

23 April 2026

**MEMORANDUM**

**TO :** ██████████ **RULES CHANGE COMMITTEE**

**THRU :** LEONILYN L. NIDEA, President and WESM Governance Officer

**FROM :** **THE MARKET SURVEILLANCE COMMITTEE**

**SUBJECT :** **MSC Comments to Proposed Amendments to Enforcement and Compliance Manual**

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During its Regular Meeting No. 2026-04 held on 16 April 2026, the Market Surveillance Committee (MSC) deliberated on the proposed revisions to the WESM Penalty Manual, one of which pertains to the responsibilities of the Compliance Committee. This revision makes reference to the proposed amendment to Section 9.3.2 of the Enforcement and Compliance Manual, which is currently under consideration by the Rules Change Committee (RCC). The MSC notes that the proposed revised Section 9.3.2(b) seeks to define the term “abuse of discretion.”

We note that the relevant paragraph of the proposed revised Section 9.3.2 reads:

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**b) The appeal shall be based on the ground that the Enforcement and Compliance Office has committed abuse of discretion in issuing the resolution, or the penalty the Enforcement and Compliance Office had imposed is not in accordance with this Manual. For purposes of this provision, abuse of discretion shall include, but not be limited to, the following:**

- i. **Issuance of a resolution or penalty without sufficient factual basis, including circumstances where an error of fact has been committed in resolving the case;**

xxx

The MSC respectfully submits that the phrase “sufficient factual basis” should instead be replaced by the term “substantial evidence.” In Philippine jurisprudence, the quantum of evidence needed to support a decision of a court or administrative body are, as follows - a) for criminal cases, it is required that the evidence shows that the accused is guilty “beyond reasonable doubt”, b) in civil cases, preponderance of evidence would be sufficient, and 3) in administrative cases, the quantum of evidence that must be adduced is “substantial evidence.”

“Substantial evidence” has been simply defined as the “amount of relevant evidence that a reasonable mind might accept as adequate to justify a conclusion.” This is threshold that has been set by the Supreme Court for administrative cases. The MSC is of the opinion that investigations conducted by the Enforcement

and Compliance Office (ECO) and Compliance Committee (CC) are in the nature of administrative cases, and thus the aforesaid threshold should be applied. Specifically adopting this term in the proposed revised section will clearly show the quantum of evidence that is required to support a conclusion or decision.

Accordingly, the MSC respectfully proposes that Sec. 9.3.2 (b) (i) be revised instead to read, as follows:

**xxx**

**b) The appeal shall be based on the ground that the Enforcement and Compliance Office has committed abuse of discretion in issuing the resolution, or the penalty the Enforcement and Compliance Office had imposed is not in accordance with this Manual. For purposes of this provision, abuse of discretion shall include, but not be limited to, the following:**

- ii. **the resolution is not based on substantial evidence or there was a misappreciation of fact/s by the Enforcement and Compliance Office in issuing the same;**

**xxx**

We trust that the RCC will find merit in MSC's proposal.

Thank you.



**ARTHUR N. ESCALANTE**

Chairman, Market Surveillance Committee