STP Facility
15. The seller and the buyer can monitor the settlement status via PDEX-RoSS STP Facility.

b. Philippine Bond Market Non-Government Securities Eligible Dealers and Delivery-versus-Payment System

The processes in the exchange market for non-GSEDs are as follows:

1. In OTC market, the seller and buyer negotiate before they input the trade data to PDEX. This process is omitted in the Exchange Market.
2. The seller and buyer trade via PDEX (FI Trading System).
3. PDEX (FI Trading System) automatically matches orders from seller and buyer.
4. PDEX (FI Trading System) sends matching results to the seller and buyer.
5. PDEX (FI Trading System) sends trade data to PDEX (eDVP System).
6. PDEX (eDVP System) sends settlement details to the seller and buyer.
7. The seller and buyer authorize the settlement instruction for DVP.
8. PDEX (eDVP System) sends earmarked instruction to PDTC.
9. PPDEX (eDVP System) sends cash settlement instruction to BSP.
10. PDTC and BTr-RoSS each hold bonds before cash settlement.
11. BSP executes cash settlement.
12. BSP sends cash settlement report to the seller, buyer, and PDEX (eDVP System).
13. PDEX (eDVP System) sends settlement instruction to Philippine Depository and Trust Corp (PDTC) and BTr-RoSS.
14. PDTC and BTr-RoSS executes bond settlement.
15. PDTC and BTr-RoSS sends settlement status to PDEX(eDVP System).
16. PDEX (eDVP System) sends bond settlement status to the seller and buyer.

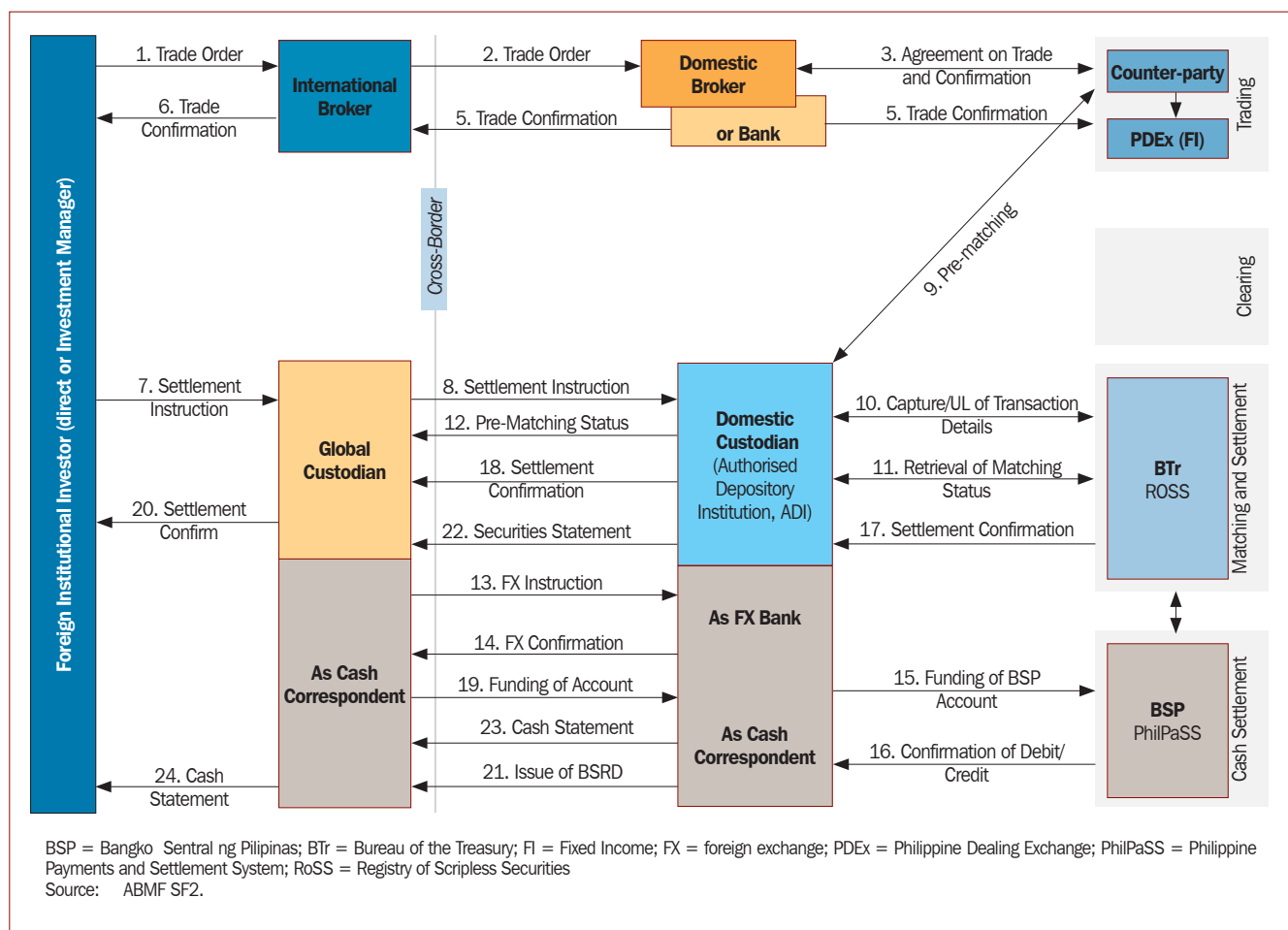
Figure 3.3 Bond Transaction Flow for Domestic Trades Non-Government Securities Eligible Dealers Market/Delivery Versus Payment



F. Over-the-Counter Bond Transaction Flow for Foreign Investors

The flowchart (Figure 3.4) includes cross-border, funding, and reporting components.

Figure 3.4 Bond Transaction Flow for Foreign Investors Over-the-Counter Market/Delivery Versus Payment



Trade Date

1. The Foreign Institutional Investor places the order with the International Broker.
2. The International Broker places the order with the Domestic Broker/GSED.
3. The Domestic Broker or Dealer trades OTC with a counterparty.
4. The Domestic Broker or Dealer captures trade in the PDEX system for price discovery within 10 minutes.
5. The International Broker receives trade confirmation.
6. The Foreign Institutional Investor receives trade confirmation.

Trade Date +1 (T+1)

7. The Foreign Institutional Investor instructs the Global Custodian on securities settlement and foreign exchange/cash funding details.
8. The Global Custodian instructs the Domestic Custodian on securities settlement details.
9. The Domestic Custodian conducts phone pre-matching with a counterparty or a custodian of the counterparty.

Settlement Date

10. The Domestic Custodian enters, the settlement data into the RoSS (typically via third Party front-end).
11. The Domestic Custodian retrieves the transaction matching status.
12. The Domestic Custodian reports the matching status update to the Global Custodian.
13. The Global Custodian sends foreign exchange instruction for projected funding requirements.
14. The Domestic Custodian sends foreign exchange confirmation.
15. The Domestic Custodian funds Bangko Sentral ng Pilipinas accounts via PhilPASS real-time gross settlement, if necessary.
16. Upon transfer of cash (after prompting from RoSS), PhilPaSS sends cash settlement confirmation to the Domestic Custodian.
17. Upon confirmation of cash settlement, RoSS effects bond settlement and sends confirmation to the Domestic Custodian.
18. The Domestic Custodian sends the settlement confirmation to the Global Custodian.
19. The Global Custodian funds the account with the Domestic Custodian in Philippine peso, or into foreign currency nostro (before end of day).
20. The Global Custodian sends settlement confirmation to the Foreign Institutional Investor.
21. The Domestic Custodian issues a Bangko Sentral Remittance Document (BSRD), certifying foreign currency inflow for ability to repatriate at later stage without consideration of foreign exchange limitations.
22. The Domestic Custodian sends the securities statement to the Global Custodian.
23. The Domestic Custodian sends debit/credit confirmations in the form of cash statement to the Global Custodian.
24. The Global Custodian sends the cash statement to the Foreign Institutional Investor.

IV. Possible Impediments and Restrictions

A. Taxation

1. Withholding Tax on Interest Income, Stamp Duty and Tax Report Requirement

A final tax at the rate of 20% is imposed on the amount of interest from any currency bank deposit and yield, or any other monetary benefit from deposit substitutes and from trust funds and similar arrangements.

Provided that, interest income received by an individual taxpayer (except a nonresident individual) from a depository bank under the expanded foreign currency deposit system shall be subject to a final income tax at the rate of seven and one-half percent (7 1/2%) [sic] of such interest income.⁵¹

Provided, further, that interest income from long-term deposit or investment in the form of savings, common or individual trust funds, deposit substitutes, investment management accounts and other investments evidenced by certificates in such form prescribed by the Bangko Sentral ng Pilipinas (BSP) shall be exempt from income tax. Provided, finally, that should the holder of the certificate pre-terminate the deposit or investment before the fifth (5th) [sic] year, a final tax shall be imposed on the entire income and shall be deducted and withheld by the depository bank from the proceeds of the long-term deposit or investment certificate based on the remaining maturity thereof:

*Four (4) years to less than five (5) years - 5%;
Three (3) years to less than (4) years - 12%; and
Less than three (3) years - 20%⁵²*

The final tax on interest is collected by the relevant depository bank or issuer of the long-term deposit or investment and remitted to the BIR.

⁵¹ Government of the Philippines. 1997. *National Internal Revenue Code of 1997*, sec. 24(B)(1), as amended.

⁵² Footnote 23.

B. Disclosure and Investor Protection Rules for Issuers

1. Registered Debt Securities

Under the Securities Regulation Code (SRC), issuers of registered debt securities are subject to initial disclosure and continuing reportorial requirements.

In the primary market, a minimum set of information on the issuer and the securities being offered is required to be included in the registration statement (RS) and the prospectus, which are subject to Securities and Exchange Commission (SEC) review before the RS is rendered effective and the Permit to Sell is issued by the SEC.

The prospectus shall be widely disseminated—defined as having been distributed initially and additional copies have been furnished promptly—upon request to the participants in the distribution, the SEC, the exchange (if the securities will be listed), and 20 or more persons who are not qualified buyers under sec. 10.1(L) of the SRC.

Under the SRC, a reporting company, which is defined as a corporation that has sold a class of its securities pursuant to a registration under sec. 12 of the SRC, is required to submit an annual report using SEC Form 17-A, quarterly reports on SEC Form 17-Q, and current reports on SEC Form 17-C.

Current reports shall be filed to make a full, fair and accurate disclosure to the public of every material fact or event that occurs, which would affect investors' decisions in relation to those securities. The disclosure contained in a current report shall be made: (a) promptly to the public through the news media; (b) if the issuer is listed on an exchange, to that exchange within 10 minutes after occurrence of the event and prior to its release to the public through the news media, with a copy furnished to the SEC; and (c) to the SEC on SEC Form 17-C within 5 days after occurrence of the event being reported, unless substantially similar information has been previously reported to the SEC by the issuer.

Issuers of debt securities listed on the Philippine Dealing Exchange (PDEX) are subject to continuing disclosure obligations. Disclosures received from listed issuers are published on the PDEX website.⁵³

2. Exempt Securities and Exempt Transactions

Debt securities that qualify as exempt securities or issued under exempt transactions, particularly under SRC Rule 10.1 (K) and (L), are not subject to initial and continuing disclosure requirements under the SRC. Hence, investors of such securities are responsible for obtaining information on the issuer and the offered securities to assist them in the performance of their due diligence.

