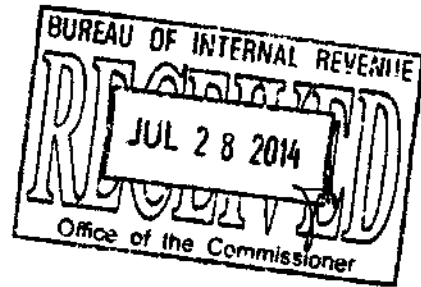
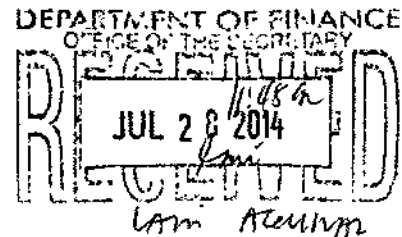


July 21, 2014

HON. CESAR V. PURISIMA
Secretary
Department of Finance
DOF Bldg., BSP Complex
Roxas Blvd., Metro Manila, Philippines



HON. KIM JACINTO-HENARES
Commissioner
Bureau of Internal Revenue
BIR National Office Bldg.
Agham Road, Diliman, Quezon City



Re: Revenue Regulations No. 1-2014

Gentlemen:

The undersigned, representing our respective institutions which are participants in the capital market, respectfully seek a revocation of:

- (i) BIR Revenue Regulations No. 1-2014 ("RR 1-2014");
- (ii) BIR Revenue Memorandum Circular No. 5-2014 ("RMC 5-2014"), which clarifies the provisions of RR 1-2014; and
- (iii) SEC Memorandum Circular No. 10, series of 2014 or the Guidelines and Directives to Assist Issuers of Securities Listed and Traded in the Philippine Stock Exchange in Complying with the Requirements of BIR Revenue Regulation No. 1-2014 ("SEC MC 10-2014").

BIR RR 1-2014 requires all withholding agents to submit an alphabetical list ("alphalist") of payees on income payments subject to creditable and final withholding taxes. BIR RR 1-2014 also prohibits the lumping into a single amount and account of various income payments and taxes withheld.

BIR RMC 5-2014 requires withholding agents to indicate in the alphalist the tax identification numbers (TINs), complete names, income amount and tax withheld from its payees.

Essentially, these regulations require the income payor to identify the payees, without defining the term "payees". Such definition is significant in the context of dividend payments because with respect to scrippless shares of stock traded in the Exchange, there are three (3) entities which may be considered as payees, namely, the PCD Nominee Corporation ("PCD

Nominee"), the depository participants (i.e. brokers and custodian banks), and the ultimate beneficial owners of the shares.

Given the prohibition, BIR RR 1-2014 was interpreted by some listed companies, through their transfer agents, to require the disclosure of the names, addresses and tax identification numbers (TINs) of the investors.

Reconsideration of the foregoing regulations is requested on account of the negative impact that such regulations bear on the capital market. For your reference, we attach as Annex "A" the industry paper signed by the relevant financial market participants.

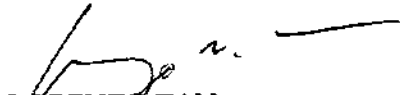
As we have seen in the past months, this new requirement posed a problem because investors are being compelled to divulge private information. As a response, certain issuers imposed the maximum 30% withholding tax rate on investors who refused to disclose their names and TINs.

Because of this measure, investors are not able to fully reap the benefits of their investments. It also increased the cost of doing business, particularly for non-resident portfolio investors who are now forced to hire accredited tax lawyers or agents to process TIN applications on their behalf.


This measure, at best, discourages portfolio inflow and is likely to bring a setback to the Philippine capital market's growth trajectory. In fact, statistics show that the first half of the year witnessed a decline in the volume of preferred shares traded in the market, suggesting the early beginnings of capital flight which we fear will persist if the subject regulations continue to be implemented.

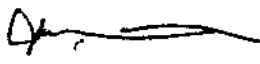
In the interest of sustaining the growth of the Philippine capital market, we urge the Department to revoke RR 1-2014, RMC 5-2014, and MC 10-2014.

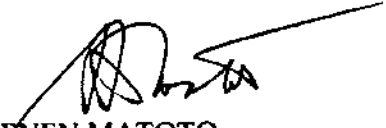
The undersigned would welcome the opportunity to meet with the Department, the BIR, and the SEC to discuss the foregoing concerns. We look forward to hearing from you.


