



Securities and
Exchange
Commission
PHILIPPINES



DEPARTMENT OF BUDGET AND MANAGEMENT (DBM)
SECURITIES AND EXCHANGE COMMISSION (SEC)

Joint Circular No. 1, s. 2020
on the Utilization of Retained Funds of the SEC
September 8, 2020

1.0 LEGAL BASIS

- 1.1. In accordance with the following provisions of Republic Act (RA) No. 11232, otherwise known as the "Revised Corporation Code" (RCC), approved on 20 February 2019 and RA No. 8799, or "The Securities Regulations Code" (SRC), which state:

*"SEC. 175. Collection and Use of Registration, Incorporation and Other Fees. - For a more effective implementation of this Code, the Commission is hereby authorized to **collect, retain and use fees, fines, and other charges** pursuant to this Code and its rules and regulations. The amount collected shall be deposited and maintained in a separate account which shall form a fund for its modernization and to augment its operational expenses such as, but not limited to, capital outlay, increase in compensation and benefits comparable with the prevailing rates in the private sector, reasonable employee allowance, employee health care services, and other insurance, employee career advancement and professionalization, legal assistance, seminars, and other professional fees (Revised Corporation Code, Sec. 175)."*

"SEC. 75. Partial Use of Income. - To carry out the purpose of this Code, the Commission is hereby authorized, in addition to its annual budget, to retain and utilize an amount equal to One hundred million pesos (P100,000,000.00) from its income." (Securities Regulation Code, Sec. 75)

- 1.2. In line with Section 175 of the RCC, the SEC issued SEC Resolution No. 417, s. of 2019, which reads:

"RESOLVED, That effective February 23, 2019 and until December 31, 2019, the Commission, in addition to its budget under the GAA for 2019, shall source from its retained funds the expenses for SEC modernization and to augment its operational expenses such as, but not limited to, personnel services, maintenance and other operating expenses (MOOE), capital outlay, increase in compensation and benefits comparable with prevailing rates in the private sector, employer's contribution to provident fund, reasonable employee allowance, employee health care services, and other insurance,



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employee career advancement and professionalization, legal assistance, seminars, and other professional fees;

RESOLVED FURTHER, That effective CY 2020 onwards, the Commission, shall source from its retained funds all expenses for SEC modernization and other operational expenses such as, but not limited to, personnel services, maintenance and other operating expenses (MOOE), capital outlay, increase in compensation and benefits comparable with prevailing rates in the private sector, employer's contribution to provident fund, reasonable employee allowance, employee health care services, and other insurance, employee career advancement and professionalization, legal assistance, seminars, and other professional fees;

RESOLVED FINALLY, That the aforesaid retained funds shall only be disbursed for expenditures duly approved by the Commission En Banc."

- 1.3. Effective 1 January 2020, RA No. 11465 or the FY 2020 General Appropriations Act (GAA), under Special Provision No. 2 of DOF-OSEC, provides:

"2. Fees and other Receipts of the Securities and Exchange Commission. The amount collected by the Securities and Exchange Commission (SEC) from fees, fines and other charges pursuant to R.A. No. 11232 or the "Revised Corporation Code of the Philippines" and its rules and regulations shall be deposited and maintained in a separate account to be used for its modernization and to augment its operational expenses such as, but not limited to, capital outlays, increase in compensation and benefits comparable with prevailing rates in the private sector, reasonable employee allowance, employee health care services, and other insurance, employee career advancement and professionalization, legal assistance, seminars and other professional fees in accordance with Section 175 of the said law.

In addition, the SEC is authorized to retain and utilize the amount of One Hundred Million Pesos (P100,000,000) from its income from registration of securities and other collections pursuant to R.A. 8799 or "The Securities and Regulation Code".

The use of income shall be subject to the guidelines to be issued jointly by the DBM and SEC.

Disbursements or expenditures by the SEC in violation of the above requirements shall be void and shall subject the erring officials and employees to disciplinary actions in accordance with Section 43, Chapter 5 and Section 80, Chapter 7, Book VI of E.O. 292, and to appropriate criminal action under existing penal laws.