Under current regulations, issuers of exempt transactions to 19 non-qualified investors (SRC Rule 10.1[K]) or to qualified buyers (SRC Rule 10.1[L]) are required to file a notice of exemption with the SEC.

⁵³ Philippine Dealing and Exchange Corporation. <http://www.pdex.com.ph>

3. Information on Intermediaries and Market Participants

A list of registered market participants, including brokers or dealers, underwriters, issuers and registered fixed-income market salesmen is posted on the SEC website.⁵⁴ Other information, such as financial information, on registered market participants is not available in the SEC website.

C. Underwriting Rules for Financial Institutions

Universal banks, by virtue of their expanded functions, can undertake underwriting functions, and are under the dual regulation of the BSP and SEC.

The SRC Implementing Rules and Regulations (IRR) requires registered debt securities to be covered by a firm commitment underwriting agreement with a universal bank, investment house, or other financial institutions duly licensed under the *Investment Houses Law*.

D. Impediments for Timely Issuance (Suspension Period, Disclosure Requirements, and Others)

The RS is subject to SEC review. The SEC may require additional information or disclosures or require clarifications from the issuer, prior to rendering the registration statement effective. Registration is also subject to filing fees payable to the SEC. Due to the process, both initial and continuing requirements, costs related to registration, and the ease and availability of bank loans and other bilateral financing facilities, corporate issuers have shown a preference for bank financing or issuances through exempt securities or transactions.

Current securities regulations for shelf registration are limited.

Registered but unsold securities shall be offered within 1 year from registration, and an updated RS shall be filed with the SEC prior to offering or sale. The registration shall cover either short-term or long-term debt securities, not a combination of different tenors. This limits the flexibility of the issuer to tap the capital markets for its funding requirements when market conditions are favorable.

E. Restriction on Investors (Qualified Institutional Investors and Private Placement)

Under SEC over-the-counter (OTC) Rules, non-qualified investors shall participate in a registered OTC market only through the following means:

- (a) The service of another person such as broker, investment house or bank, each in its own capacity as an authorized broker in an OTC market, or
- (b) Participation in a registered or chartered collective investment scheme such as an investment company, non-directional trust fund, or pension fund.

⁵⁴ Securities and Exchange Commission. <http://www.sec.gov.ph>

Under SRC Rule 9.2(2)(B), evidences of indebtedness issued to primary institutional lenders are exempt from registration requirements, provided all such evidence of indebtedness shall only be negotiated or assigned to primary institutional lenders. In no case shall such instruments be negotiated or assigned to non-qualified investors.

Under SRC sec. 10.1(L) and SRC Rule 10.1, securities distributed only to qualified buyers defined under securities regulations may be classified as an exempt transaction. If the initial qualified buyer/s shall resell their securities to more than 19 non-qualified buyers or investors, the securities will then be subject to registration.

F. Registration Requirements for Foreign Investors

Registration of foreign investments with the BSP is at the option of the foreign investor or his authorized representative. Such registration would entitle the investor, or his representative, to purchase foreign exchange from authorized agent banks (AABs), AAB-subsidiary or affiliate foreign exchange corporations (AAB-forex corps) for capital repatriation in foreign exchange of the peso liquidation or sales proceeds and/or outward remittance of dividends, profits and/or earnings accruing on Bangko Sentral ng Pilipinas (BSP)-registered investments.

For unregistered foreign investments, such peso liquidation or sales proceeds, as well as related profits, may only be converted to foreign exchange with enterprises other than AABs or AAB-forex corps.

G. Reporting Requirements (Non-Resident Trade Report, Foreign Currency-Denominated Instruments and Others)

Circular No. 32 dated 19 July 1994 requires all foreign loans, including bonds and/or notes, of residents (whether or not approved and/or registered with the BSP) to be regularly reported to the BSP, through the International Operations Department (IOD), for statistical purposes until fully paid. This is in line with the BSP's mandate to keep a comprehensive and updated record of the country's external debt.

The transactions on and status of the foreign loans are to be reported monthly to IOD under Form 2 (Monthly Report on Foreign Borrowings), and the disposition of bonds/notes proceeds under the Monthly Report on Disposition of Bonds/Notes Proceeds within 3 banking days from the end of each reference month until the bond or note proceeds are fully utilized, and the obligation is fully paid.

Moreover, all foreign exchange transactions (e.g., trade loans, investments, other current account and transfers) that pass through AABs or offshore banking units are being reported under Foreign Exchange Form 1 (Consolidated Foreign Exchange Assets and Liabilities) every week within 5 banking days after the end of the reference week.

H. Non-Resident Requirements (Identification Requirement, Restricted Stocks and Others)

For purposes of opening an account with a broker, non-resident investors are required to disclose their true and full identity by accomplishing a Customer Account Information Form or its equivalent, specimen signature cards, and submit valid identification cards in accordance with the know-your-customer or Customer Identification Program of the broker in compliance with the requirements of the SRC and the *Anti-Money Laundering Act*, as amended.

I. Restrictions on Over-the-Counter Transactions by Residents and Non-Residents

Non-qualified investors, i.e., under the OTC Rules⁵⁵, that do not fall under the classification of qualified investors, and qualified investors that do not want to participate in the OTC market as qualified investors, cannot participate in an OTC market unless such participation is through an intermediary such as a broker, an investment house or bank in its capacity as a broker; or through participation in a mutual fund, pension fund, or non-directional trust fund.

J. Regulations on the Credit Rating System

1. Securities Regulation Code Requirements for Credit Rating of Registered Debt Securities

Except for issuances amounting to not more than 25% of the issuer's net worth, or where there is an irrevocable committed credit line with a bank covering 100% of the proposed issuance, registered debt securities shall be rated by a rating agency duly accredited by the SEC.

To ensure that a rating is accurate and issued with best objectivity, the credit rating agency (CRA) shall monitor three things on a continuing basis: (i) each issuer, (ii) if an issuer rating was given, and (iii) each issue.

The SRC also enumerates the rating criteria that shall be considered by the CRA.

2. Bangko Sentral ng Pilipinas Requirements for Credit Rating

Section X119.4, or the "Public Issuance of Unsecured Subordinated Debt," of the *Manual of Regulations for Banks* (MORB) issued by the BSP provides that issuance by a bank of unsecured subordinated debt requires the issuing bank to be rated by an independent CRA recognized by the BSP. On the other hand, governing regulations for issuances of long-term negotiable certificates of time deposits do not specify a credit rating requirement.

K. Utilization of Shelf-Registration System or Medium-Term Notes

Current securities regulations for shelf registration are limited.

Registered but unsold securities shall be offered within 1 year from registration, and

⁵⁵ Footnote 11.

an updated RS shall be filed with the SEC prior to offering or sale. The registration shall cover either short-term or long-term debt securities, not a combination of different tenors.

This limits the flexibility of the issuer to tap the capital markets for its funding requirements when market conditions are favorable.

The filing fee is currently based on the total amount of debt securities proposed to be issued, subject to a diminishing fee in inverse proportion in accordance with the SEC's fee schedule, and is payable upon filing of the RS, and not on a pay-per-avaiement basis.

L. Availability of Information in English

All information pertaining to the Philippine bond market are readily available in English.

M. Restrictions in Accounting Standard

International Accounting Standards (IAS) 39 on Financial Instruments is part of the rules on financial reporting of corporations. This standard requires classification of financial instruments according to the intention over the investment. For bonds that are classified under "held to maturity," sale or de-recognition of the bonds prior to maturity is prohibited under the "tainting rule" of IAS 39.

N. Limited Opportunities to Utilize Bond Holdings and the Repo Market

The Philippine Dealing Systems (PDS) Inter-Professional Repurchase Agreement Program is open to all government securities. The PDS Securities Lending Transactions Program is currently limited to government securities that comply with specified liquidity criteria.

O. Degree of Lack of Liquidity in the Secondary Market

1. Transfers Across Tax Categories

The current market framework limits the issuance, trading, and settlement of fixed-income securities as follows:

- (i) For regular government securities, separate instruments for a single tenor are issued for tax-withheld and tax-exempt investors, and transfers are allowed only among holders of the same tax category.
- (ii) For corporate fixed-income securities, only one instrument is issued for all investors; however, transfers across two types of tax categories—tax-withheld and tax-exempt—are restricted to coupon dates, or treats as tax-withheld a tax-exempt holder trading across tax categories.

Thus, under the present structure, trading prior to coupon date transpires mostly between holders of the same tax category, thereby limiting the access to liquidity of all the holders.

2. Liquidity of Corporate Fixed-Income Securities

Corporate fixed-income securities listed and traded on PDEX have lower trading volumes and lower turnover ratios compared to government securities traded on the PDEX market. Factors that may contribute to this are the relatively smaller average issue size of corporate issuances, skewed distribution toward qualified institutional investors that tend to be buy-and-hold investors, limited market-making activities, and the lack of alternative investment outlets for investors.

Listed corporate fixed-income securities benefit from having a central venue for investors to sell or buy such securities.

P. Trade Pre-Matched via Telephone between Custodians for Foreign Institutional Investor

All trades for Foreign Institutional Investor clients are being pre-matched via telephone between custodians.

V. Description of the Securities Settlement System

A. Legal Definition of Debt Instruments

1. Existence of Uniform Legal Framework for Types of Securities

Certain disparities exist between and among legal frameworks that apply to different types of securities. Most principal of these differences arise from the fact that equity securities and their trading market are under the regulation of the SEC alone. On the other hand, debt securities, where the trading community are composed mainly of banks, even in instances where debt securities are issued by a bank, become subjected to a more complex regulatory regime which would involve the banking regulator.

2. Dematerialization and Immobilization versus Physical Securities

Both equities and debt securities are legally recognized in physical and dematerialized form. In the organized market for debt securities, however, debt securities must be in dematerialized form and cannot be listed if the same are still in physical form, even if immobilized.

In the equities market, the law recognizes the right of equities investors to require a physical certificate as evidence of their investments.

While the infrastructure provides for the immobilization of the physical security, the investor may “uplift” the security from the depository and place the same in physical form, as a right recognized by law.

3. Legal Ownership Transfer Mechanism

Securities in the organized market are transferred in book-entry form.

B. Securities Settlement Infrastructure

1. Existence of Central Securities Depository and Book-Entry System for Debt Instruments

In Philippines there are two Foreign Institutional Investor (CSD); (1) Philippine Depository and Trust Corporation (PDTC), CSD for equities and fixed-income securities; and (2) Bureau of the Treasury (BTr), CSD for government securities (Treasury bills and government bonds).

The PDTC provides depository and settlement services for equities and commercial papers and private bonds. It is a member of the PDS Group of companies, composed of the Philippine Dealing System (PDS), the holding company of the Group, and its three operating subsidiaries: the Philippine Dealing and Exchange (PDEX), PDTC, and the Philippines Securities Settlement Corporation (PSSC).

PDTC, formerly known as the Philippine Central Depository (PCD), is a securities depository operating in Philippines. It has been in operation since 1995 and is the sole owner of a special purpose corporation, PCD Nominee, specifically set up to hold legal title to securities lodged in the depository as nominee.

