

Legend: Highlighted Portions – Specific Implementation Details by virtue of the PERA-IRR

Salient Features of the Implementing Rules and Regulations (IRR) of Republic Act No. 9505 or the Personal Equity and Retirement Account Act of 2008

The IRR of PERA Act of 2008 sets forth the detailed framework and mechanisms by which the policies and objectives of the PERA Act of 2008 shall be implemented and achieved. Its salient features are as follows:

1. Contributor – Section 3B

The IRR defines the Contributor as any person of any age with the capacity to contract and possessing a Tax Identification Number (TIN) who establishes and makes contributions to a PERA. The Contributor, directly, or through an Investment Manager, makes investment decisions for his PERA. A person above the age of fifty-five (55) years may still open a PERA subject to compliance with the requirements of the PERA Act of 2008 and the IRR.

2. PERA Contribution – Sections 5 and 6

The IRR expressly provides that the maximum amount of contribution that a Contributor may make to a PERA and which will be entitled to a five percent (5%) tax credit shall be One Hundred Thousand Pesos (P100,000.00) or its equivalent amount in any convertible foreign currency. If the Contributor is married, each of the spouses shall be entitled to make a maximum annual contribution to his/her PERA the maximum amount of One Hundred Thousand Pesos (P100,000.00) or its equivalent amount in any convertible foreign currency. OFWs shall be allowed to make maximum contributions double the allowable maximum amount allowed for a non-OFW.

If a Contributor decides to contribute to a PERA an amount more than the maximum annual amount provided above, the excess shall not be entitled to a tax credit of five percent (5%) and the investment income made therefrom is not exempt from tax.

A private employer may contribute to its employee's PERA to the extent of the maximum amount allowable to the Contributor provided that the employer complies with the mandatory SSS contribution and retirement pay under the Labor Code of the Philippines. The contribution shall be allowed as a deduction from the employer's gross income.

In both instances where the contribution to a PERA is made by the Contributor or the employer, the Contributor retains the prerogative to make investment decisions pertaining to his PERA. For purposes of making investment decisions, a Contributor may engage the services of an Investment Manager to advise him on where to invest his PERA contributions.

3. PERA Market Participants

The IRR defines the duties of the different PERA market participants such as Administrators, Investment Managers and Custodians. It likewise identifies the financial institutions which may apply with the concerned Regulatory Authorities for pre-qualification as PERA Administrators, Investment Managers or Custodians.

a. PERA Administrator – Section 3A

The IRR sets out the core duties of the Administrator with respect to a PERA. These duties include, among others, the following:

- Submission of reports to the BIR on the establishment of PERA by the Contributor, tax-privileged contributions made to a PERA, PERA Investment Products to which the tax-privileged contributions are invested, termination of a PERA or withdrawals made by the Contributor; and taxes withheld and penalties paid in case of early termination or withdrawal
- Applying for tax credit certificates from the BIR for and in behalf of the Contributor
- Reporting to the Contributor transactions relating to PERA Assets
- Provision to the Contributor of summary of information relating to the total contributions and withdrawals for each PERA, including information on the total amount of contributions entitled to tax incentives; total income earned on the contributions; total fees and charges assessed and paid by the Contributor to the Administrator, Investment Manager and Custodian; implemented and pending purchase and sale transactions of PERA assets; and valuation of PERA assets and investments.

Entities which may apply with the concerned Regulatory Authorities for pre-qualification as PERA Administrators are as follows:

Regulatory Authority	Applicant
Bangko Sentral ng Pilipinas	Banks Trust Entities
Securities and Exchange Commission	Investment Company Advisers Securities Brokers
	Investment Houses, including those with quasi-banking license
Insurance Commission	Insurance Companies Insurance Brokers (<i>only juridical entities</i>)
Concerned Regulatory Authority	Other entities as may be determined by the concerned Regulatory Authority eligible to act as a PERA Administrator

An Administrator with a trust license may concurrently perform the functions of an Investment Manager.

An Administrator must have both a Qualification Certificate from the appropriate Regulatory Authority and the Accreditation Certificate from the Bureau of Internal Revenue

One major requirement for pre-qualification of an Administrator is the maintenance of net worth of at least One Hundred Million Pesos (P100,000,000.00) at all times. This is to ensure that Administrators who will participate in the PERA market have sufficient capitalization taking into consideration the nature of their duties. This also seeks to screen out fly-by-night entities from participating in the same market.