The SEC shall prepare and submit to the DBM not later than November 15 of the preceding year, the annual operating budget for the current fiscal year covering its retained income and the corresponding expenditures. Likewise, it shall submit to the DBM not later than March 1 of the current year its audited financial statements for the immediately preceding fiscal year."

1.3.1. The President, in his Affirmation Message for the FY 2020 GAA, particularly in Item II A (10), paragraph 3 thereof,

*"Further, it is worthy to mention that the Securities and Exchange Commission (SEC) plays an important role in the 10-point socio-economic agenda of my Administration, particularly in increasing the country's competitiveness and improving the ease of doing business. On this note, I trust that the guidelines to be issued jointly by the SEC and the DBM **shall ensure the prudent utilization of government funds** authorized under DOF-OSEC, Special Provision No. 2, "Fees and other Receipts of the Securities and Exchange Commission," Volume I-A, page 879, **and that the same shall only be used to cover necessary and authorized expenses under RA No. 8799 and RA No. 11232.**"*

2.0 PURPOSE

This Joint Circular (JC) is hereby issued to prescribe the guidelines on the use of the income of the SEC, also herein referred to as the "Commission", as indicated in above-cited provisions of relevant laws.

3.0 GENERAL GUIDELINES

3.1 Appropriation of the SEC Fund

3.1.1. As provided by specific laws of the Commission, the following provisions define the legal sources for the SEC Budget and shall only be disbursed for expenditures duly approved by the Commission en banc, to wit:

3.1.1.1. Section 175 of RA 11232 – Appropriation of SEC Fees, Fines and Charges collected under the RCC. The amount collected shall be deposited and maintained in a separate account and shall be duly accounted for under existing Unified Accounts Code Structure (UACS) codes assigned to the Commission.

3.1.1.2. Section 75 of RA 8799 – The SEC is authorized to utilize the income collected under the SRC limited to One Hundred Million Pesos (P100,000,000.00). Provided that,

the SEC shall submit quarterly and annual consolidated reports to the DBM on the total collections from registration of securities and other fees under RA No. 8799 and utilization of said income."

3.2. Use of Fund

3.2.1. The Commission shall have the authority to utilize the collected fees under Section 75 of the SRC, for, but not limited to, the following:

3.2.1.1. Indemnification of each Commissioner and other officials of the Commission, including personnel performing supervision and examination functions for all costs and expenses reasonably incurred by such persons in connection with any civil or criminal actions, suits or proceedings to which they may be or made a party by reason of the performance of their functions or duties, unless they are finally adjudged in such actions or proceedings to be liable for gross negligence or misconduct pursuant to Section 6.1 of the SRCⁱ.

3.2.1.2. Compensation plan comparable with the prevailing compensation plan of the Bangko Sentral ng Pilipinas (BSP) and other government financial institutions and shall be subject to periodic review by the Commission no more than once every two (2) years without prejudice to yearly merit reviews or increases based on productivity and efficiency pursuant to Section 7.2 of the SRCⁱⁱ.

3.2.2. In addition, the Commission shall have the authority to utilize the collected fees, fines and other charges under Section 175 of the RCC for the following operational expenses, such as but not limited to:

3.2.2.1. Personnel Services (PS)

3.2.2.1.1. Payment of the SEC's compensation system based on the PS items that are already part, or will be part, of the agency's Compensation and Position Classification System (CPCS), which shall be comparable to the prevailing rates in the private sector or with the BSP, as approved by the President, as may be required by applicable laws, subject to existing civil service, accounting, and auditing rules and regulations, as follows:

- Basic Salaries, including Step Increments, approved by the Office of the President (OP);
- Standard Allowances and Benefits, including, but not limited to the following:

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- Personnel Economic Relief Allowance;
 - Uniform or Clothing Allowance; and
 - Mid-year Bonus, Year-End Bonus and Cash Gift.
- Specific-Purpose Allowance and Benefits, including, but not limited to, the following:
 - Representation and Transportation Allowances;
 - Honoraria;
 - Rice Allowance;
 - Employer's Contribution to Provident Fund¹;
 - Night-Shift Differential;
 - Overtime Pay;
 - Subsistence Allowance²;
 - Hazard Pay³;
 - Special Counsel Allowance;
 - Payment of employee health care services⁴; and
 - Other allowances and benefits as may be authorized by law or by the President of the Philippines.
 - Incentives, including, but not limited to, the following:
 - Loyalty Incentive;
 - Anniversary Bonus;
 - Productivity Enhancement Incentive;
 - Performance-Based Bonus⁵;
 - Collective Negotiations Agreement;
 - Severance Incentive⁶;
 - Merit Increases⁷ based on productivity and efficiency;
 - Merit Achievement Incentives⁸;
 - Program on Awards and Incentives for Service Excellence (PRAISE)⁹; and

¹ SEC Resolution No. 417 series of 2019; Approved by the Office of the President in a Memorandum dated 22 November 2019.

² Subsistence Allowance shall be given only to specific units and employees, and subject to recommendation of the DBM, and approval by the President, as may be required by applicable laws.

³ Hazard Pay shall be given only to specific units and employees in accordance with DBM Circular No. 2005-4 and other applicable rules, and subject to recommendation of the DBM, and approval by the President, as may be required by applicable laws.

⁴ Specifically authorized under Section 175 of the RCC; the health care services to be provided shall be limited to those authorized under Republic Act No. 11223 or the Universal Health Care Act, and subject to recommendation of the DBM, and approval by the President, as may be required by applicable laws.

⁵ The grant of this benefit shall be subject to compliance with the rules and regulations issued by the Administrative Order No. 25 Inter-Agency Task Force.

⁶ The grant of this incentive shall be subject to review by the DBM, and approval by the President, as may be required by applicable laws.

⁷ Specifically authorized by Sec. 7.2 of the SRC: The grant of this incentive shall be subject to review by the DBM, and approval by the President, as may be required by applicable laws.

⁸ The grant of this incentive shall be subject to review by the DBM, and approval by the President, as may be required by applicable laws.

⁹ The grant of this benefit shall be subject to the guidelines to be issued by the Civil Service Commission and the DBM.

- Other benefits comparable with prevailing rates in the private sector, or the BSP and government financial institutions as approved by the Commission en banc.¹⁰
- Magna Carta Benefits as authorized by law and its Implementing Rules and Regulations.¹¹
- Other Personnel Benefits as may be authorized by law or by the President of the Philippines.

3.2.2.1.2. In approving any increase in basic salaries, including step increments, the Commission en banc may engage a competent, independent and reputable third-party consultant to provide recommendations as to the comparability of the said increase with the prevailing rates in the private sector in accordance with Section 175ⁱⁱⁱ of the RCC. However, any increase in basic salaries, including step increments, and adjustments in PS shall be subject to the evaluation of the DBM and the approval by the OP, as may be required by applicable laws."

Other incentives or benefits that shall be granted by the Commission to its employees that are subject to review by the DBM, and approval by the President, as may be required by applicable laws, shall be, as much as practicable, determined by the Commission and submitted to the DBM for review on an annual basis, unless otherwise necessitated by extraordinary circumstances.

3.2.2.1.3. Pursuant to Section 7.1^{iv} of the SRC which authorizes the Commission to provide for its reorganization, streamline its structure and operations, upgrade its human resource component and enable it to more efficiently and effectively perform its functions and exercise its power under the SRC, any adjustments in Personnel Services due to budget policy decision shall be subject to fund availability and approval of the Commission en banc. Such adjustments include, but are not be limited to, the following:

¹⁰ The grant of this incentive shall be subject to review by the DBM, and approval by the President, as may be required by applicable laws.

¹¹ Magna Carta benefits shall be given only to specific employees in accordance with applicable rules, and subject to recommendation of the DBM, and approval by the President, as may be required by applicable laws.

