

## **417 SECURITY DEPOSIT FOR THE FAITHFUL PERFORMANCE OF TRUST AND OTHER FIDUCIARY BUSINESS**

**Basic security deposit.** Bangko Sentral-supervised financial institutions (BSFIs) authorized to engage in trust and other fiduciary business shall deposit with the Bangko Sentral eligible government securities, pursuant to this Section (*Eligible Securities*), as security for the faithful performance of its trust and other fiduciary duties equivalent to at least one percent (1%) of the book value of the total trust, other fiduciary and investment management assets: *Provided*, That at no time shall such deposit be less than P500 thousand.

Scripless securities under the Registry of Scripless Securities (RoSS) System of the Bureau of Treasury (BTr) may be used as basic security deposit for trust and other fiduciary duties using the Guidelines enumerated in *Appendix 29*.

The security for the faithful performance of PERA Administrator shall be separately accounted for and calculated as prescribed under Sec. 1121 and *Appendix 30*

**Eligible securities.** Government securities which shall be deposited in compliance with the above basic security deposit shall consist of evidence of indebtedness of the Republic of the Philippines or of the Bangko Sentral or any other evidence of indebtedness or obligations the servicing and repayment of which are fully guaranteed by the Republic of the Philippines; or such other kinds of securities which may be declared eligible by the Monetary Board: *Provided*, That such securities shall be free, unencumbered, and not utilized for any other purpose: *Provided, further*, That such government securities shall have remaining maturity of not more than three (3) years from the date of deposit with the Bangko Sentral.

The requirement for the abovementioned government securities to have remaining maturity of not more than three (3) years from the date of deposit with the Bangko Sentral shall no longer apply starting 31 March 2018.

### ***Valuation of securities and basis of computation of the basic security deposit requirement.***

For purposes of determining compliance with the basic security deposit under this Section:

a. Prior to 31 March 2018:

- (1) The amount of securities so deposited shall be based on their book value, that is, cost as increased or decreased by the corresponding discount or premium amortization.
- (2) The base amount for the basic security deposit shall be the average of the month-end

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balances of total trust, investment management and other fiduciary assets of the immediately preceding calendar quarter.

Effective 31 March 2018, the provisions under Items “a.(1)” and “a.(2)” shall no longer apply.

b. The following provisions on the valuation of eligible assets and computation of the basic security deposit requirement shall be adopted starting 31 March 2018:

(1) Government securities deposited with the Bangko Sentral shall be measured at fair value according to the marking-to-market guidelines for government securities prescribed under *Appendix 28*, subject to applicable haircuts.

The haircuts that shall be applied to the government securities shall be, as follows:

Residual Maturity of Government Security	Minimum Haircut (in Percent) for Basic Security Deposit
3 years and below	0.0
>3 years up to 5 years	2.0
>5 years	4.0

(2) The base amount for the basic security deposit shall be the total trust, investment management and other fiduciary assets reported as of the end of the calendar quarter.”

**Compliance period; sanctions.** The trustee or fiduciary shall have thirty (30) calendar days after the end of every calendar quarter or a thirty (30)-calendar day grace period within which to deposit with the Bangko Sentral, the securities required under this Section.

Effective 31 March 2018, the trustee or fiduciary shall also comply with the basic security deposit requirement in the following manner:

a. *Quarterly compliance.* The trustee or fiduciary shall comply with the basic security deposit requirement on a quarterly basis. In determining quarterly compliance, the fair value of government securities used as compliance with the basic security deposit requirement shall be reckoned as of the end of the calendar quarter and the base amount for the basic security deposit requirement provided under this Section (*Valuation of securities and basis of computation of the basic security deposit requirement*) shall be applied.

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Haircuts for government securities prescribed under this Section (*Valuation of securities and basis of computation of the basic security deposit requirement*) shall be applied on the fair value of the government securities used as compliance with the basic security deposit.

The trustee or fiduciary shall have a thirty (30)-calendar day grace period after the end of every quarter within which to deposit with the Bangko Sentral, government securities pursuant to existing regulations to comply with the basic security deposit requirement as of the preceding quarter-end.

- b. *Compliance upon withdrawal, replacement or redemption.* The trustee or fiduciary shall ensure that it will continue to comply with the basic security deposit requirement after every withdrawal, replacement or redemption of government securities within the quarter period. In determining compliance, the basic security deposit requirement shall be the amount computed as of the quarter-end preceding the date of withdrawal, replacement or redemption pursuant to this Section (*Valuation of securities and basis of computation of the basic security deposit requirement*). The fair value of the remaining government securities, adjusted for relevant haircuts, shall also be based on amounts reported as of the quarter-end preceding the date of withdrawal, replacement or redemption, pursuant to this Section (*Valuation of securities and basis of computation of the basic security deposit requirement*).

Banks shall develop and maintain systems to ensure compliance with the required basic security deposit as prescribed under existing regulations.

The following sanctions shall be imposed for any deficiency in the basic security deposit for the faithful performance of trust, investment management and other fiduciary duties:

- a. On the bank:

(1) Monetary penalty/ies:

	Offense/Trust Asset Size	First	Second	Third and subsequent offense
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Penalty per calendar day	TBs/RBs with Limited Trust Authority		P300.00	P400.00	P500.00
	UBs/KBs/TBs with Full Trust Authority and with Trust Assets of	Up to P500 million	P600.00	P700.00	P800.00
		Above P500 million but not exceeding P1 billion	P1,000.00	P1,250.00	P1,500.00
		Above P1 billion but not exceeding P10 billion	P2,000.00	P3,000.00	P4,000.00
		Above P10 billion but not exceeding P50 billion	P5,000.00	P6,000.00	P7,000.00
		Above P50 billion	P8,000.00	P9,000.00	P10,000.00

A bank which incurs a deficiency with the basic security deposit within the quarter, or reports a deficiency with the basic security deposit as of the end of the quarter and fails to deposit government securities to comply with the said requirement within the thirty (30)-calendar day grace period, shall be considered deficient with the basic security deposit requirement from the date the deficiency is incurred up to date the deficiency is corrected or the succeeding quarter-end, whichever comes earlier.

- (2) Non-monetary penalty beginning with the third offense (all banks) – Prohibition against the acceptance of new trust and other fiduciary accounts, and from renewing expiring trust and other fiduciary contracts up to the time the violation is corrected.

b. On the trust officer and/or other officer(s) responsible for the deficiency/non-compliance:

- (1) *First offense* – warning that subsequent violations shall be dealt with more severely;
- (2) *Second offense* – written reprimand with a stern warning that subsequent violations shall be subject to suspension;
- (3) *Third offense* – thirty (30) calendar day-suspension without pay; and
- (4) *Subsequent offense(s)* – sixty (60) calendar day-suspension without pay.

For purposes of determining the frequency of the violation, the bank’s compliance profile for the immediately preceding three (3) years or twelve (12) quarters will be reviewed: *Provided*, That for purposes of determining appropriate penalty on the trust officer and/or other responsible officer(s), any offense committed outside the preceding three (3) year or twelve (12) quarter- period shall be considered as the first offense: *Provided, further*, That in the case of trust officer, all offenses committed by him in the past as trust officer of other institution(s) shall also be considered: *Provided, finally*, That if the offense cannot be attributed to any other officer of the bank, the trust officer shall be automatically held responsible since the ultimate responsibility for ensuring compliance with the regulation rests upon him, as evidence may warrant.

(Circular No. 998 dated 1 March 2018)