In determining the net worth of an Administrator, the following amounts shall be deducted from its combined capital accounts: (1) the one percent (1%) of the book value of the total volume of PERA assets administered and other capital adjustments as may be required by the concerned Regulatory Authority; (2) total outstanding unsecured direct or indirect credit accommodations extended to its directors, officers, stockholders and related interests (DOSRI); and (3) appraisal surplus or appreciation credit as a result of appreciation or an increase in the book value of its assets.

The other pre-qualification requirements focus on ensuring that the Administrator possesses adequate resources ranging from personnel equipped with the necessary expertise to perform the duties of PERA administration to systems and technological capabilities required for the administration of PERA Investment Products.

In addition to pre-qualification requirements, the IRR also requires that Administrators must establish a security for the faithful performance of its duties. This shall consist of government securities, equivalent to one percent (1%) of the book value of the total volume of PERA assets administered and these are to be earmarked in favor of the concerned Regulatory Authority. The securities shall not be withdrawn, transferred or replaced by the Administrator without the prior written instruction of the concerned Regulatory Authority. The security for the faithful performance of Administrator functions shall be in addition to and shall be treated separately from the capital, surplus and undivided profits of the Administrator. Should an Administrator incur a deficiency in the security deposit, it is required to replenish the same within one week from the end each quarter. Failure to do so shall subject the same to appropriate sanctions.

b. PERA Investment Manager – Section 3E

An Investment Manager shall make investment decisions for and in behalf of the Contributor and in accordance with the authority granted by the Contributor. An Investment Manager shall not be allowed to recommend or sell its own investment products or that of its subsidiaries and affiliates. The same prohibition shall apply to an

Administrator who acts as an Investment Manager by reason of being a holder of a trust license.

Entities and individuals who may apply with the concerned Regulatory Authority for accreditation as Investment Manager are as follows:

Regulatory Authority	Applicant
Bangko Sentral ng Pilipinas	Trust entities licensed as such by the BSP
Securities and Exchange Commission	Investment Company Advisers
Concerned Regulatory Authority	Other entities or individuals as may be determined by the concerned Regulatory Authority eligible to act as a PERA Administrator

The accreditation requirements for Investment Managers focus on ensuring that they possess sufficient experience and supervision and control procedures for the conduct of investment management functions.

c. Custodian – Section 3C

The Cash Custodian shall be primarily responsible for receiving and disposing all funds in connection with the PERA in accordance with the instruction of the Administrator. The Securities Custodian, on the other hand, shall be responsible for maintaining custody of all securities, evidence of deposits or other evidence of investment and disposing of the same in accordance with the instruction of the Administrator.

Only banks or trust entities may act as custodians. They shall observe the requirements imposed by the Manual of Regulations for Banks (MORB) on capitalization and capital adequacy, management, earnings, liquidity and sensitivity to market risk (CAMEL) composite rating.

4. PERA Investment Products – Section 3G

The PERA Investment Products to which PERA contributions may be invested refers to:

- (i) unit of unit investment trust fund;
- (ii) share of stock of mutual fund;
- (iii) annuity contract;
- (iv) insurance pension product;
- (v) pre-need pension plan;
- (vi) share of stock or other security listed and traded in a local exchange;
- (vii) exchange-traded bond; or

(viii) any other category of investment product or outlet which the concerned Regulatory Authority may allow for PERA purposes, provided that the product must be non-speculative, readily marketable, and with a track record of regular income payments to investors.

Before an investment product identified above can qualify as PERA Investment Product and before the BIR can grant tax-exempt privileges to its holders, it must first be approved by the concerned Regulatory Authority.

Any other investment product or outlet may be offered as a PERA Investment Product provided that the concerned Regulatory Authority approves such and determines the same to be non-speculative, readily marketable and with a track record of regular income payment to its investors.

Administrators and Investment Managers are required to provide the Contributors who engage their services minimum information on the nature and risks of each category of PERA Investment Products (General Risk Disclosure Statement). They shall also provide the Contributors a Specific Risk Disclosure Statement on a particular PERA Investment Product where the Contributors may wish to invest in. The aforementioned statements shall form part of the Administrator's files.

The Administrators are required to classify individual PERA products according to the risk profile classification of the Contributors which could be conservative, moderate or aggressive. This classification takes into consideration the risks and returns associated to investment products.

The PERA Investment Products shall be valued in accordance with the valuation methodology, standards and requirements as may be prescribed by the concerned Regulatory Authority provided that such valuation methods and standards are in accordance with the internationally accepted accounting and valuation standards.