- 3.2.2.1.3.1 Implementation of a new program or activity;
- 3.2.2.1.3.2 Abolition or expansion of Program/Activities/Projects;
- 3.2.2.1.3.3 Major change in the organizational structure of an agency including creation of positions; and
- 3.2.2.1.3.4 Transfer of functions between agencies.

3.2.2.2. Maintenance and Other Operating Expenses, which shall include, but not be limited to the following:

- Travelling Expenses - Local and Foreign;
- Training and Scholarship Expenses - Local and Foreign;
- Supplies and Materials Expenses;
- Semi-Expendable Expenses;
- Utility Expenses;
- Communication Expenses;
- Confidential Expenses;
- Extraordinary and Miscellaneous Expenses;
- General Services;
- Other General Services;
- Repairs and Maintenance;
- Taxes, Insurance Premiums and Other Fees;
- Professional Services;
- Other Professional Services; and
- Other Maintenance and Operating Expenses (specified under COA Chart of Accounts)

3.2.2.3. Capital Outlay, or payment for expenses intended for purchase of goods and services, the benefits of which extend beyond the fiscal year and which add to the assets of the government, including, but not limited to, the following:

- Property, Plant and Equipment Outlay;
- Land Improvements Outlay;
- Buildings and Other Structures Outlay;
- Machinery and Equipment Outlay; and
- Transportation Equipment Outlay.

Provided, that the incurrence of the aforementioned expenditures shall be subject to compliance with existing accounting and auditing rules and regulations and to the following laws, when applicable:

- a) DBM-Department of Public Works and Highways Joint Circular No. 1 dated October 20, 2016 – Guidelines on the Rehabilitation or Construction of Government Buildings/Office Space and the Acquisition or Outright Purchase of Lot and Building;
- b) DBM-Department of Information and Communications Technology National Economic and Development Authority (NEDA) Joint Memorandum Circular No. 2017-001 dated May 12, 2017 – Extension of the Life of the Government-wide Medium-Term Information and Communications Technology Harmonization Initiative (MITHI) and Reconstitution of the MITHI Steering Committee (MSC); and,
- c) OP-Administrative Order No. 14 dated December 10, 2018 – Consolidating Rationalizing the Rules on the Acquisition of Government Motor Vehicles, Adopting a Centralized System of Procurement Therefor, and for Other Purposes.

4.0 SPECIFIC GUIDELINES

4.1. Planning and Budgeting Process

4.1.1. Planning Process

- 4.1.1.1. The Commission shall formulate a three-year Strategic Plan, which shall contain the initiatives embodying its mandate, goals and objectives.
- 4.1.1.2. The Commission's Strategic Plan shall include detailed timelines in which these projects and programs are intended for implementation, particularly those scheduled for the ensuing year.
- 4.1.1.3. Similarly, the Commission's Strategic Plan shall serve as the basis for identifying relevant programs and projects, which may be implemented for a particular budget year.
- 4.1.1.4. The specific activities, and corresponding costs, including the necessary fund flows, have to be indicated in order to approximate the reasonable timing in the appropriation and release of funds. Such shall be utilized to gauge financial performance in the applicable budget year.

4.1.1.5. It is understood that a consolidation of all specified projects and programs shall constitute the total budgetary requirement of the Commission for the budgeted year.

4.1.1.6. All the requirements chargeable to the annual/supplemental budget shall be subject to the approval of the Commission en banc.

4.1.2. *Budget Preparation*

4.1.2.1. The Commission's annual budget shall include the estimates of the retained income of the Commission and the expenditures derived from the plans and programs for one (1) fiscal year.

The Commission en banc shall require all departments and offices to participate in the budget preparation and require them to submit their respective programs and projects with the corresponding budget estimates following specific timelines and identifying specific outputs and outcomes.

4.1.2.2. The Financial Management Department (FMD) shall prepare the Commission's Annual Budget requirements taking into account the programs and projects and budget estimates submitted by concerned departments and offices including intended outputs and outcomes. The Annual Budget shall be presented to the Commission en banc for approval.

