



PSE Issues Amendments to the Voluntary Delisting Rules

February 10, 2021

The Philippine Stock Exchange (PSE) issued *Memorandum CN-No. 2020-0104*,¹ dated December 21, 2020, on the amendments to its Voluntary Delisting Rules. These amendments tighten the approval requirements for delisting and seek to ensure the fairness of the tender offer price.

The following are some of the salient amendments introduced to the Voluntary Delisting Rules:

1. Petition for Delisting

The PSE will allow delisting upon filing of a petition by the listed company approved by (a) at least two-thirds of the entire membership of the board of directors, including the majority, but not less than two, of all of its independent directors; and (b) stockholders owning at least two-thirds of the total outstanding and listed shares of the listed company.² The previous Voluntary Delisting Rules only require approval by a majority of the listed company's incumbent directors. The number of votes cast against the delisting proposal should not be more than 10% of the total outstanding and listed shares of the listed company.³

All security holders must be notified of the meeting, in the manner and time provided under the by-laws of the listed company, at which meeting the proposed delisting will be submitted for approval by the stockholders.⁴ If the stockholders' votes will be obtained via remote communication, voting in absentia, or by written assent, the listed company must give all stockholders at least two weeks to cast their votes.⁵

The petition for delisting must be filed with the PSE, together with the tender offer report, at least 60 days prior to the effective date of the delisting.⁶

¹ Please see

<https://www.pse.com.ph/resource/rulesAndRegulations/Supplemental%20Rules/CN%20No.%202020-0104%20-%20Amended%20Voluntary%20Delisting%20Rules.pdf> for reference.

² PSE *Memorandum CN-No. 2020-0104* dated December 21, 2020 (PSE Amended Voluntary Delisting Rules), Section 2(a), Annex A.

³ PSE Amended Voluntary Delisting Rules, Section 2(a), Annex A.

⁴ PSE Amended Voluntary Delisting Rules, Section 2(b), Annex A.

⁵ PSE Amended Voluntary Delisting Rules, Section 2(b), Annex A.

⁶ PSE Amended Voluntary Delisting Rules, Section 2(c), Annex A.

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2. Tender Offer

The listed company must submit a fairness opinion or valuation report which states the fair value or range of fair values of the listed security based upon certain procedures followed and assumptions made.⁷ Prior to the amendments, the listed company must submit a fairness opinion report or valuation report stating that from the financial point of view of the person making the opinion or report, and based upon certain procedures followed and assumptions made, the terms and conditions of the tender offer are fair.

In determining the valuation to be used in the tender offer, the PSE Amended Voluntary Delisting Rules now require that the minimum tender offer price is the higher of (a) the highest valuation based on the fairness opinion or valuation report prepared by an independent valuation provider in accordance with Rule 19.2.6 of the Implementing Rules and Regulations of the Securities Regulation Code⁸, or (b) the volume weighted average price of the listed security for one year immediately preceding the date of posting of the disclosure of the approval by the board of directors of the applicant company delisting.⁹

The persons proposing the delisting must show to the PSE that they have obtained, through the tender offer, at least 95% of the issued and outstanding shares of the listed company.¹⁰ If at the time the petition for delisting is filed, these persons already beneficially own at least 95% of the listed company's issued and outstanding shares, they must still make a tender offer to all other stockholders of record.¹¹

3. Clearance from Delinquencies

The delisting company must not have any unpaid fees or penalties due to the PSE,¹² and must pay the voluntary delisting fee equivalent to its annual listing maintenance fee for the year when the petition for voluntary delisting is filed.¹³

A listed company may not apply for voluntary delisting if involuntary delisting procedures have already been initiated against it.¹⁴

⁷ PSE Amended Voluntary Delisting Rules, Section 2(d), Annex A.

⁸ Securities Regulation Code (SRC) Rule 19.2.6 provides for the guidelines on the conduct of valuation and issuance of a fairness opinion. Only qualified independent firms may conduct valuation and issue fairness opinion to comply with SRC Rule 19. It lists down the requirements that must be observed in the conduct of the valuation and issuance of fairness opinion by an accredited firm. It also enumerates the information that must be provided in the firm's Fairness Opinion Report.

⁹ PSE Amended Voluntary Delisting Rules, Section 2(d), Annex A. The tender offer price of a Listed Company that has been under suspension for one year or more as of the disclosure of the approval of the board of directors shall be the highest valuation based on the fairness opinion or valuation report prepared by an independent valuation provider.

¹⁰ PSE Amended Voluntary Delisting Rules, Section 2(e), Annex A.

¹¹ PSE Amended Voluntary Delisting Rules, Section 2(e), Annex A.

¹² PSE Amended Voluntary Delisting Rules, Section 2(f), Annex A.

¹³ PSE Amended Voluntary Delisting Rules, Section 2(g), Annex A.

¹⁴ PSE Amended Voluntary Delisting Rules, Section 1, Annex A.

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