PDTC services fixed-income and equity market segments in the Philippine markets and has real-time interface with settlement banks, including the central bank, to settle fixed-income spot and repo trades, inter-bank foreign exchange transactions and cash entitlements such as cash dividends and coupon/maturity payments.

Its depository service operates a book-entry system for the transfer of ownership of debt instruments.

2. Existence of Delivery-versus-Payment and Real Time Gross Settlement Mechanism

The existing Real Time Gross Settlement (RTGS) system for the government securities market was put in place in 2002. The delivery-versus-payment (DVP) system was already in place even before the commencement of PDEX's organized market for the inter-dealer sector, to enable the inter-dealer market to settle on a DVP basis. In 2006, the PDEX market was connected to this system, and a straight-through processing (STP) facility was operationalized so that trades executed on the PDEX market were fed to the settlement system without further manual intervention to enter settlement details.

a. Registry of Scripless Securities-Delivery-versus-Payment System for Inter-Dealer Government Securities Trades

The Registry of Scripless Securities (RoSS) system checks the securities in the seller's securities account and earmark these for transfer. The system then sends an electronic settlement file to BSP containing the amount to be debited and credited to the Regular Demand Deposit Account (RDDA) of the buyer and seller. Once settlement is processed, the BSP Philippine Payment and Settlement System (PhilPaSS) will send back a file message that settlement was done. The RoSS system will then transfer the earmarked securities from the seller's securities account to the buyer's securities account.

b. The Expanded Delivery-versus-Payment System for the Organized Market

In 2007, the settlement system was expanded to cover investor markets, beginning with the inter-professional market in 2007, and the retail market in 2008.

With the expanded delivery-versus-payment (eDVP) system supplementing the RoSS DVP, all trades in PDEX are settled on a DVP basis, with STP.

3. Existence of Post-Trade Matching System

There is no need for post-trade matching system in the organized debt securities market. All trades that are executed on the trading system are fed to the settlement system via STP for final settlement.

On the other hand, all trades for Foreign Institutional Investor (FII) clients are being pre-matched via telephone between custodians.

4. Bond and Other Debt Securities

All trade settlements occurring through the PDEX organized market are done on a gross, trade-for-trade basis.

5. Settlement Cycle for Corporate Bond, Government Bond, and Other Debt Securities

See Figure 5.1 and 5.2.

Figure 5.1 Settlement Process for Government Bond Trades Where Both Parties Are Government Securities Eligible Dealers

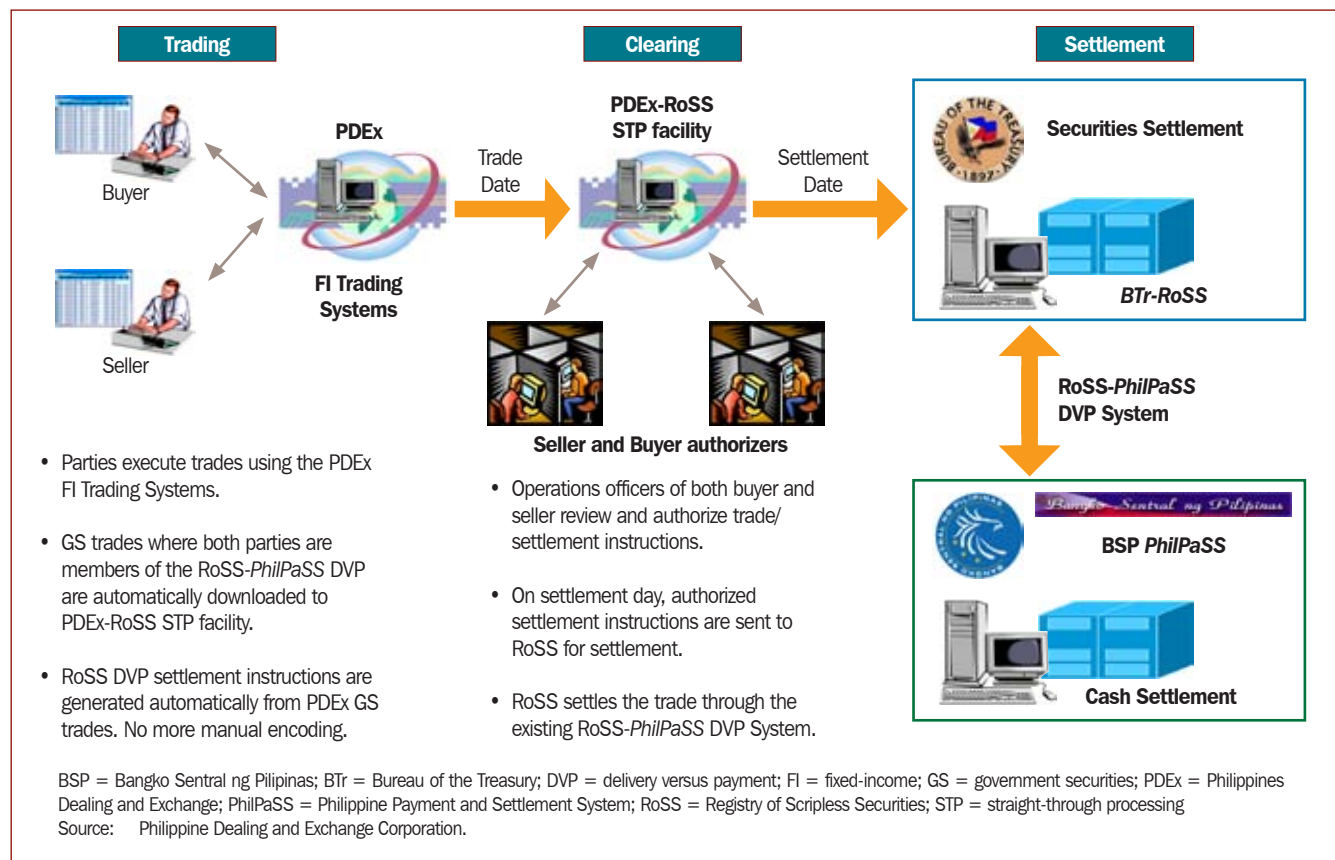
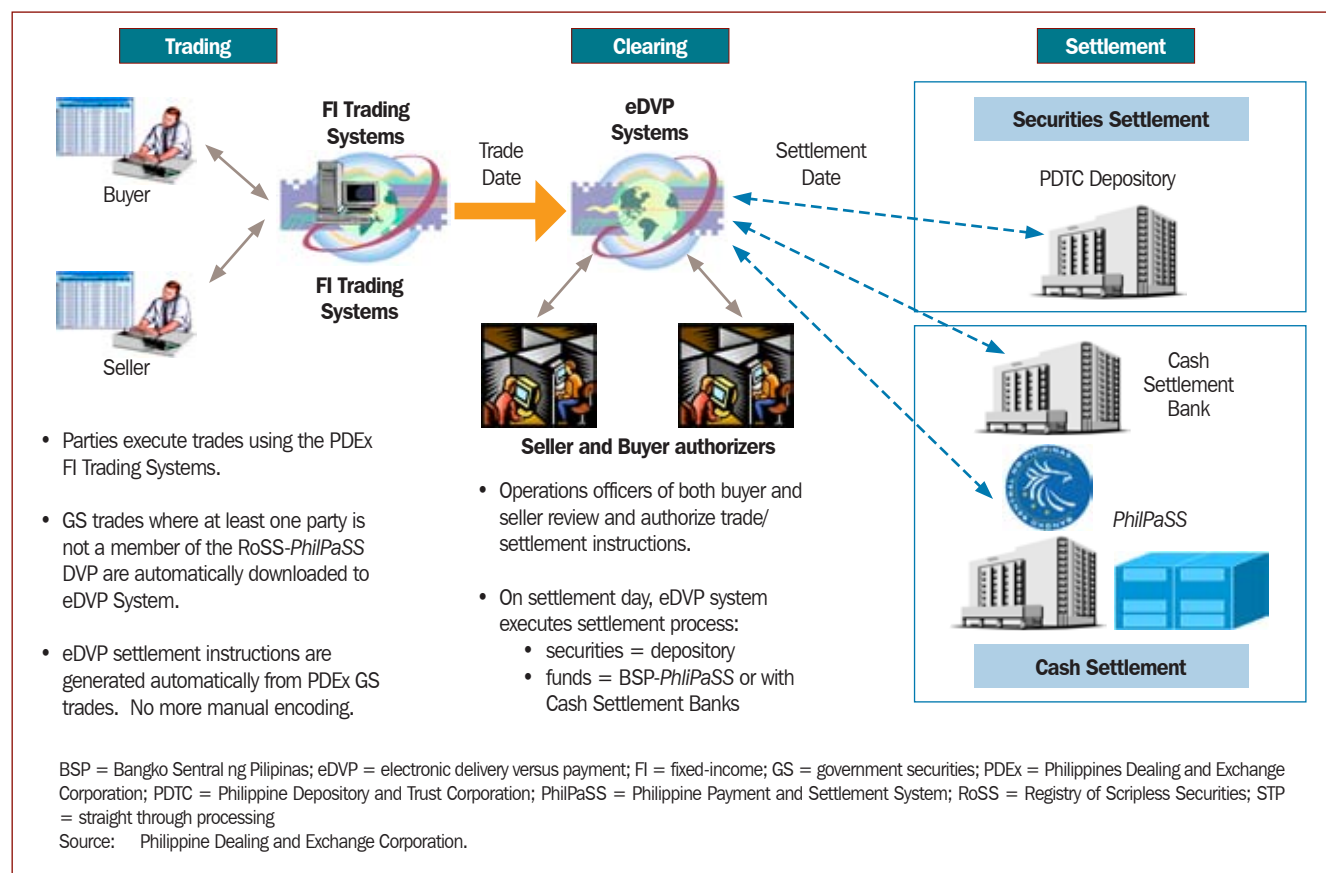


Figure 5.2 Settlement Process for All Corporate Bond Trades and Government Bond Trades Where One or Both Parties Are Not Government Securities Eligible Dealers



6. Brief History of the Development of the Securities Settlement Infrastructure

The depository, PDTC, formerly known as Philippine Central Depository (PCD), has been operational since 1995, providing depository services to the equities market. Its increasing role in the fixed-income market has grown in recent years as the organized market evolved. When the organized market began in March 2005, with the inter-dealer market trading government securities, the securities settlement infrastructure did not, as yet, include the depository. Trades were settled at the level of the RoSS operated by the BTr. This configuration was already capable of performing DVP settlement for inter-dealer trades.

The PDEX market opened up to the inter-professional segment in 2007, allowing as well the enrolment of corporate securities.

The DVP infrastructure was augmented to bring the depository within the purview of the DVP process, so that members of the trading community outside the banking sector could enjoy settlement on a DVP basis, and allowing DVP for corporate securities. This infrastructure likewise hosts settlement of trades of the public market, which entered the trading community through their brokers in early 2008. Listed corporate securities intended for distribution to the public are now also a part of this market. The settlement process and infrastructure allow investors to settle their trades directly into their own accounts, should they desire to do so.

