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The SyCipLaw Corporate Services Bulletin

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SEC MC No. 9-2023 Bulletin

The Philippine Securities and Exchange Commission ("***SEC***") has further extended to September 30, 2023 the deadline for amnesty applications for late and non-filing of annual financial statements ("***AFS***"), general information sheets ("***GIS***"), as well as non-compliance with SEC Memorandum Circular No. 28, series of 2020 (Requirement for Corporations, Partnerships, Associations and Individuals to Create and/or Designate Email Account Address and Cellphone Number for Transactions with the Commission) ("***MC28***"), and streamlined the application process to further encourage qualified corporations to avail of the amnesty. The further extension and streamlining of the application process was granted through SEC Memorandum Circular No. 9, series of 2023, titled Further Extension of the Deadline for Amnesty Applications under SEC Memorandum Circular No. 2, Series of 2023, and Streamlining of the Application Process (SEC MC No. 9-2023 or the "***Circular***").

In its efforts to inform the public about the streamlined process under the Circular, the SEC conducted a Webinar titled SEC Amnesty Program Made Easier (Streamlined Requirements and Procedure) on July 17, 2023 (the "***Webinar***").

Amnesty Program

The amnesty program is part of the SEC's efforts to encourage its supervised entities to comply with their reportorial requirements under Republic Act No. 11232 or the Revised Corporation Code of the Philippines. It was launched in March for (a) non-compliant corporations or those that have not submitted reportorial requirements within the prescribed period by the SEC, and (b) suspended/revoked corporations or those whose certificates of registration have been suspended/revoked due to non-submission of reportorial requirements.

Deadline Extension

The Circular provides that eligible companies are given until September 30, 2023 to signify their intent to apply

for amnesty, submit the supporting reportorial documents, and settle the corresponding amnesty fees.

Thereafter, an updated scale of fines and penalties for the covered reportorial requirements will be implemented effective October 1, 2023.

Streamlined Process

The Circular still provides that the application for amnesty must be filed by the duly authorized representative or resident agent of the corporation through the Electronic Filing and Submission Tool ("***eFAST***") of the SEC on or before the stated deadline. To further streamline the amnesty application process, however, the SEC has adopted various changes in the process.

First, in lieu of the notarized Expression of Interest ("***EOI***") Form and the Amnesty Application Form, amnesty applicants will just be required to confirm their interest in availing the amnesty through a web-based Unified Amnesty Application Form ("***Amnesty Application Form***") via eFAST. The Amnesty Application Form shall include appropriate tick boxes indicating concurrence and/or consent to certain conditions of the amnesty process.

Once the applicant has agreed to the terms and conditions of the amnesty, the applicant will be redirected to the Electronic System for Payment to the SEC ("***eSPAYSEC***") where a Payment Assessment Form ("***PAF***") will be automatically generated showing the applicable amnesty fees, as follows:

a. PhP 5,000 amnesty fee for non-compliant corporations, including those whose only violation is the non-filing of the MC28 report; or

b. PhP 3,060 petition fee and additional 50% of the assessed fines and penalties for suspended/revoked corporations.