5. PERA Assets

The IRR defined the term "PERA Assets" as the aggregate of the assets in the PERA at any one time, including the cash funds and the PERA investment products into which they are invested and reinvested, and all the income earned therefrom.

The PERA assets shall be kept separate from the other assets of the administrator and custodian and shall not be considered as part of the general assets of the Administrator or custodian for purposes of insolvency. Section 7

6. Establishment of PERA Account

The IRR requires the Administrator to observe certain procedures relating to the establishment of a PERA. These procedures include the following:

- Adoption of a pre-disclosure policy aimed at inculcating in the Contributors knowledge about the nature of, privileges and conditions of establishment of a PERA, categories of PERA Investment Products available to a Contributor and the risks associated with the same and obligations and responsibilities of the Administrator
- Account opening process which includes the conduct of Client Suitability Assessment and formulation of investment policy statement
- Documentation to formally establish the relationship between the Administrator and the Contributor
- Provision of risk disclosure statement to the Contributor, containing, among others, provisions on the general risks associated with each category of PERA Investment Product and cautionary statement on the aforementioned general risks
- Provision of information to the Contributor on the full range of PERA Investment Products with emphasis on the specific category of products corresponding to the risk profile classification of the Contributor. The Administrator shall also provide a process for allowing Contributors to invest in PERA Investment Products not falling within his risk profile classification, provided that this shall be allowed only upon prior written instruction of the Contributor

7. Grounds for Suspension or Revocation of Accreditation of Administrator, Investment Manager or Custodian

The IRR provides for the grounds for suspension or revocation or accreditation of Administrator, Investment Manager or Custodian. The suspension or revocation may be declared by the concerned Regulatory Authority after due notice and hearing.

Among the grounds for suspension and revocation relate to the Administrator's, Investment Manager's or Custodian's failure to comply with the provisions of PERA Act of 2008, PERA rules and regulations and other laws administered by the concerned Regulatory Authority relevant to the functions of the said entities; acts and conditions affecting the PERA market participant's ability to perform its functions; and acts constituting violations of its duties towards its clients, the Contributors.

8. Duties of the Administrator, Investment Manager or Custodian in the Event of Suspension or Revocation of their Accreditation

The IRR sets out the procedure to be observed by the Administrator, Investment Manager or Custodian in the event of suspension or revocation of their accreditation.

Their primary responsibility consists of advising the Contributor of the fact of suspension or revocation of their accreditation. The advice is aimed at ensuring that the Contributor is given time to take the necessary steps concerning his/her PERA in view of the suspension or revocation of the accreditation of his/her Administrator, Investment Manager or Custodian.

Should a Contributor opt to transfer his/her entire PERA assets within a period of two (2) working days to another Administrator in view of the suspension or revocation of the Administrator's qualification, the IRR provides that such transfer or withdrawal shall not be considered as an early withdrawal and shall not be subject to penalties thereon. If the transfer of the entire PERA assets is made beyond the mandatory period by reason of the fault of the Administrator, the latter shall be personally liable for the early withdrawal penalties on such account.

9. Early Withdrawal

The IRR defines "early withdrawal" as pertaining to: (i) any withdrawal of PERA Assets prior to reaching the age of fifty-five (55) years or the death of the Contributor, except when the entire proceeds from such withdrawal are immediately transferred to another PERA Investment Product and/or another Administrator; (ii) any withdrawal of PERA Assets before the Contributor has made contributions to his PERA for at least five (5) years, except when the entire proceeds from such withdrawal are immediately transferred to another PERA Investment Product and/or another Administrator; or (iii) a premature termination as described in Section 11 of the PERA Act of 2008 and PERA Rule 13.

10. Premature Termination – Section 11

Premature termination shall not occur in the event that the Contributor, upon giving the instruction to terminate the PERA or to withdraw the PERA Investment Products, directs the Administrator to transfer the entire proceeds therefrom to other PERA Investment Products and/or to another Administrator.

11. Tax-Free Distributions Upon Death – section 12

The IRR provides that upon the death of the Contributor, the Administrator shall terminate the PERA and release the PERA Assets to the designated beneficiaries. Should there be no designated beneficiaries, the PERA Assets shall be paid to the estate of the deceased Contributor in accordance with the laws on succession and the Rules of Court. The proceeds of PERA distribution shall not form part of the estate subject to estate tax.