VI. Cost and Charging Methods

A. Average Issuing Costs for Corporate Bonds and Commercial Papers

1. SEC Registration Fees for Registration Statement of Debt Securities and Commercial Papers

a. Registration Statement Filing Fee

Registration Statement filing fees are subject to the following fee schedule.

Table 6.1 Registration Statement Filing Fee

| Face Value of the Security | Calculation of the Fees |
|--|--|
| Not more than PHP500 million worth of securities | 0.10% of maximum aggregate price of securities to be offered |
| More than PHP500 million, not more than PHP750 million | PHP500,000 + 0.075% of excess over PHP500 million |
| More than PHP750 million, not more than PHP1 billion | PHP687,500 + 0.05% of excess over PHP750 million |
| More than PHP1 billion | PHP812,5000 + 0.025% of excess over PHP1 billion |

Source: Securities and Exchange Commission: "Consolidated schedule of fees and charges. Survey about all the fees and charges to be imposed was executed in 2004 by SEC. Result report "Consolidated schedule of fees and charges" is available from the following website: <http://www.sec.gov.ph/circulars/cy,2004/sec-memo-9,s2004.pdf>

b. Legal Research Fee

The issuer is charged a legal research fee equivalent to 1% of the filing fee, but not less than PHP10.

2. Documentary Stamp Taxes

Documentary stamp taxes equivalent to PHP1 for every PHP200 of the face amount of the debt securities is payable upon issuance, and is generally for account of the issuer.

3. Publication Costs

A survey on publication fee collected from the industry shows that publication fees for registered bonds costs PHP50,000 per publication.

4. Other Fees

a. Underwriting or Selling Agency Fees

Underwriting or selling agency fees are subject to negotiation between the issuer and the underwriters or selling agents, as documented in the transaction agreement between the parties.

Fees to underwriters of registered debt securities are generally disclosed in the prospectus. A survey on underwriting and selling agent fee collecting from the industry shows the following range:

Table 6.2 Fees to Underwriters or Selling Agent

| Corporate Notes | | Registered Bonds | |
|-----------------|-------|--------------------|--------------------|
| Low | High | Low | High |
| 0.25% | 1.50% | 0.45% | 1.50% |
| | | 0.35% ^a | 0.60% ^a |

^a Based on prospectuses of listed registered corporate bonds
Source: Securities and Exchange Commission.

b. Trustee Fees

Trustee fees are subject to negotiation between the issuer and the trustee, as documented in the trustee agreement between the parties. Trustee fees for registered debt securities are generally disclosed in the prospectus. A survey on trustee fee collecting from the industry shows the following range:

Table 6.3 Trustee Fees

| Corporate Notes | | Registered Bonds | |
|-------------------------------------|-------------------------------------|------------------------|-------------------------|
| Low | High | Low | High |
| As a percentage of MPC ^a | As a percentage of MPC ^a | PHP300,000 | PHP600,000 |
| | | PHP95,000 ^b | PHP270,000 ^b |

^a MPC pertains to Mortgage Participation Certificates issued by the trustee to the lenders. This usually happens if the loan or notes are secured by a pool of assets.
^b Upfront and first year trustee fees are based on prospectuses of listed registered corporate bonds.
Source: Securities and Exchange Commission.

c. Credit Rating Fees

Fees payable to the credit rating agency (CRA) is subject to negotiation between the issuer and the rating agency. Ratings fees for registered debt securities are generally disclosed in the prospectus.

d. Listing Fees

Securities listed on Philippine Dealing Exchange (PDEX) are subject to a one-time application fee. Listing fees for registered debt securities are generally disclosed in the prospectus.

e. Miscellaneous Fees

Other fees reported by the industry are shown in Table 6.4.

Table 6.4 Other Fees

| Type of Fee | Corporate Notes | | Registered Bonds | |
|--|--|---|--|----------------|
| | Low | High | Low | High |
| Legal Fee | PHP500,000 | PHP1 million | PHP1.5 million | PHP2.5 million |
| Facility Agency Fee (Registry and Paying Agency): | | | | |
| Bundled pricing | PHP300,000 (based on past transactions, subject to negotiation) | PHP600,000 (based on past transactions, subject to negotiation) | Not applicable | Not applicable |
| Registry Fee (excluding Paying Agency) | 0.0025% p.a. with PHP180,000 minimum | 0.03% p.a. | 0.0025% p.a. with PHP180,000 minimum | 0.03% p.a. |
| Paying Agency Fee (excluding Registry Fee) | Pricing Model 1: 5 bps of amount to be paid with minimum of PHP10,000 and maximum of PHP100,000 per payment date | | Pricing Model 2: Flat rate per holder of either PHP50 (via check) or PHP540 (RTGS) | |
| Account Opening Fee (per holder) | | | | |
| | Low | | High | |
| Primary Issuance | PHP75 (minimum of PHP20,000) | | PHP75 | |
| Secondary Trading | PHP75 | | PHP100 | |
| p.a. = per annum; bps = basis points; RTGS = real time gross settlement Source: Securities and Exchange Commission. | | | | |

B. Average Ongoing Costs for Corporate Bonds and Commercial Papers

1. Credit Rating Agency Annual Monitoring Fee

The CRA annual monitoring fee is subject to agreement between issuer and rating agency. For registered debt securities, the fee is generally disclosed in the prospectus.

2. Trustee Annual Retainer Fee

The trustee annual retainer fee is subject to agreement between the issuer and trustee. For registered debt securities, this is generally disclosed in the prospectus.

3. Registry Maintenance and Paying Agency Fees

These fees are subject to agreement between the issuer, the appointed registry, and the paying agent. For some debt issuances, the annual maintenance fee is on the account of the holders and is deducted from the coupon entitlement. For registered debt securities, fees are generally disclosed in the prospectus.

4. Listing Maintenance Fee

Securities listed on PDEX are subject to annual maintenance fees. Listing maintenance fees for registered debt securities are generally disclosed in the prospectus.

5. Fees related to Secondary Transfers

Fees related to secondary market transactions are generally for account of the transacting trading participants/investors.

a. Broker's Commissions

The broker's commission is subject to the commission schedule of the executing broker. Rules and regulations of Securities and Exchange Commission and PDEX currently do not prescribe a minimum or maximum broker-commission rates. A survey on Broker's Commissions collected from the industry shows the following range:

Table 6.5 Broker's Commissions

| Corporate Notes | | Registered Bonds | |
|---|-------|------------------|-------|
| Low | High | Low | High |
| 0 | 0.25% | 0.10% | 0.50% |
| Source: Securities and Exchange Commission. | | | |

b. Trade Matching Fees

PDEX charges an ad valorem trade matching fee of 0.25 basis points (bp) based on the face amount for all trade transactions executed in the PDEX market, on account of both the selling and buying trading participants.

c. Depository Fees

The depository does not charge a fee for lodging (i.e., depositing) securities into a depository securities account for purposes of settlement of trade transactions. An uplift fee is charged for the withdrawal of lodged securities in the depository with minimum of PHP10 and maximum of PHP100 per transfer. Debt securities kept in a depository account are subject to a depository maintenance fee based on the face value of the securities at a rate of 0.5 basis points per annum.

d. Private Registry Transfer Fees Not Applicable to Government Securities Registry

The appointed registry charges transfer fees, including transfers to and from the registry and the depository for purposes of settlement of trade transactions. A survey on transfer fees collected from the industry shows the following range:

Table 6.6 Private Registry Transfer Fees

| Transfer Fee - Trade Transactions | |
|---|--|
| Low | High |
| PHP80 per side (buy/sell) | PHP200 transfer fee (for the account of the transferor noteholders) |
| Source: Securities and Exchange Commission. | |

VII. Market Size and Statistics

A. Market Size

Table 7.1 Capital Market (Direct Financing) versus Bank Loans (Indirect Financing) (PHP billion)

| Year | Bank Loans | Bonds | Total |
|------|------------|----------|----------|
| 2005 | 1,872.74 | 2,187.45 | 4,060.19 |
| 2006 | 2,073.35 | 2,236.20 | 4,309.55 |
| 2007 | 2,194.78 | 2,322.44 | 4,517.22 |
| 2008 | 2,502.33 | 2,609.57 | 5,111.90 |
| 2009 | 2,724.87 | 2,812.48 | 5,537.35 |
| 2010 | 2,802.29 | 3,199.27 | 6,001.56 |

Source: Asian Development Bank, AsiaBondsOnline; Bangko Sentral ng Pilipinas; Bureau of the Treasury.

Table 7.2 Fixed-Income Instruments per Issuer Type and Outstanding Amount (PHP billion)

| Year | Government Securities | Corporate Bonds | Total |
|------|-----------------------|-----------------|----------|
| 2005 | 2,134.36 | 53.09 | 2,187.45 |
| 2006 | 2,131.28 | 104.92 | 2,236.20 |
| 2007 | 2,178.37 | 144.07 | 2,322.44 |
| 2008 | 2,398.14 | 211.43 | 2,609.57 |
| 2009 | 2,460.90 | 351.58 | 2,812.48 |
| 2010 | 2,708.96 | 490.31 | 3,199.27 |

Source: Asian Development Bank, AsiaBondsOnline, Bureau of the Treasury.

Table 7.3 Bonds and Corporate Papers Issued by Corporations Registered under the Securities and Exchange Commission