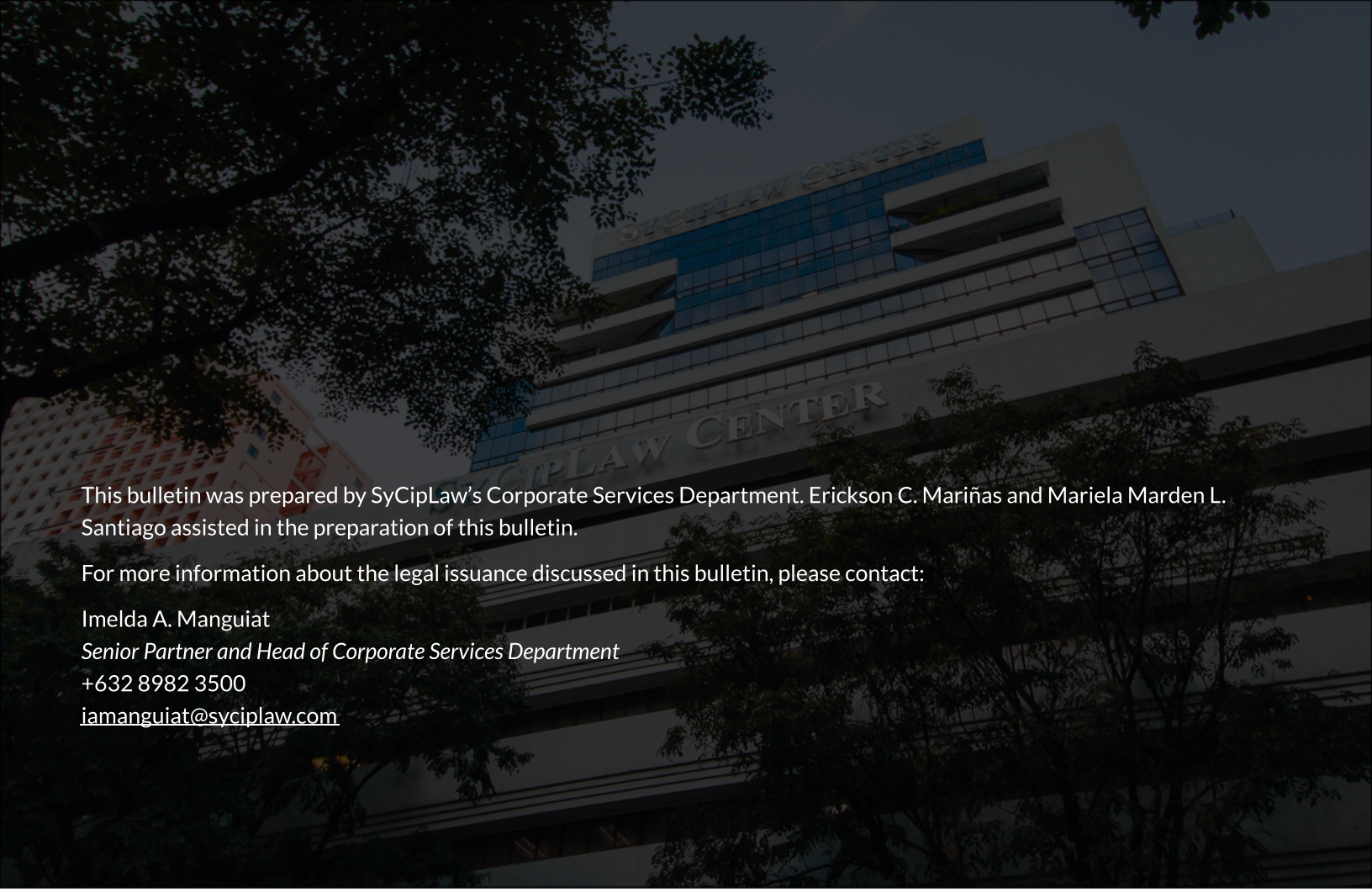
After payment, the applicant must click "*Go back to eFAST*" to avoid delays in the processing of the payment and application. A confirmation email will be sent to the applicant's registered email address confirming that the SEC has accepted the amnesty application and payment. The email will also contain further instructions on how to finish the application process.

To complete the application, the applicant must submit the reportorial requirements via eFAST, namely the latest due AFS and GIS. For suspended/revoked corporations, the Petition to Lift Order of Suspension or Revocation also needs to be uploaded. The Circular has expressly removed the *Undertaking for Latest Due AFS Submission* requirement since it is understood that the AFS should already be available by the end of the extended amnesty period or until 30 September 2023. Hence, for amnesty applications starting July 1, 2023, the Undertaking to submit the AFS within ninety (90) days from date of payment of amnesty fee is no longer be applicable.

Finally, the Circular now provides for the turnaround time for the release of Confirmation of Payment ("***COP***"), which shall be fifteen (15) working days from the date of complete submission of reportorial requirements by the applicant. For suspended/revoked corporations, however, only after the Order of Suspension/Revocation has been lifted can it resume its operations.

Corporations that are able to upload and submit the correct reportorial requirements (*i.e.*, latest due GIS and AFS), including those reverted for compliance, within the submission period or until **September 30, 2023**, shall be considered to have undergone the complete process and may thus be entitled to a COP; otherwise, payment of their respective amnesty fees will be forfeited. The Circular provides that refund of amnesty fees for non-compliant corporations shall not be accommodated, except in highly meritorious cases. For suspended or revoked corporations, the petition fees shall not be refunded but shall be re-applied to the payment of the 50% assessed fines, subject to existing accounting and auditing guidelines.

The full text of the Circular may be accessed at SEC MC No. 9-23. The Webinar on the streamlined amnesty application process held on July 17, 2023 may be accessed through the SEC's Facebook page. ■



This bulletin was prepared by SyCipLaw's Corporate Services Department. Erickson C. Mariñas and Mariela Marden L. Santiago assisted in the preparation of this bulletin.

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