



Republic of the Philippines
Department of Finance
Securities and Exchange Commission
SEC Building, EDSA, Greenhills, Mandaluyong City

MEMORANDUM CIRCULAR NO. 5
Series of 2016

To : **ALL CONCERNED**

Subject : **REMOVING THE PERIODS FOR FILING OF PETITIONS
TO SET ASIDE ORDERS OF REVOCATION OR ORDERS
SUSPENSION OF CORPORATIONS FOR FAILURE TO
COMPLY WITH THE REPORTORIAL REQUIREMENTS**

This formalizes the issuance of the Commission by way of En Banc Resolution removing the periods within which to file a petition to lift the Order of Revocation as well as repealing and consolidating all other issuances of the Commission on the filing of a petition to lift the Order of Revocation and Suspension for violation of the reportorial requirements of the Commission.

Coverage:

This Circular covers corporations registered from 1936 – 2009, including those corporations covered by suspension orders and revocation orders published by SEC Extension Offices, whose certificates of registration were revoked or suspended by the Commission for failure to comply with the reportorial requirements by virtue of the following published Orders:

YEARS REGISTERED/ COVERED CORPORATIONS	DATE OF ORDER	DATE OF PUBLICATION	DATE OF REVOCATION/SUSPENSION
1936 – 1966	April 22, 2003	April 25, 2003	May 26, 2003
1967 – 1975	May 27, 2003	June 2, 2003	July 2, 2003
1976 – 1984	July 8, 2003	July 11, 2003	August 11, 2003

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YEARS REGISTERED/ COVERED CORPORATIONS	DATE OF ORDER	DATE OF PUBLICATION	DATE OF REVOCATION/SUSPENSION
1985 – 1991	August 20, 2003	August 28, 2003	September 29, 2003
1992 – 1995	September 30, 2003	October 4, 2003	November 3, 2003
1996 – 1997	February 10, 2004	February 14, 2004	March 15, 2004
1998 – 1999 ¹	October 25, 2005	October 28, 2005	December 01, 2005
2000 ²	June 27, 2006	July 3, 2006	August 2, 2006
Corporations covered by Suspension Orders (1 st Batch)	December 28, 2001	January 21, 2002	February 20, 2002
Corporations covered by Suspension Orders (2 nd Batch)	July 29, 2002	August 7, 2002	September 6, 2002
2001 (1 st Batch)	September 28, 2007	October 16, 2007	November 16, 2007
2001 (2 nd Batch)	April 15, 2009	April 25, 2009	May 26, 2009
2002-2003 (Implemented by SEC Baguio Extension Office)	November 4, 2011	December 4, 2011	January 3, 2012
2002-2003 (Implemented by SEC Cebu Extension Office)	November 4, 2011	December 7, 2011	January 6, 2012
2002-2003 (Implemented by SEC Cagayan de Oro Extension Office)	November 4, 2011	December 6, 2011	January 5, 2012
2002-2003 (Implemented by SEC Legaspi Extension Office)	November 4, 2011	January 15, 2012	February 15, 2012

¹ Order includes non-commencement of charter within two years from date of incorporation and continuous inoperation for at least five years

² Ibid.

YEARS REGISTERED/ COVERED CORPORATIONS	DATE OF ORDER	DATE OF PUBLICATION	DATE OF REVOCAION/SUSPENSION
2002-2003 <i>(Implemented by SEC Zamboanga Extension Office)</i>	November 4, 2011	November 17, 2011	December 17, 2011
2002 <i>(Main Office)</i>	December 9, 2011	December 16, 2011	January 15, 2012
2002 <i>(Implemented by SEC Davao Extension Office)</i>	December 9, 2011	January 27, 2012	February 27, 2013
2003 <i>(Main Office)</i>	December 9, 2011	December 16, 2011	January 19, 2012
2004	June 18, 2012	June 28, 2012	July 29, 2012
2005	December 12, 2012	December 19, 2012	January 18, 2013
2002-2004	March 8, 2013	April 1, 2013	September 2, 2013 <i>(extended period of compliance by virtue of SEC Order dated July 15, 2013)</i>
2006	June 24, 2013	July 2, 2013	August 1, 2013
2007	December 23, 2013	January 13, 2014	December 31, 2015
2008	May 21, 2015	May 26, 2015	June 26, 2015
2009	January 8, 2016	February 12, 2016	March 14, 2016

This Circular shall also cover corporations which shall subsequently be issued Orders of Suspension³ for non-compliance with the reportorial requirements.