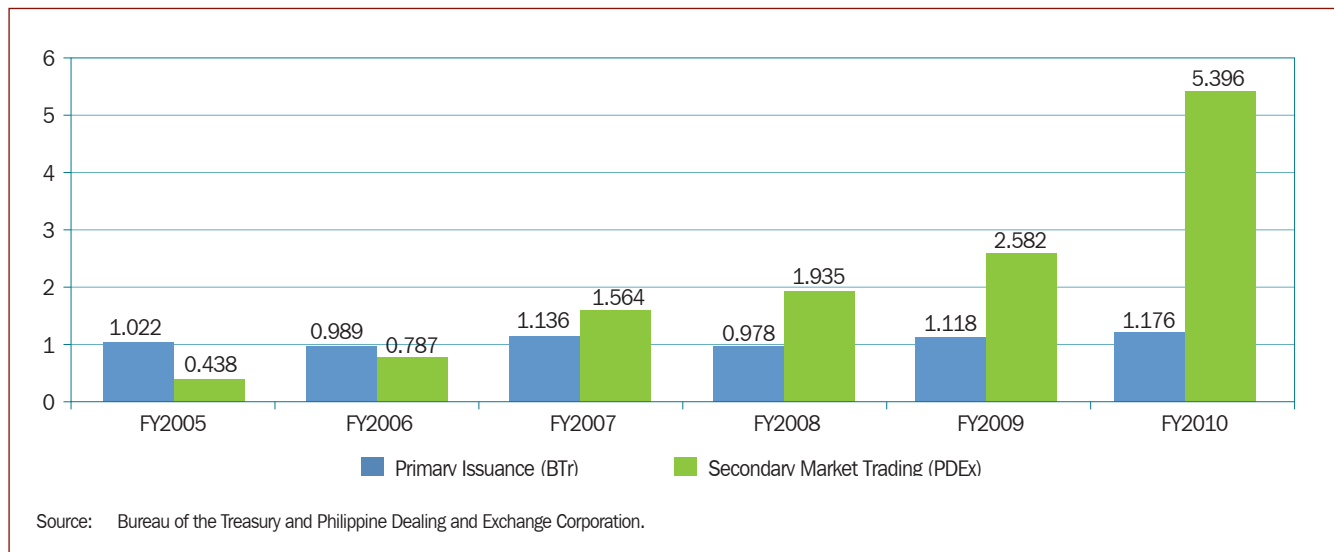
| Name of Corporation | 2008 | 2009 | 2010 | 2011 |
|---|---|---|---|---|
| Abotiz Power Corporation | | Fixed-rate Bonds with an aggregate amount of up to PHP3 billion inclusive of PHP1.5 billion worth of bonds to cover an over-subscription at an issue price of 100% of face value - Order No. 048 dated 7 April 2007 | | |
| Ayala Corporation | | | PHP10 billion Fixed-rate Putable Bonds - Order No. 125 dated 19 April 2010 | PHP10 billion Fixed-rate Multiple Put Bonds - Order dated 2 May 2011 |
| Ayala Land, Inc. | PHP4 billion worth of Fixed-rate Bonds - Order No. 079 dated 4 August 2008 | PHP504 million worth of Homestarter Bonds - Order No. 140 dated 25 September 2009 | PHP504 million with an oversubscription of PHP504 million worth of Homestarter Bonds - Order No. 114 dated 9 March 2010 | PHP2.07 billion worth of Homestarter Bonds - Order dated 8 April 2011 |
| City and Land Developers, Inc. | PHP200 million worth of short-term commercial papers - Order No. 091 dated 28 August 2008 | PHP200 Million worth of short-term commercial papers - Order No. 133 dated 2 September 2009 | | |
| Cityland Development Corporation | PHP900 million worth of short-term commercial papers - Order No. 147 dated 8 December 2008 | PHP900 million worth of STCPs - Order No. 187 dated 7 December 2009 | PHP1 billion worth of short-term commercial papers - Order No. 294 dated 2 December 2010 | |
| Cityland, Inc. | PHP1.15 billion worth of short-term commercial papers - Order No. 129 dated 3 November 2008 | PHP900 million worth of STCPs - Order No. 167 dated 9 November 2009 | | |
| Energy Development Corporation | | PHP10 billion Fixed-rate Bonds, Order No. 170 dated 16 November 2009 | | |
| Filiinvest Land, Inc. | | PHP5 billion worth of Fixed-rate Bonds - Order No. 157 dated 6 November 2009 | | PHP3 billion Fixed-rate Bonds - Order dated 24 June 2011 |
| Globe Telecom, Inc. | | PHP10 billion Fixed-rate Bonds, PHP5 billion of which is shelf registration - Order No. 019 dated 10 February 2009 | | |
| JGSummit Holdings, Inc. | | PHP5 billion Fixed-rate Bonds, Order No. 165 dated 5 November 2009 | | |
| Manila Water Company, Inc. | PHP4 billion worth of Fixed-rate Bonds - Order No. 116 dated 10 October 2008 | | | |
| Megaworld Corporation | | PHP5 billion worth of Fixed-rate Bonds due 5-18-2015 - Order No. 156 dated 5 November 2009 | | |
| PCI Leasing and Finance, Inc. (Now BDO Leasing and Finance, Inc.) | PHP4 billion worth of short-term commercial papers - Order No. 153 dated 12 December 2008 | PHP8 billion worth of short-term commercial papers Order No. 192 dated 15 December 2009 | | |
| Robinsons Land Corporation | | PHP5 billion worth of Fixed-rate Bonds due 2014 - Order No. 103 dated 30 June 2009 | | |
| Robinsons Land Corporation | | PHP5 billion worth of Fixed-rate Bonds - Order No. 122 dated 11 August 2009 | | |
| San Miguel Brewery, Inc. | | PHP38 billion worth of Fixed-rate Bonds with an issue price of 100% of face value - Order No. 043 dated 17 March 2009 | | |
| SM Investments Corporation | | PHP5 billion worth of Fixed-rate Bonds - Order No. 89 dated 8 June 2009 | | |
| Tanduay Distillers, Inc. | | | PHP5 billion worth of Fixed-rate Bonds - Order No. 092 dated 29 January 2010 | |

Source: Securities and Exchange Commission.

Table 7.4 Domestic Financing versus International Financing (PHP billion)

| Year | Domestic Financing (Gross) | International Financing (Gross) | Total (Gross) |
|------|-------------------------------|------------------------------------|------------------|
| 2008 | 978 | 71 | 1,049 |
| 2009 | 1,119 | 251 | 1,370 |
| 2010 | 1,176 | 357 | 1,533 |

Source: Asian Development Bank, AsiaBondsOnline, Bureau of the Treasury.

Figure 7.1 Government Securities Primary versus Secondary Market Trading Volume (PHP trillion)

B. Size of Local Currency Bond Market in Percentage of Gross Domestic Product

Table 7.5 Size of Local Currency Bond Market, Percentage Gross Domestic Product (Local Sources)
(USD billion)

| Date | Government (% GDP) | Corporate (% GDP) | Total (% GDP) | Government | Corporate | Total |
|--------|-----------------------|----------------------|------------------|------------|-----------|-------|
| Dec-00 | 31.1 | 0.2 | 31.3 | 20.83 | 0.15 | 20.98 |
| Dec-01 | 33.8 | 0.1 | 33.9 | 23.77 | 0.07 | 23.84 |
| Dec-02 | 36.9 | 0.1 | 37.1 | 27.31 | 0.09 | 27.41 |
| Dec-03 | 39.4 | 0.3 | 39.7 | 30.66 | 0.20 | 30.85 |
| Mar-04 | 39.7 | 0.5 | 40.2 | 31.31 | 0.35 | 31.66 |
| Jun-04 | 40.1 | 0.4 | 40.6 | 32.66 | 0.36 | 33.02 |
| Sep-04 | 41.3 | 0.5 | 41.8 | 34.60 | 0.43 | 35.02 |
| Dec-04 | 40.9 | 0.7 | 41.7 | 35.47 | 0.63 | 36.10 |
| Mar-05 | 41.0 | 0.5 | 41.5 | 37.34 | 0.46 | 37.80 |
| Jun-05 | 39.6 | 0.7 | 40.2 | 36.36 | 0.6 | 36.96 |
| Sep-05 | 40.6 | 0.8 | 41.4 | 38.28 | 0.71 | 38.99 |
| Dec-05 | 40.1 | 1.0 | 41.1 | 41.13 | 1.00 | 42.13 |
| Mar-06 | 39.4 | 0.8 | 40.3 | 43.19 | 0.93 | 44.12 |

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Table 7.5 continuation

| Date | Government (% GDP) | Corporate (% GDP) | Total (% GDP) | Government | Corporate | Total |
|--------|-----------------------|----------------------|------------------|------------|-----------|-------|
| Jun-06 | 38.1 | 0.9 | 39.0 | 41.10 | 0.95 | 42.05 |
| Sep-06 | 37.3 | 1.2 | 38.4 | 43.61 | 1.39 | 45.00 |
| Dec-06 | 36.6 | 1.7 | 38.3 | 45.03 | 2.14 | 47.17 |
| Mar-07 | 36.2 | 1.7 | 37.9 | 46.22 | 2.20 | 48.42 |
| Jun-07 | 34.3 | 2.0 | 36.3 | 46.94 | 2.75 | 49.69 |
| Sep-07 | 34.9 | 2.0 | 36.9 | 50.00 | 2.85 | 52.85 |
| Dec-07 | 33.8 | 2.2 | 36.0 | 54.50 | 3.49 | 58.00 |
| Mar-08 | 34.5 | 2.3 | 36.9 | 56.10 | 3.79 | 59.89 |
| Jun-08 | 33.8 | 2.6 | 36.4 | 52.52 | 4.06 | 56.58 |
| Sep-08 | 33.6 | 2.6 | 36.2 | 51.68 | 4.01 | 55.68 |
| Dec-08 | 32.2 | 2.7 | 34.9 | 52.25 | 4.44 | 56.69 |
| Mar-09 | 31.5 | 3.0 | 34.5 | 50.90 | 4.89 | 55.79 |
| Jun-09 | 31.2 | 3.8 | 35.0 | 51.02 | 6.16 | 57.18 |
| Sep-09 | 31.7 | 4.0 | 35.7 | 52.90 | 6.60 | 59.50 |
| Dec-09 | 31.9 | 4.4 | 36.3 | 55.47 | 7.61 | 63.08 |
| Mar-10 | 31.9 | 4.3 | 36.2 | 58.43 | 7.89 | 66.32 |
| Jun-10 | 31.5 | 4.4 | 35.9 | 58.15 | 8.11 | 66.27 |
| Sep-10 | 31.9 | 4.4 | 36.3 | 63.83 | 8.72 | 72.56 |
| Dec-10 | 31.3 | 4.1 | 35.4 | 64.34 | 8.41 | 72.75 |
| Mar-11 | 30.0 | 4.4 | 34.4 | 63.60 | 9.28 | 72.89 |
| Jun-11 | 30.9 | 4.5 | 35.4 | 65.46 | 9.61 | 75.07 |

GDP = gross domestic product
Source: AsiaBondsOnline. <http://asianbondsonline.adb.org/philippines/data/bondmarket>.

C. Size of Foreign Currency Bond Market in Percentage of Gross Domestic Product (BIS)

Table 7.6 Foreign Currency Bonds to Gross Domestic Product Ratio (USD billion)

| Date | % of GDP | FCY Denominated Bonds | GDP |
|--------|----------|-----------------------|-------|
| Dec-95 | 9.4 | 6.8 | 72.8 |
| Dec-96 | 11.7 | 9.7 | 82.6 |
| Dec-97 | 20.3 | 12.3 | 60.7 |
| Dec-98 | 19.0 | 13.0 | 68.7 |
| Dec-99 | 21.9 | 16.2 | 74.0 |
| Dec-00 | 25.5 | 17.1 | 67.1 |
| Dec-01 | 24.7 | 17.4 | 70.4 |
| Dec-02 | 29.0 | 21.5 | 74.0 |
| Dec-03 | 32.8 | 25.5 | 77.7 |
| Mar-04 | 32.8 | 25.9 | 78.9 |
| Jun-04 | 31.8 | 25.9 | 81.4 |
| Sep-04 | 32.1 | 26.9 | 83.7 |
| Dec-04 | 31.1 | 27.0 | 86.6 |
| Mar-05 | 31.1 | 28.4 | 91.2 |
| Jun-05 | 31.5 | 28.9 | 91.9 |
| Sep-05 | 31.6 | 29.8 | 94.2 |
| Dec-05 | 27.9 | 28.6 | 102.6 |

continued on next page

Table 7.6 continuation

| Date | % of GDP | FCY Denominated Bonds | GDP |
|--------|----------|-----------------------|-------|
| Mar-06 | 28.5 | 31.2 | 109.6 |
| Jun-06 | 28.5 | 30.8 | 107.9 |
| Sep-06 | 27.5 | 32.1 | 117.1 |
| Dec-06 | 25.6 | 31.4 | 123.0 |
| Mar-07 | 25.8 | 32.9 | 127.7 |
| Jun-07 | 24.3 | 33.2 | 136.9 |
| Sep-07 | 23.0 | 33.0 | 143.4 |
| Dec-07 | 20.3 | 32.7 | 161.2 |
| Mar-08 | 20.4 | 33.2 | 162.5 |
| Jun-08 | 20.4 | 31.7 | 155.5 |
| Sep-08 | 20.6 | 31.7 | 153.7 |
| Dec-08 | 19.4 | 31.5 | 162.5 |
| Mar-09 | 19.7 | 31.9 | 161.7 |
| Jun-09 | 20.1 | 32.8 | 163.4 |
| Sep-09 | 20.5 | 34.2 | 166.8 |
| Dec-09 | 20.6 | 35.9 | 173.9 |
| Mar-10 | 20.1 | 36.8 | 183.0 |
| Jun-10 | 20.0 | 36.9 | 184.3 |
| Sep-10 | 18.9 | 37.8 | 200.0 |
| Dec-10 | 19.0 | 39.0 | 205.6 |
| Mar-11 | 19.3 | 41.0 | 212.0 |