LORENZO TAN
President
Bankers Association of the Philippines

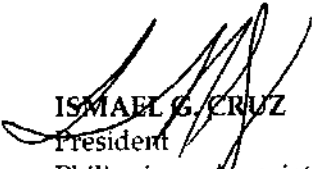

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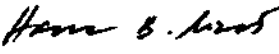
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HANS SICAT
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ROBERT RAMOS, CFA, CAIA
President
Trust Officers Association of the Philippines

Industry Paper on BIR Revenue Regulations No. 1-2014

The Philippine capital market has been touted as the “economic bright spot in Asia” and for good reasons. Last year, our economy grew by 7.2% after gaining 6.8% in 2012. This vibrancy in the domestic economy has been reflected in the capital markets. In 2012, the Philippine equities market grew by 33% before slowing down last year. Thus, there is a compelling need for both private and public sector to join hands to sustain capital market growth and development.

However, with the issuances by the Bureau of Internal Revenue (“BIR”) and the Securities and Exchange Commission (“SEC”), it seems that government is not aligned with the private sector and market participants on the objective to sustain our growth trajectory through measures incentivizing more investment activity.

Here are the facts:

On December 17, 2013, BIR issued BIR Revenue Regulations No. 1-2014 (“BIR RR 1-2014”) which requires all withholding agents to submit an alphabetical list (“alphalist”) of payees on income payments subject to creditable and final withholding taxes. BIR RR 1-2014 further prohibits the lumping into a single amount and account of various income payments and taxes withheld. As applied to dividend income payments by listed companies to their investors, BIR RR 1-2014 prohibits listed companies from naming PCD Nominee Corporation, the entity which holds title over all uncertificated shares traded in the stock market, as the payee of dividends. Given this prohibition, BIR RR 1-2014 was interpreted by some listed companies, through their transfer agents, to require the disclosure of the names, addresses and tax identification numbers (TINs) of the investors.

Previously, listed companies were allowed to identify PCD Nominee Corporation as the payee of dividends, consistent with its status as the registered stockholder in the books of the corporation. The applicable final withholding taxes were determined by the listed companies as withholding agents by relying on the certifications submitted by the brokers and custodians.

When the Department of Finance issued BIR RR 1-2014 without the benefit of prior consultations with industry practitioners, it was evident that the existing market structure and conventions in accordance with the capital market systems and processes -- not only in the Philippines but also in other markets -- were not considered. The result was an administrative rule that was not aligned with the processes of all the market participants and, hence, was impossible to fully comply with.

1. RR 1-2014 and RMC 5-2014 were issued in violation of existing legal requirements

The Administrative Code of 1987 provides that if not otherwise required by law, an agency shall, as far as practicable, publish or circulate notices of proposed rules and afford interested parties the opportunity to submit their views prior to the adoption of any rule.

This requirement was not observed in the issuance of BIR RR 1-2014, which was adopted by the BIR without giving the concerned parties, particularly the withholding agents who stand to suffer criminal penalty for non-compliance, an opportunity to be heard.

In doing so, the BIR went not only against the Administrative Code but also against its own procedures. In Revenue Memorandum Circular No. 20-86, the BIR itself noted that one of the problem areas in relation to compliance with internal revenue tax rules and regulations is lack or insufficiency of due notice to the public. The BIR further observed in said Revenue Memorandum Circular that unless there is due notice, due compliance with tax rules may not be reasonably expected. Thus, it adopted procedures for the drafting, issuance and implementation of revenue tax issuances which include, among others, due notice to business and professional organizations.

2. *RIGHT TO PRIVACY is paramount. Private information of investors need to be safeguarded*

a. Equities Market

Brokers and custodian banks have a duty of confidentiality to their clients which they are committed to uphold.

For custodian banks, this duty is outlined in their custody agreements and account terms and conditions with their clients while for brokers, this duty is set out in client agreements and in Section 8, Article V of the SEC-approved CMIC Rules, which states that unless authorized by the relevant parties, traders and salesmen of brokers have a fiduciary duty not to disclose confidential information of their clients.

Arguments have also been raised that disclosure requirements will compel investors to divulge information which are otherwise private.

Given the foregoing, brokers and custodian banks are constrained from disclosing the information of their clients without the latter's consent. Full compliance with an obligation to disclose the names, TINs, addresses and birth dates of their clients will, thus, be attained only with the full cooperation of the depository participants' clients.

b. Fixed-income market, UITF and mutual funds

RR 1-2014 also requires mutual funds and banks to disclose the identities of their clients in violation of the Bank Secrecy Law.

3. *RR 1-2014 violates the principle of uniformity of taxation*

In the draft circular issued by the International Tax Affairs Division of the BIR, non-residents who do not have TINs will be given until November 2014 to secure their TINs. On the other hand, no such grace period was given to domestic investors like retirees, housewives and students who, prior to RR 1-2014, were likewise allowed to invest in the stock market without

TINs. In effect, the subject regulations were immediately implemented in respect of domestic investors but deferred with respect to nonresidents.