4.1.2.3. The Annual Budget must include comprehensive figures for:

4.1.2.3.1. Personnel Services;

4.1.2.3.2. Maintenance and Other Operating Expenses; and

4.1.2.3.3. Capital Outlay.

4.1.2.4. Any project or program requirement not included in the prepared Annual Budget shall be consolidated under a supplemental budget subject to fund availability.

4.1.2.5. The budget cycle of the Commission shall be aligned as far as practicable with the schedules specified under relevant circulars issued by the DBM.

4.1.2.6. The Commission shall accomplish BP FORM 100-B STATEMENT OF OTHER RECEIPTS/EXPENDITURES (Off-Budgetary and Custodial Funds) for submission to the DBM where the information generated from this form will be reported under Table B.16 of the BESF.

4.1.3. *Budget Authorization*

- 4.1.3.1. The Commission en banc shall deliberate on the proposed annual/supplemental budget. For the annual budget for a particular year, a resolution shall be approved not later than October 15 of the preceding year. The Commission shall submit to the DBM not later than November 15 of the preceding year, the annual operating budget for the current fiscal year covering its retained income and the corresponding expenditures per SP No. 2 of RA No. 11465, FY 2020 GAA.

4.1.4. *Budget Execution*

- 4.1.4.1. The Commission shall issue internal guidelines and Commission En Banc Resolutions as to the policies, procedures and requirements in utilizing the Commission's Budget which shall be consistent with Sections 175 and 179 (o)^v of the RCC and Sections 7.2 and 7.5 of the SRC, and in accordance with existing accounting and auditing rules and regulations.

4.1.5. *Budget Accountability*

- 4.1.5.1. The Commission shall inform the DBM not later than November 15 of the preceding year of its annual operating budget covering the retained income and corresponding expenditures for the budgeted year.
- 4.1.5.2. ~~Submission of Financial and Physical and Income Reports.~~ Within thirty (30) days after the end of each quarter, the SEC shall submit accomplished budget and financial accountability reports (BFARs), if applicable, to the DBM and Commission on Audit (COA), in accordance with DBM-COA JC No. 2019-1 dated January 1, 2019, which prescribes the updated guidelines relative to BFARs starting FY 2019. Likewise, it shall submit to the DBM not later than March 1 of the current year its audited financial statements for the immediately preceding fiscal year.

5.0 ORGANIZATION AND FUNDING REQUIREMENTS

- 5.1. Consistent with Sections 7.1 and 7.2 of the SRC, which provide that:

- 5.1.1. The Commission is authorized to provide for its reorganization, to streamline its structure and operations, upgrade in human resource component and enable it to more efficiently and effectively perform its functions and exercise its powers under the SRC;

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- 5.1.2. All positions of the Commission shall be governed by a compensation and position classification system and qualification standards approved by the Commission based on a comprehensive job analysis and audit of actual duties and responsibilities; and
- 5.1.3. The Commission is exempted from laws, rules, and regulations on compensation, position classification and qualification standards, and shall develop its own position classification and classification standards.
- 5.2 The creation of positions other than those with specific requirements by law for its creation shall be subject to the approval of the Commission en banc. The Commission shall inform the DBM of their Position Classification System and Implementation status.
- 5.3. The appointments of those who will be occupying the newly created positions shall be submitted to the Civil Service Commission for notation.
- 5.4. The newly created positions are made part and integral element of the Plantilla of the Commission and shall automatically be funded from the PS of the Commission's budget for the year of their creation.
- 5.5. The Commission en banc shall inform the DBM of any changes in the organizational structure and staffing pattern of the Commission.

6.0 TRANSITORY PROVISION

From the effectivity of the RCC on 23 February 2019, and up to 31 December 2019, all plans, budgets and expenditures of the Commission shall be in accordance with the standards, guidelines, policies, resolutions, rules and regulations issued by the Commission pursuant to Section 179 (o), in conjunction with Section 175, of the RCC.