GDP = gross domestic product; FCY = foreign currency
Source: AsiaBondsOnline. http://asianbondsonline.adb.org/philippines/data/bondmarket.php?code=FCY_in_GDP

D. Size of Foreign Currency Bond Market in US Dollars (Local Sources)

Table 7.7 Foreign Currency Bonds Outstanding (Local Sources) (USD billion)

| Date | Government | Banks and Financial Institutions | Other Corporates | Total |
|--------|------------|----------------------------------|------------------|-------|
| Mar-01 | 11.47 | 1.49 | 3.79 | 16.75 |
| Jun-01 | 11.31 | 1.46 | 3.79 | 16.55 |
| Sep-01 | 11.47 | 1.20 | 3.78 | 16.45 |
| Dec-01 | 12.96 | 0.83 | 3.60 | 17.39 |
| Mar-02 | 14.47 | 0.54 | 3.70 | 18.71 |
| Jun-02 | 14.59 | 0.36 | 3.70 | 18.66 |
| Sep-02 | 16.85 | 0.54 | 6.34 | 23.72 |
| Dec-02 | 17.02 | 0.81 | 6.18 | 24.01 |
| Mar-03 | 17.75 | 0.54 | 5.85 | 24.14 |
| Jun-03 | 17.82 | 0.54 | 6.02 | 24.38 |
| Sep-03 | 18.52 | 0.54 | 6.02 | 25.08 |
| Dec-03 | 19.53 | 0.69 | 5.75 | 25.96 |
| Mar-04 | 20.20 | 0.69 | 5.48 | 26.37 |
| Jun-04 | 20.49 | 0.69 | 5.18 | 26.36 |
| Sep-04 | 21.33 | 0.81 | 5.18 | 27.32 |
| Dec-04 | 21.55 | 0.81 | 5.18 | 27.54 |
| Mar-05 | 22.68 | 0.86 | 5.37 | 28.91 |
| Jun-05 | 23.24 | 0.86 | 5.37 | 29.47 |

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Table 7.7 continuation

| Date | Government | Banks and Financial Institutions | Other Corporates | Total |
|--------|------------|----------------------------------|------------------|-------|
| Sep-05 | 24.20 | 0.86 | 5.22 | 30.28 |
| Dec-05 | 23.24 | 0.86 | 4.97 | 29.07 |
| Mar-06 | 25.44 | 1.24 | 4.87 | 31.55 |
| Jun-06 | 25.18 | 1.24 | 4.69 | 31.11 |
| Sep-06 | 26.14 | 1.34 | 4.47 | 31.94 |
| Dec-06 | 25.37 | 1.46 | 4.37 | 31.19 |
| Mar-07 | 26.33 | 1.45 | 4.22 | 32.01 |
| Jun-07 | 26.26 | 1.44 | 3.92 | 31.63 |
| Sep-07 | 26.04 | 1.32 | 3.86 | 31.21 |
| Dec-07 | 26.33 | 1.32 | 3.61 | 31.25 |
| Mar-08 | 26.95 | 1.02 | 3.60 | 31.58 |
| Jun-08 | 26.03 | 1.02 | 3.30 | 30.35 |
| Sep-08 | 25.96 | 1.02 | 3.55 | 30.53 |
| Dec-08 | 25.98 | 0.87 | 3.44 | 30.29 |
| Mar-09 | 26.49 | 0.87 | 3.44 | 30.80 |
| Jun-09 | 27.63 | 0.85 | 3.27 | 31.75 |
| Sep-09 | 28.48 | 0.94 | 3.62 | 33.04 |
| Dec-09 | 30.68 | 0.84 | 3.62 | 35.13 |
| Mar-10 | 31.24 | 0.94 | 4.07 | 36.24 |
| Jun-10 | 31.24 | 0.94 | 4.07 | 36.24 |
| Sep-10 | 31.78 | 1.34 | 4.69 | 37.81 |
| Dec-10 | 32.45 | 1.64 | 5.22 | 39.31 |
| Mar-11 | 34.12 | 1.63 | 5.66 | 41.41 |

Source: AsiaBondsOnline. http://asianbondsonline.adb.org/philippines/data/bondmarket.php?code=FCY_Bonds_Outstanding

E. Domestic Financing Profile

Table 7.8 Domestic Financing Profile (USD billion)

| Date | Domestic Credit (% of Total) | Bonds (% of Total) | Equity (% of Total) | Domestic Credit | Bonds | Equity | Total |
|--------|---------------------------------|-----------------------|------------------------|--------------------|-------|--------|--------|
| Dec-00 | 0 | 45.37 | 54.63 | 0 | 20.98 | 25.26 | 46.24 |
| Dec-01 | 40.68 | 31.82 | 27.50 | 30.48 | 23.84 | 20.61 | 74.93 |
| Dec-02 | 39.88 | 36.13 | 23.99 | 30.25 | 27.40 | 18.20 | 75.84 |
| Dec-03 | 36.98 | 35.98 | 27.04 | 31.71 | 30.86 | 23.19 | 85.76 |
| Dec-04 | 34.39 | 36.61 | 29.01 | 33.91 | 36.1 | 28.60 | 98.61 |
| Dec-05 | 30.77 | 35.59 | 33.64 | 36.42 | 42.13 | 39.82 | 118.37 |
| Dec-06 | 28.22 | 29.33 | 42.45 | 45.39 | 47.17 | 68.27 | 160.83 |
| Mar-07 | 26.23 | 28.55 | 45.22 | 44.49 | 48.42 | 76.71 | 169.62 |
| Jun-07 | 24.69 | 26.02 | 49.29 | 47.15 | 49.69 | 94.12 | 190.96 |
| Sep-07 | 25.60 | 26.82 | 47.58 | 50.44 | 52.85 | 93.75 | 197.04 |
| Dec-07 | 27.37 | 26.18 | 46.44 | 60.63 | 57.99 | 102.85 | 221.47 |
| Mar-08 | 27.73 | 30.03 | 42.24 | 55.31 | 59.89 | 84.23 | 199.43 |
| Jun-08 | 29.91 | 31.27 | 38.82 | 54.12 | 56.58 | 70.23 | 180.93 |
| Sep-08 | 30.12 | 30.89 | 38.99 | 54.31 | 55.69 | 70.31 | 180.31 |
| Dec-08 | 34.45 | 34.18 | 31.37 | 57.14 | 56.69 | 52.03 | 165.86 |
| Mar-09 | 32.96 | 33.70 | 33.33 | 54.56 | 55.79 | 55.18 | 165.53 |

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Table 7.8 continuation

| Date | Domestic Credit (% of Total) | Bonds (% of Total) | Equity (% of Total) | Domestic Credit | Bonds | Equity | Total |
|--------|---------------------------------|-----------------------|------------------------|--------------------|-------|--------|--------|
| Jun-09 | 31.17 | 31.50 | 37.33 | 56.57 | 57.18 | 67.76 | 181.50 |
| Sep-09 | 29.28 | 30.48 | 40.24 | 57.14 | 59.50 | 78.54 | 195.18 |
| Dec-09 | 29.39 | 29.81 | 40.81 | 62.18 | 63.08 | 86.35 | 211.61 |
| Mar-10 | 28.18 | 30.01 | 41.81 | 62.28 | 66.32 | 92.41 | 221.01 |
| Jun-10 | 27.33 | 28.6 | 44.07 | 63.32 | 66.26 | 102.10 | 231.68 |
| Sep-10 | 25.65 | 26.58 | 47.77 | 69.86 | 72.37 | 130.09 | 272.31 |
| Dec-10 | 24.26 | 24.07 | 51.67 | 73.87 | 73.30 | 157.32 | 304.49 |
| Mar-11 | 0 | 31.44 | 68.56 | 0 | 73.16 | 159.52 | 232.68 |

Source: AsiaBondsOnline. http://asianbondsonline.adb.org/philippines/data/bondmarket.php?code=Domestic_Financing_profile

F. Trading Volume

Table 7.9 Trading Volume (USD billion)

| Date | Government Bonds | Corporate Bonds | Total |
|--------|------------------|-----------------|-------|
| Mar-05 | 10.39 | - | 10.39 |
| Jun-05 | 47.61 | - | 47.61 |
| Sep-05 | 13.40 | - | 13.40 |
| Dec-05 | 12.19 | - | 12.19 |
| Mar-06 | 21.62 | - | 21.62 |
| Jun-06 | 18.15 | - | 18.15 |
| Sep-06 | 15.37 | - | 15.37 |
| Dec-06 | 14.13 | - | 14.13 |
| Mar-07 | 17.39 | - | 17.39 |
| Jun-07 | 12.17 | - | 12.17 |
| Sep-07 | 15.95 | - | 15.95 |
| Dec-07 | 22.10 | - | 22.10 |
| Mar-08 | 24.08 | - | 24.08 |
| Jun-08 | 10.37 | - | 10.37 |
| Sep-08 | 19.39 | - | 19.39 |
| Dec-08 | 9.22 | - | 9.22 |
| Mar-09 | 21.10 | - | 21.10 |
| Jun-09 | 18.73 | - | 18.73 |
| Sep-09 | 20.59 | - | 20.59 |
| Dec-09 | 15.89 | - | 15.89 |
| Mar-10 | 27.49 | - | 27.49 |
| Jun-10 | 22.68 | - | 22.68 |
| Sep-10 | 58.92 | - | 58.92 |
| Dec-10 | 39.48 | - | 39.48 |
| Mar-11 | 26.24 | - | 26.24 |
| Jun-11 | 24.73 | - | 24.73 |

Source: AsiaBondsOnline. http://asianbondsonline.adb.org/philippines/data/bondmarket.php?code=Trading_Volume

VIII. Presence of an Islamic Finance (Sukuk) Market

There is no Islamic finance market in the Philippines.