This shall not however, apply to corporations whose corporate terms have already expired and to corporations whose certificates of incorporation were revoked or suspended due to fraud and/or misrepresentation in the procurement of the certificate of registration.

**Petitions to set aside Revocation Orders
can now be filed anytime:**

³ SEC Res. No. 155, s. of 2015

Considering that on several occasions the Commission has extended the periods within which affected corporations may file their petitions to set aside Orders of revocation or suspension, the Commission on 21 July 2015 has resolved to remove the deadline for filing of Petitions to set aside the Order of revocation or Order of suspension.⁴ Corporations with suspended or revoked status are now allowed to file their petitions for setting aside the Orders of revocation or suspension at any time provided the following requirements are met.

**Requirements for filing Petitions to set aside
the Order of Revocation or Suspension:**

In line with the foregoing, petitions to set aside the Order of Revocation or Orders of Suspension shall only be received upon showing by substantial evidence that the corporation is an ongoing concern or that it has not ceased operations even during the period of revocation or suspension up to the present.

The following requirements must be submitted to the Commission:

1. Verified petition to set aside the Order of Revocation or Suspension which shall include the following certification:

"The company, through its authorized representative, hereby certifies that the latest financial statements that are submitted with this Petition are, accurate, compliant with applicable financial reporting framework and are supported by sufficient and valid source documents and schedules. This sworn certification extends to all the beginning balances of the accounts from previous years during which the company failed to submit audited financial statements. In relation to this, attached in the Petition is a sworn certification from the company's external auditor"⁵;

2. Director's or Trustee's Certificate;
3. Latest due Audited Financial Statements⁶;
4. Latest due General Information Sheet;
5. Copies of Certificate of Incorporation and latest Certificate of filing of Amended Articles or By-laws (if any) together with latest Articles of Incorporation and By-laws;
6. Copy of registration of stock and transfer book or membership book;
7. Secretary's Certificate of No Intra Corporate Controversy;
8. Sworn Certification by the external auditor⁷; and
9. Proofs of operation for each year, starting from the date of revocation or date of incorporation (for a suspension order) up to the time of the filing of the petition, any of the following but **not limited to**:

¹ SEC RES. No. 396, s. of 2015

² SEC Memorandum Circular No. 3, series of 2014

⁶ Pursuant to the requirements of Rule 68, as Amended of the Securities Regulation Code

⁷ Ibid. "I, _____, the external auditor of _____ hereby certify that the beginning balances of the company's financial statements as of _____ are based on valid and sufficient source documents and schedules of the company, and I have conducted adequate audit procedures to attest to the correctness and accuracy of the said balances."

- a. Audited Financial Statements;
- b. Income Tax Returns;
- c. Mayor's or Business Permits;
- d. Contracts;
- e. Receipts showing payment of Real Estate Tax;
- f. Certifications/Recognitions/Annual Conventions; or
- g. any similar/related documents.

The corporation shall simultaneously undergo monitoring and will be required to pay the corresponding fines and filing fees before its petition will be received.

With regard to covered corporations with pending intra-corporate dispute between two (2) or more groups claiming ownership or right over the same, their petition shall only be accepted upon the finality of a court decision, resolving the said intra-corporate controversy as to which group has a valid right and claim over the corporation.

Any previous orders, circulars⁸ and issuances which are inconsistent with the provisions of this Circular are hereby repealed accordingly.

This Circular shall be effective immediately.

Mandaluyong City, Philippines.

June 9, 2016.


TERESITA J. HERBOSA
Chairperson

⁸ Memorandum Circular No. 4, Series of 2008;
Memorandum Circular No. 15, Series of 2009;
Memorandum Circular No. 1, Series of 2012 and
Memorandum Circular No. 22, Series of 2013