From 01 January 2020 and prospectively, the plans, budget and expenditures of the Commission shall be in accordance with the policies and procedures prescribed under this JC.

7.0 RESPONSIBILITY AND ACCOUNTABILITY

The disbursements or expenditures by the Commission in violation of the above requirements shall be void and shall subject the erring officials and employees to disciplinary actions in accordance with Section 43, Chapter 5, and Section 80, Chapter 7, Book VI of Executive Order No. 292, Series of 1987, and to appropriate criminal actions under existing penal laws.

8.0 REPEALING CLAUSE

All orders, rules and regulations inconsistent with this JC are hereby repealed or modified accordingly.

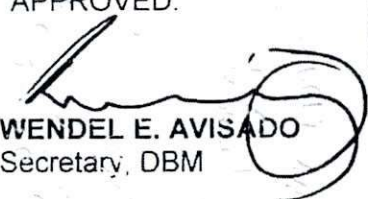
9.0 RESOLUTION OF ISSUES

Issues or conflicts arising from the implementation of this JC shall be resolved jointly by the DBM and the SEC.

10.0 EFFECTIVITY

This JC shall take effect fifteen (15) days after publication in the Official Gazette or Newspaper of General Circulation.

APPROVED:


WENDEL E. AVISADO
Secretary, DBM

Date signed: _____



APPROVED:


EMILIO B. AQUINO
Chairperson, SEC

Date signed: _____

¹ **SEC. 6. Indemnification and Responsibilities of Commissioners.** – 6.1. The Commission shall indemnify each Commissioner and other officials of the Commission, including personnel performing supervision and examination functions for all cost and expenses reasonably incurred by such persons in connection with any civil or criminal actions, suits or proceedings to be liable for gross negligence or misconduct. In the event of settlement or compromise, indemnification shall be provided only in connection with such matters covered by the settlement as to which the Commission is advised by external counsel that the persons to be indemnified did not commit any gross negligence or misconduct. The costs and expenses incurred in defending the aforementioned action, suit or proceeding may be paid by the Commission in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of the Commissioner, officer or employee to repay the amount advanced should it ultimately be determined by the Commission that he/she is not entitled to be indemnified as provided in this subsection.

² **SEC. 7. Reorganization – 7.2.** All positions of the Commissions shall be governed by a compensation and position classification system and qualification standards approved by the Commission based on comprehensive job analysis and audit of actual duties and personal responsibilities. The compensation plan shall be comparable with the prevailing compensation plan in the Bangko Sentral ng Pilipinas and other government financial institutions and shall be subject to periodic review by the Commission no more than once every two (2) years without prejudice to yearly merit review or increases based on productivity and efficiency. The Commission shall, therefore, be exempt from laws, rules, and regulations on compensation, position classification and qualifications standards. The Commission shall, however, endeavor to make its system conform as closely as possible with the principles under the Compensation and Position Classification Act of 1989 (Republic Act. 6758, as amended).

³ **SEC. 175. Collection and Use of Registration, Incorporation and Other Fees.** – For a more effective implementation of this Code, the Commission is hereby authorized to collect, retain and use fees, fines and other charges pursuant to this Code and its rules and regulations. The amount collected shall be deposited and maintained in a separate account which shall form a fund for its modernization and to augment its operational expenses such as, but not limited to, capital outlay, increase in compensation and benefits comparable with the prevailing rates in the private sector, reasonable employee allowance, employee health care services, and other insurance, employee career advancement and professionalization, legal assistance, seminars and other professional fees.

⁴ **SEC. 7. Reorganization. – 7.1.** To achieve the goals of this Code, consistent with the Civil Service laws, the Commission is hereby authorized to provide for its reorganization, to streamline its structure and operations, upgrade its human resource component and enable it to more efficiently and effectively perform its functions and exercise its power under this Code.

⁵ **SEC. 179. Powers, Functions, and Jurisdiction of the Commission.** – The Commission shall have the power and authority to:
xxx
o) Formulate and enforce standards, guidelines, policies, rules and regulations to carry out the provisions of this Code;