IX. History of Debt Market Development

A. Total Outstanding Amount of Domestic Government Securities

Table 9.1 Total Outstanding Amount of Domestic Government Securities (PHP billion)

| Year | Treasury Bills | Treasury Bonds | Benchmark Bonds | Retail Treasury Bonds | Zero Coupons Bonds | Total |
|------|----------------|----------------|-----------------|-----------------------|--------------------|-------|
| 2000 | 467 | 536 | 0 | 30 | 0 | 1,033 |
| 2001 | 425 | 689 | 0 | 68 | 35 | 1,218 |
| 2002 | 405 | 876 | 0 | 131 | 35 | 1,447 |
| 2003 | 496 | 942 | 0 | 207 | 41 | 1,686 |
| 2004 | 578 | 1,066 | 0 | 248 | 60 | 1,952 |
| 2005 | 638 | 1,197 | 0 | 232 | 68 | 2,134 |
| 2006 | 662 | 1,014 | 225 | 162 | 68 | 2,131 |
| 2007 | 614 | 856 | 466 | 174 | 68 | 2,178 |
| 2008 | 770 | 773 | 576 | 211 | 68 | 2,398 |
| 2009 | 622 | 742 | 745 | 291 | 60 | 2,461 |
| 2010 | 527 | 941 | 872 | 314 | 55 | 2,709 |

Source: Bureau of the Treasury.

B. Historical PDEX Trading Volume in Government Securities and Corporate Bonds

Table 9.2 Trading Volume in Government Securities and Corporate Bonds, 2005–2010

| | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 |
|-----------------------------|-------------|-------------|-------------|-------------|--------------|--------------|
| Volume | 437.74 | 787.40 | 1,564.04 | 1,935.34 | 2,581.61 | 5,396.14 |
| Growth | | 80% | 99% | 24% | 33% | 109% |
| Average Daily Volume | 2.30 | 3.19 | 6.41 | 7.87 | 10.62 | 22.12 |

Source: Philippine Dealing and Exchange System.

C. Major Events that Trigger Market Growth

1. Government Securities Market

Government securities (GS) in the Philippines consist mainly of Treasury bills (T-Bills) and Treasury bonds. The issuance of GS is handled by the Bureau of the Treasury (BTr).

T-Bills are discounted debt instruments primarily used for short-term funding requirements of the national government. They are issued with tenors of 91, 182, and 364 days.

Treasury bonds (also known as Fixed-rate Treasury Notes or FXTNs), on the other hand, have maturities greater than a year. They are issued in 2-, 3-, 4-, 5-, 7-, 10-, 20-, and 25-year tenors. The bonds pay coupon or interest on a semi-annual basis. From time to time, the government also issues zero coupon bonds.

In 2001, the government started issuing retail treasury bonds (RTB) as part of the government's savings mobilization program designed to make government securities available to retail investors and, at the same time, create savings consciousness among Filipinos.

With RTBs, investors can buy debt paper for a minimum amount of PHP5,000. GS dealers or selling agents of these bonds are required to sell a minimum of 55% of their total subscription to retail investors. Retail investors are defined as investors other than a Government Securities Eligible Dealers (GSED), Government Service Insurance System, Social Security System, Philippine Health Insurance Corporation, Home Development Mutual Fund, and investment houses and subsidiaries of GS dealers or investment houses performing banking and/or quasi-banking functions. RTBs pay coupon or interest on a quarterly basis. Last March 2011, the government sold a total of PHP104 billion worth of RTBs to retail investors and state-owned companies.

Beginning 2006, the BTr started conducting domestic bond exchanges as part of the liability management program of the Government to smoothen its debt maturity profile, extend the duration of its existing peso liabilities, and establish a benchmark for long-term financing to support government initiatives that promote public-private partnership for infrastructure and economic development. As benchmark bonds are issued in substantial amounts, they tend to be more liquid and trade more efficiently in the secondary market.

To date, the BTr has issued 12 benchmark bonds with 3-, 5-, 7-, 10-, 10.5-, 20-, and 25-year tenors. The most recent bond exchange was held last 19 July 2011 where a landmark PHP323.4 billion of long 10- and 20-year benchmark bonds were issued.

On 29 April 2010, the government issued the first tranche of the USD400 million and EUR75 million denominated multicurrency retail treasury bonds (MRTB) to provide overseas Filipino workers (OFWs) and migrant Filipinos, and their families a safe haven for their hard-earned foreign currency savings. To entice OFWs and

migrants to invest in MRTB, they were granted a tax incentive privilege whereby the government assumes the 20% final withholding tax on the interest income on the bonds.

Peso-denominated government securities are listed and traded in Philippine Dealing Exchange.

The US dollar tranche of the MRTB is the first foreign currency-denominated security to be listed and traded in PDEX, across investors of different tax categories.

2. PDEX Corporate Securities Market

PDEX launched its corporate securities trading board in November 2007, with the admission of the maiden corporate issue in the PDEX market—a large industrial group's fixed-rate bond due in 2012—for trading on the Inter-Professional Market.

PDEX expanded its trading market to the public in 2008, paving the way for the maiden listing of the bonds that were traded on the Inter-Professional Market, so that the public could have access to these instruments. The listing of bonds of other large corporations followed. PDEX likewise witnessed the entry of bank issues in 2009, and a quasi-sovereign issue in 2010.

As of June 2011, a total of Php195.8 billion of outstanding corporate securities, issued by 16 corporations across 31 instruments, were listed and traded on PDEX, with the issuer community much diversified across the realty, food and beverage, utilities, bank, telecommunications and other sectors.

X. Next Step ⇔ Future Direction

The Philippine fixed-income market over the past 5 years has concentrated its efforts in bringing itself into an organized and orderly environment. The process does not end with the organization of the market. Market actors and stakeholders consider the organization of the spot market as a necessary step to create market structures that are envisioned to strengthen the spot market and make it more robust.

Hence, the market is committed in the coming years to bring focus to the following areas:

- (i) Bond market liquidity enhancement;
- (ii) Developing private debt issue markets;
- (iii) Developing hedge or protection markets;
- (iv) Strengthening clearing and risk management of securities and currencies; and
- (v) Regional cooperation.

Discussed below are the initiatives on each commitment in greater detail.

A. Bond Market Liquidity Enhancement

1. Market Liquidity

It is noted that the tax environment of debt issues is a major cause for the segmentation of the market. In particular, the present organized market has been limited to that segment of the community that is subjected to a final withholding tax on interest payments. Consequently, the tax-exempt segment of the market has been left in the periphery of the organized market. This market segmentation has kept a large pool of securities liquidity away from the organized market; in government securities alone, tax-exempt investments count for as much as one-third of the national government's outstanding issue.

This market segmentation can be alleviated by the introduction of systems that are capable of tracking purchase histories and accounting for taxes that should be levied against taxable entities on the basis of holding periods. In the US dollar-denominated government securities market, the organized market has mobilized this capability, and

created a new environment where taxable and tax-exempt entities can transact freely with one another. This new environment can be launched for all other securities, and processes are underway to clear the systems, processes, and technology attendant to bring into play the integrated environment.

2. Cash Liquidity

The organized market looks forward to the creation and strengthening of market programs that can contribute to greater cash liquidity in the market, so that market players are equipped with the necessary tools to support their trading activities. In the coming years, these efforts would include: (a) the repurchase agreement markets and (b) securities financing programs.

a. Repurchase agreement markets. The organized market has launched a repurchase agreement capability to assist dealers in firming up trade commitments in the market. The current repo market is an inter-professional market, participated in by dealers as repo sellers, and qualified investors and dealers as repo buyers. While a slow and steady growth was witnessed in its early years, the need for a well-defined tax environment is needed to nurture this growth and make the program a relevant market tool for liquidity. Tax regulatory authorities must deeply understand the function of the program in order to align tax policy with market dynamics.

b. Securities financing. To enable a wider community access to cash facilities to support trading activities, a securities financing program should be installed.

3. Securities Liquidity

To supplement the cash liquidity tools for the market, the organized market also looks forward to the strengthening of securities liquidity programs to equip market players with the necessary tools to support their trading activities. In the coming years, these efforts would include the growth of the securities lending program.

A defined securities lending program has been available to the market. However, the market has been shied away from using the program. Efforts are underway to create a market impetus for the utilization of the program, so that it can function as a market tool to boost securities liquidity.

4. Issue Liquidity

A vital contributor to market liquidity is the creation of an environment that would boost liquidity of issues listed for trading in the organized market. In particular, the government is interested in launching and institutionalizing programs that would rationalize its bond issuances to ensure optimal tradability of its issues.

a. Continuous Switch and Swap Program. The Continuous Switch Program is envisioned to operate as a fails settlement mitigant and as a critical tool in identifying issues that are losing tradability in the market. Under the envisioned program, market makers will be provided an opportunity on any given day to switch securities, which they consider to be losing tradability with more liquid issues of government securities. This mechanism will ensure that untradeable issues are swept out of the market and replaced with more tradable issues. A Continuous Swap Program may also be operationalized to allow dealers to swap illiquid issues with more liquid ones on a scheduled basis.

b. Securities stripping. A program is in the early stages of development to enable the creation of new securities from the coupons of outstanding securities (strips), including packaging of strips, so that the issues can gain depth and attractiveness to the market base.

5. Market Maker Programs

The national government, through the Bureau of the Treasury (BTr), envisions a full-scale program that would identify entities that are committed to merchandize its issue, and provides a suite of support facilities that would assist these specialists in delivering on their commitments and incentives that would reward them for the performance of their obligations. These facilities include support systems from the BTr in the repo and securities lending programs, as well as the continuous switch and continuous swap facilities.

B. Development of Private Debt Issue Markets

The bond market has begun corporate securities trading, and has witnessed the entry of various corporate securities into the marketplace, from varied sectors and with varying features to suit investors' needs. Market actors and stakeholders look forward to building further on this growth to develop the qualified notes market (securities issued to a restricted number of investors), the securitized markets (creation of an organized marketplace for the trading of asset-backed securities), and the exchange-traded funds (making the market venue available for exchange traded funds). Efforts have begun along these lines, with regulatory discussions already under way to pave the way for these expansions to take place.

C. Institutionalization of Hedge and Protection Markets

As the spot market gains in development, strength and robustness, the market shows readiness for the institutionalization of hedge markets in the near future. These markets, including interest-rate swaps, non-deliverable forwards, and forward rate agreements, are envisioned to provide exit points out of the market, in ways that would not unduly impact the spot market. Initiatives to institutionalize the market structure can only go forward under a clearly defined regulatory environment.

D. Strengthening Clearing and Risk Management Securities and Currencies

Parallel to other future initiatives, the Philippines also needs to strengthen its clearing and risk management environments both for securities and currencies. The key initiatives included in the Philippine roadmap are:

1. Margins

Use of margins shall be developed to collateralize counterparty credit risk, both in response to the Basel capital requirements for financial institutions, as well as to afford equal access to trading markets by trading participants of varying capitalization. A specific example is the proposed Multilateral Trading Program of the

PDS Group, which seeks to cover the pre-settlement risk of trading counterparties through the delivery of margin collaterals, which are translated to trading limits in the trading system.

2. Netting

The use of exposure or position netting is also being explored for certain products, whether bilateral or multilateral, as a means to reduce final settlement obligations and promote settlement efficiency. One potential candidate for netting are the foreign exchange spot market trades, where bilateral netting would achieve a netting efficiency of 70% in terms of trade count and 45% in terms of value. Efficiencies through multilateral netting are even more dramatic at 98% in terms of trade count and 75% in terms of value. Similar studies are being conducted for other asset classes, notably fixed-income securities and eventually the hedge products.

3. Central Clearing

Centralized clearing and risk management is also being considered as a natural consequence of the organization of the markets. Whether this centralization will involve the use of a central counterparty is also part of the study fully recognizing that the heterogeneity of Philippine market players is best served by adopting a tiered clearing concept with a select group of qualified clearing members representing non-clearing members.