This runs counter to the 1987 Constitution which mandates taxation to be uniform. Uniformity requires all persons similarly situated to be treated alike or put on equal footing. Thus, if implementation is to be deferred for nonresidents on account of the fact that they have no TINs, the same principle should equally apply to domestic investors who were heretofore not required to secure TINs.

4. *The subject regulations will result in capital flight to the detriment of the Philippine capital market evolving into a more developed and liquid market*

a. Equities Market

Requiring investors to obtain TINs and to disclose said TINs and other information to the BIR effectively imposes an additional condition for investors to fully reap the benefits of their investments.

For non-resident portfolio investors, in particular, the requirement to obtain a TIN will compel them to hire a BIR-accredited tax lawyer or agent to process the TIN application on their behalf. It is a normal behavior of the market that when the cost, difficulty of doing business and time to complete the requirements in a country increases, investors tend to shift to another market which offers attractive investment returns and investor-friendly policies at lower costs and more rationalized processes.

Between 2012 and year-to-date in 2014, the ratio of foreign trades to total trades executed in the Exchange range from 44.88% to 54.26%. On average, foreign trades account for 50.08% of total Exchange trades. It will, thus, be very unfortunate if our country will lose foreign portfolio investments to other markets on account of administrative regulations whose objectives can be achieved through less onerous and less intrusive means.

Even the Organisation for Economic Co-operation and Development ("OECD") recognizes that while governments need to establish investor identity, governments also need to balance this with the objective of not discouraging legitimate investors by unduly burdensome disclosure requirements.¹

With the regional economic integration taking place in 2015, we believe it is the most opportune time to revisit the rules with the end in view of streamlining procedures and facilitating the entry of foreign investments into the country, if we hope to sustain the gains made during the previous years and further improve the Philippines' percentile position in the World Economic Forum's Global Competitiveness Report, which is currently at 59th, and its ranking in World Bank and International Finance Corp.'s Doing Business Report, which is currently at 108th.

¹ *Identification of Foreign Investors: A Fact Finding Survey of Investment Review Procedures*. Published by the Organisation for Economic Co-operation and Development in May 2010.

b. Preferred shares

The market reaction to the alphalist requirement is to sell their preferred shares position before ex-date for coupon payments. As such, the downward pressure by the sellers of the preferred shares has resulted in declining preferred shares prices. Table 1 below shows that the prices of preferred shares on a per company basis have been experiencing declines over the first six (6) months of 2014. These stocks have done poorly compared to the overall market, considering the 16.2% increase in the PSEi for the same period.

Table 1. Price Performance of Preferred Shares and PSEi, May 2013-June 2014

Stock Name	Symbol	% change (Jan-June 2014)
Ayala Corporation Preferred Class "B" Shares	ACPB	-3.3%
First Gen Corporation Series "F" Preferred Shares	FGENF	-9.7%
First Gen Corporation Series "G" Preferred Shares	FGENG	-6.3%
San Miguel Pure Foods Company, Inc. - Preferred	PPF	-3.9%
Petron Corporation - Preferred	PPREF	-4.7%
San Miguel Corporation Series "2" Preferred Shares - Subseries "2-A"	SMC2A	-1.6%
San Miguel Corporation Series "2" Preferred Shares - Subseries "2-B"	SMC2B	-1.7%
San Miguel Corporation Series "2" Preferred Shares - Subseries "2-C"	SMC2C	-0.5%
PSEi		16.2%

The data in Table 2 also indicate that while the total market capitalization of the market grew by 11.9% this year, the market capitalization of preferred shares went down by 3.12%, representing a growth disparity of 15.02%.

Table 2. Market Capitalization Performance of Preferred Shares vs. Total Market

	Market Capitalization (in Php billion)				
	2012	2013	% change (2013 vs 2012)	YTD 2014 (as of end-Jun)	% change (2014 vs 2013)
Preferred Shares	144.96	147.48	1.7%	142.88	-3.1%
Total Market	10,930.09	11,931.29	9.2%	13,351.34	11.9%

This is a significant drop from last year's statistics where total market capitalization grew by 9.2% with the market capitalization of preferred shares similarly growing by 1.7%, representing a growth disparity percentage of only 7.4%.

Preferred shares have also experienced net foreign selling from January to June 2014 amounting to P2.12 billion even when the market has experienced net foreign buying of P45.67 billion. The same divergence can also be observed when looking at 2013 net foreign transaction

figures. The amount of foreign selling on preferred shares may have improved but still negative and much slower than the total market.

