

# Newsletter

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## GRANT OF AMNESTY FOR NON-FILING AND LATE FILING OF THE GENERAL INFORMATION SHEET (GIS) AND ANNUAL FINANCIAL STATEMENTS (AFS), AND NON-COMPLIANCE WITH MEMORANDUM CIRCULAR NO. 28, S. 2020

### **TO: All Concerned Corporations**

The Securities and Exchange Commission (SEC) has issued Memorandum Circular No. 2, S. 2023, concerning the grant of amnesty for the following:

- Non-filing and late filing of the GIS for the latest and prior years,
- Non-filing and late filing of the AFS for the latest and prior years, and
- Non-compliance with SEC MC No. 28, s. 2020

### **I. COVERED VIOLATIONS**

All Corporations, including branch offices, representative offices, regional headquarters, and regional operating headquarters of foreign corporations and foundations, is hereby authorized to be granted an amnesty on the unassessed (not yet assessed) and/or uncollected fines and penalties by the Commission (already assessed not yet paid for the following violations):

- a. Non-filing of GIS for the latest and prior years;
- b. Late filing of GIS for the latest and prior years;
- c. Non-filing of AFS, including fines for penalties for its attachments (i.e., Certificate of Existence of Program/Activity, Non-Stock, Non-Profit Organization Forms), for the latest and prior years

In addition to Corporations, this also covers associations, partnerships and persons under the jurisdiction and supervision of the SEC, that failed to comply with MC No. 28.

### **II. AMNESTY RATES**

The applicable rates will be as follows:

#### **A. Non-filing and late filing of GIS and/or AFS, and MC No. 28 violation**

Violation	Fine
Non-filing of GIS	P5,000 (encompassing <b><u>all violations</u></b> on non-filing and late filing of GIS, and AFS and its attachments)
Late filing of GIS	
Non-filing of AFS	
Late filing of AFS	
MC No. 28, s. 2020	<b><u>Waived</u></b> (P10,000)

The foregoing rate will apply **provided** that, the applicant corporation or entity will:

- submit the latest reportorial requirement due at the time of application; and
- comply with MC No. 28, s. 2020 through MC28 Submission Portal

## B. Suspended and Revoked Corporation

The amnesty rate for suspended and revoked corporations including those who have filed for the lifting of suspension/revocations, are as follows:

Violation	Fine
Non-filing of GIS	<b>50% of the assessed fines</b> (encompassing <b>all violation</b> on non-filing and late filing of GIS, and AFS, and its attachments)
Late filing of GIS	
Non-filing of AFS	
Late filing of AFS	
MC No. 28, s. 2020	<b>Waived</b> (P10,000)

The foregoing rate will apply, subject to the payment of filing/petition fee and the appropriate proceedings to be filed with the Company Registration and Monitoring Department (CRMD) and Extension Offices (EOs) and compliance with the requirements under **Filing of Application and Supporting Documents**.

## III. FILING OF APPLICATION AND SUPPORTING DOCUMENTS

The duly authorized representative or resident agent of the corporation (“Applicant”) shall file an Online Expression of Interest (“EOI”) via the Electronic Filing and Submission Tool (eFAST).

The Applicant must present proof of his/her authority (e.g., Notarized Secretary’s Certificate or Board Resolution, or written Power of Attorney of the resident agent duly filed with the Commission in compliance with Section 128 of Batas Pambansa Blg. 68, or Section 145 of the RCC) with the following requirements.

- For Domestic Corporations (Ordinary Stock and Non-Stock):
  - Latest due FS or undertaking to submit FS within forty-five (45) calendar days from the issuance of confirmation of payment;
  - Latest due Amended FS, if any;
  - Latest due GIS;
  - Latest due Amended GIS, if any; and
  - Proof of compliance with MC No. 28
- For Foreign Corporations (Branch Offices, Representative Offices, Regional Area Headquarters, and Regional Operating Headquarters)
  - Latest due FS or undertaking to submit FS within forty-five (45) calendar days from the issuance of confirmation of payment;
  - Latest due Amended FS, if any;
  - Latest due GIS;

- Latest due Amended GIS, if any; and
- Proof of compliance with MC No. 28

### III. ISSUANCE OF CONFIRMATION OF PAYMENT

Corporations, which have fully complied with all the conditions set forth in these rules, including the payment of the relevant fines and penalties, shall be issued with a Confirmation of Payment for Amnesty on Fines and Penalties arising from the non-filing or late filing of the GIS and/or AFS, and non-compliance with MC No. 28. **The amnesty granted under this Circular is final and irrevocable, covering the period/s indicated in the said Confirmation.**

The issuance of the Confirmation of Payment for Amnesty on Fines and Penalties shall not exempt the Corporation from filing its subsequent mandatory reportorial requirements in a timely manner and, in the case of Revoked/Suspended Corporations, **shall not automatically lift Suspended/Revoked status which shall be a separate proceeding before the CRMD.**

### IV. EXCEPTIONS

The following entities are excluded from the coverage of the amnesty under this Circular:

- Corporations whose securities are listed on the Philippines Stock Exchange (PSE);
- Corporation whose securities are registered but not listed on the PSE;
- Corporations considered as Public Companies;
- Corporations with intra-corporate dispute;
- Corporations with disputed GIS; and
- Other corporations covered under Sec. 17.2 of RA No. 8799 or the “Securities Regulation Code”

### V. VALIDITY OF AMNESTY

**Only those which have filed an amnesty application and secured a PAF through eFAST, and paid through the eSPAYSEC or LBP On-Coll Facility until April 30, 2023 shall be eligible for an amnesty under this Circular.** Thereafter, the existing scale of fines and penalties issued by the Commission shall be observed.

### VI. EFFECTIVITY

The Circular shall take effect immediately **upon completion of its publication in a newspaper of general circulation.**

#### Our View:

*The amnesty program will benefit corporations with violations as specified in this Circular as it will provide them opportunities to update and comply with the documentary and reportorial requirements of the SEC. Having a clean and updated records will help corporations in their transactions with SEC.*

*For the full text of MC No. 2, series of 2023, refer to the link below.*

SEC MC No. 2, s. 2023: <https://www.sec.gov.ph/mc-2023/sec-mc-no-02-series-of-2023>

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Comments and suggestions are welcome.

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