E. Regional Cooperation

The Philippines is committed to regional discussions that would allow the domestic market to expand its reach. In this regard, it contributes to the dialogue opened by the Asian Bond Market Forum and hopes for sustained cooperation on the notion that domestic issuers can access foreign investors, and the trading community can extend their activities in organized markets offshore. A central premise of this endeavor is the ability to go beyond local borders while preserving domesticity of our issues. In this regard, support is given to these initiatives that focus on:

1. Regulatory Harmonization

Any endeavor to cooperate on a regional level must institute measures to ensure that appropriate regulation is in place to safeguard the activity. Hence, the thrust to look outward and join the regional discussion may lay serious focus on harmonizing regulatory frameworks to the extent possible. This assures a level playing field among countries that desire a cooperative relationship moving forward and predictability in the way a regional market will operate, which is essential to building a stable and sustainable market.

2. Tax Treaty Implementation

While tax treaty implementation has been underway to enforce treaty obligations between bound states, the organized market looks to streamlining the process to be responsive to the needs of a fast-paced and dynamic marketplace, without compromising the taxing authority's verification requirements for the application of preferential treaty rates.

3. Institutionalization of Market Access

As markets unite and link with each other, the notion of organization and order remains at the forefront of the vision for regional cooperation. The organized markets within the region are envisioned to create the links that would give life to a regional trading venue that proceeds on the basis of order and cooperative processes for trading, clearing and settlement.

F. Group of 30 Compliance⁵⁶

The so-called G-30 Recommendations were originally conceived as the Group of Thirty's Standards on Securities Settlement Systems in 1989, detailing in a first of its kind report nine recommendations for efficient and effective securities markets and covering legal, structural and settlement process areas. The recommendations were subsequently reviewed and updated in 2001, under leadership of the Bank for International Settlements (BIS), and through the efforts of a Joint Task Force of the Committee On Payment and Settlement Systems (CPSS) and the Technical Committee of the International Organisation of Securities Commissions (IOSCO). Compliance with the G30 Recommendations in individual markets is often an integral part in securities industry participants' and intermediaries' due diligence process.

Table 10.1 Group of Thirty Compliance

| Recommendation | | Implemented |
|----------------|--|---|
| 1 | Eliminate paper and automate communication, data capture, and enrichment. | No Not all bonds are dematerialized or immobilized. |
| 2 | Harmonize messaging standards and communication protocols. | No The local CSD and most local market participants do not use SWIFT. |
| 3 | Develop and implement reference data standards. | No There is no securities' numbering agency for bonds. The Bureau of the Treasury issues its own ISIN-like numbering for government securities while PDEX assigns series name following the same convention for listed corporate securities. |
| 4 | Synchronize timing between different clearing and settlement systems and associated payment and foreign exchange systems. | Yes |
| 5 | Automate and standardize institutional trade matching. | Yes For government and listed corporate bonds |
| 6 | Expand the use of central counterparties. | No |
| 7 | Permit securities lending and borrowing to expedite settlement. | Yes |
| 8 | Automate and standardize asset servicing processes, including corporate actions, tax relief arrangements, and restrictions on foreign ownership. | No |
| 9 | Ensure the financial integrity of providers of clearing and settlement services. | Yes |

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⁵⁶ Group of 30 (G30). 2003. *Global Clearing and Settlement – A Plan of Action*. <http://www.partad.ru/wrld/word/g30app1.pdf>

Table 10.1 continuation

| Recommendation | | Implemented |
|----------------|--|--|
| 10 | Reinforce the risk management practices of users of clearing and settlement service providers. | Yes |
| 11 | Ensure final, simultaneous transfer and availability of assets. | Yes Existing central bank regulations on investments in fixed-income securities by foreign investors only allow the foreign investors to contract a FX deal to sell PHP and buy foreign currency upon actual receipt of the license to be issued by the central bank. |
| 12 | Ensure effective business continuity and disaster recovery planning. | No |
| 13 | Address the possibility of failure of a systematically important institution. | No |
| 14 | Strengthen assessment of the enforceability of contracts. | Yes |
| 15 | Advance legal certainty over rights to securities, cash, or collateral. | Yes |
| 16 | Recognize and support improved valuation methodologies and closeout netting arrangements. | Yes |
| 17 | Ensure appointment of appropriately experienced and senior board members (to the boards of securities clearing and settlement infrastructure providers). | Yes |
| 18 | Promote fair access to securities clearing and settlement networks. | Yes |
| 19 | Ensure equitable and effective attention to stakeholder interests. | Yes |
| 20 | Encourage consistent regulation and oversight of securities clearing and settlement service providers. | Yes |

CSD = Central Securities Depository; SWIFT = Society for Worldwide Interbank Financial Telecommunication; ISIN = International Securities Identification Number; FX = Foreign Exchange
Source: Group of 30 (G30). 2003. *Global Clearing and Settlement – A Plan of Action*.

G. Group of Experts (GoE) Barrier Report Market Assessment – Philippines (April/2010)

The GoE Report refers to the published results in 2010 of the Group of Experts (GoE) formed under Task Force 4 of the Asian Bond Market Initiative (ABMI). In the report, published under the leadership of the Asian Development Bank (ADB), a group of securities market experts from the private and public sector in ASEAN+3, as well as International Experts, assessed the ASEAN+3 securities markets on potential market barriers, the costs for cross-border bond transactions, and the feasibility for the establishment of a Regional Settlement Intermediary (RSI). The findings in the GoE Report lead to the creation of ABMF.

Table 10.2 Summary of Barriers Market Assessment – Philippines (April 2010)

| Potential Barrier Area | Current Situation | Market Assessment Questionnaire Scores | Overall Barrier Assessment |
|------------------------|---|--|----------------------------|
| Quotas | No restrictions are placed on foreigners investing in Philippine securities. | OK | OK |
| Investor registration | Foreign investments need not be registered with the BSP unless the Foreign Currency needed to service the repatriation of capital and the remittance of dividends, profits and earnings is purchased from the banking sector. These restrictions are therefore covered under repatriation of funds. | OK | OK |

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Table 10.2 continuation

| Potential Barrier Area | Current Situation | Market Assessment Questionnaire Scores | Overall Barrier Assessment |
|-------------------------------------|--|--|----------------------------|
| FX controls-conversion | <p>FX requires evidence of an underlying securities transaction, if the funds are to be eligible for subsequent repatriation.</p> <p>Third-party foreign exchange trades are permitted. The third-party bank must send the CIR to the sub-custodian bank at the same time it transfers the peso, otherwise it is not possible to raise a BSRD, thereby preventing subsequent repatriation. Offshore FX (pesos or US dollars) is allowed provided peso cover is done onshore.</p> <p>Circular 645 (issued February 2009) allows local custodians to issue the BSRD for inward foreign investments in government securities on behalf of the BSP</p> <p>It is noted that there is an ongoing dialogue between BSP and the custodian banks to streamline the reporting requirements.</p> | LOW | LOW |
| FX controls - repatriation of funds | <p>There are no restrictions on the amount of currency that can be remitted or repatriated subject to submission to BSP of required documentation. However, the repatriation of funds must be accompanied by a BSRD together with the required supporting documents.</p> <p>The regulations only allow the foreign investors to sell peso and buy Foreign Currency upon actual receipt of the license to be issued by the BSP; there is no standard processing period which may range from 1 week to 2 weeks for government securities and longer for corporate bonds. The BSP may also require additional documentation, giving the impression that the process is somewhat arbitrary.</p> <p>Purchases of pesos intended for securities investments that are ultimately cancelled cannot be repatriated unless the peso is first re-invested.</p> <p>Overall, a considerable burden is placed on the custodian bank.</p> <p>It is at the time of repatriation, rather than the original inward investment, that problems are most likely to occur.</p> | LOW | HIGH |
| Cash controls - credit balances | <p>Cash credit balances are permitted.</p> <p>BSRD-eligible transactions include investments in listed securities, government debt, and time deposits or other money market instruments with maturities of 90 days or greater.</p> <p>Foreign investors can open interest-earning accounts.</p> | LOW | OK |
| Cash controls - overdrafts | <p>Peso overdrafts to non-residents are not permitted. This means that foreign investors must ensure that cash accounts are adequately funded (cleared funds) prior to settlement date. Foreign broker-dealer clients, who do intra-day trading, are especially affected by this restriction, and difficulties arise if the sale side fails.</p> <p>Market authorities have pointed out that with the recent regulation allowing non-residents to do FX swaps, the above concern has been addressed.</p> | LOW | HIGH |
| Taxes | <p>Both resident and non-resident investors are subject to withholding tax of 20% on the interest from government bonds, and 30% on the interest from corporate bonds (recently reduced from 35%). These rates are high by international standards.</p> <p>For non-residents, the withholding tax rate may be reduced under a double taxation agreement. Eligible investors must submit all necessary documentation to the BIR. The documentation is fairly onerous. Investors have also commented that the requirements are not clear. For government securities, investors must also confirm to the Bureau of the Treasury that it is a 'buy-to-hold' portfolio.</p> <p>Tax reclaims are available via direct filing with the BIR, but take years and are rarely successful.</p> <p>A number of market participants mentioned Philippines as a problem in this area.</p> | HIGH | HIGH |
| Omnibus accounts | <p>Foreign investors are permitted to use omnibus accounts.</p> | OK | OK |

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Table 10.2 continuation

| Potential Barrier Area | Current Situation | Market Assessment Questionnaire Scores | Overall Barrier Assessment |
|------------------------|--|--|----------------------------|
| Settlement cycle | The settlement cycle for local bond trades is T+0. However, for cross-border bond trades it is T+2 (or by agreement). | OK | OK |
| Message formats | The local CSD and most local market participants do not use SWIFT. A number of market participants mentioned Philippines as a problem in this area. | LOW | LOW |
| Securities numbering | ISIN codes are available for all local bonds, and are available for new issues at issue date. Most local market participants use ISIN. However, the local CSD uses local securities codes. | LOW | LOW |
| Matching | There is a trade matching system for government securities and some listed corporate bonds. There is a pre-settlement matching system for government securities among GSEDs. | OK | OK |
| Dematerialisation | Not all bonds are dematerialised or immobilised. | LOW | LOW |
| Regulatory framework | Investors commented that rules and regulations are clear. However, there can be abrupt regulatory changes, which create regulatory risk. | - | LOW |

BIR = Bureau of Internal Revenue; BSF= Bangko Sentral ng Pilipinas; BSRD = Bangko Sentral Remittance Document; CIR = Certificate of inward Remittance; GSED = Government Securities Eligible Dealers
Source: Asian Development Bank. 2010. Asian Bond Market Initiative Group of Experts Final Report: Barriers to Cross-Border Investment and Settlement in the ASEAN+3 Bond Markets. [https://wpqr1.adb.org/LotusQuickr/asean3goe/Main.nsf/h_58E34A1388F9070B48257729000C0A4E/90F408746827C16248257729000C1334/\\$file/Part3.pdf](https://wpqr1.adb.org/LotusQuickr/asean3goe/Main.nsf/h_58E34A1388F9070B48257729000C0A4E/90F408746827C16248257729000C1334/$file/Part3.pdf)

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