Table 3. Foreign Trading Performance of Preferred Shares vs. Total Market

	Net Foreign Trading Value (in Php billion)			% foreign trading value to total value	
	2013	YTD 2014 (as of end-Jun)	% change (2014 vs 2013)	2013	YTD 2014 (as of end-Jun)
Preferred Shares	(7.76)	(2.12)	72.7%	28.5%	10.6%
Total Market	15.59	45.67	193.0%	51.1%	50.6%

Percentage share of foreign trade value to total trade value of preferred shares is at 10.6% year-to-date, down significantly from 28.5% in 2013 and 27.2% in 2012. It should be noted that the recent drop was mainly due to the share of foreign trades for May and June declining drastically to 0.8% and 2.7%, respectively. During these months, trading value of preferred shares on a total market basis increased, but foreign trading on such issues did not follow suit. Looking at the total market, foreign participation also declined in the last two months but not as pronounced as foreign trading in preferred stocks.

Table 4. Foreign Trading Performance of Preferred Shares vs. Total Market

2014	Value Traded of Preferred Shares (in Php million)			Value Traded for Total Market (in Php million)		
	Foreign Only	Total (1 side)	% foreign to total	Foreign Only	Total (1 side)	% foreign to total
Jan	345.49	1,157.87	14.9%	148,874.19	124,860.26	59.6%
Feb	574.82	1,160.81	24.8%	156,864.65	143,696.68	54.6%
Mar	496.38	1,015.23	24.4%	199,320.41	188,527.71	52.9%
Apr	754.43	1,633.76	23.1%	155,834.52	155,022.59	50.3%
May	53.53	3,283.25	0.8%	187,214.52	187,445.41	49.9%
Jun	162.83	3,031.83	2.7%	154,806.80	193,456.41	40.0%
YTD	2,387.48	11,282.76	10.6%	1,002,915.10	993,009.06	50.5%

The behavior exhibited by the market is a clear message that investors would rather dispose of preferred shares and forego the coupon payments rather than being subjected to the alphalist requirement of the BIR.

5. Measures adopted by listed companies to ensure compliance with RR 1-2014 are prejudicial to investors.

We have also observed that BIR RR 1-2014 has resulted in either forced retention of dividends or imposition of excessive withholding tax on dividend payments, both of which are contrary to law.

In an effort to comply with what they perceive to be the requirement of RR 1-2014 and shield themselves from possible tax liability, some issuers withhold the release of dividends while some impose the maximum 30% withholding tax rate on investors who refuse to give their names, addresses, and TINs.

This is prejudicial to investors and is likely to prompt investors to redirect their funds into other investment vehicles which are outside the reach of RR 1-2014.

6. Final income taxes are already withheld and the required information in the alphalist will not serve any useful purpose

Even before the issuance of BIR RR 1-2014, the correct amount of final withholding taxes were accurately withheld and remitted to the national government. The reportorial requirement as regards the names and personal details of the investors, if that is indeed the requirement of RR 1-2014, does not appear to be in furtherance of enhancing tax collection efforts as the taxes withheld at source are already final.

7. Full and immediate compliance with the requirement is impossible

If the BIR will indeed require issuers to identify the beneficial owners of stocks in the alphalist, full and immediate compliance with such measure will be virtually impossible because as discussed above, issuers do not have immediate access to the identities of their beneficial stockholders.

While the SEC sought to remedy this with the issuance of SEC MC 10-2014, which requires brokers and custodians to submit an alphalist indicating the names, addresses, TINs, residence or nationality, and total shareholdings of their clients, the mechanism adopted is not watertight because while the brokers and custodians know the identities of their direct clients, which include global funds, foreign brokers, and foreign custodians, there is limited visibility for the underlying clients of their direct clients given that securities held by brokers and custodian banks are registered in omnibus client accounts, which is an acceptable global practice for the industry.

Given the foregoing, and in the interest of preserving and promoting an attractive investment climate and ensuring the competitiveness of the domestic capital market, the undersigned entities call for the revocation of BIR RR 1-2014, Revenue Memorandum Circular No. 5-2014, which was issued to clarify the provisions of BIR RR 1-2014 and SEC Memorandum Circular No. 10-2014.

The undersigned would welcome the opportunity to meet with the Department of Finance, the BIR, and the SEC to discuss the foregoing concerns.

[Signature page follows]

Signed this 21st day of July 2014 in Makati City, Philippines.



LORENZO TAN

President

Bankers Association of the Philippines



EDGARDO LACSON

President

Employers Confederation of the
Philippines



ALFONSO SIY

President

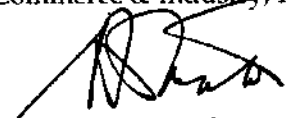
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